



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

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

7:30 P.M.

OCTOBER 28, 2008

TOWN HALL

5300 BELT LINE ROAD

REGULAR SESSION

Item #R1 - Consideration of Old Business.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

September 13, 2008, Special Meeting and Work Session
September 14, 2008, Regular City Council Meeting and Work Session

Item #R3 - Presentation by Texas Department of Transportation (TxDOT) of the new LBJ Managed Lanes Project by Bob Brown, P.E., Assistant District Engineer, TxDOT, John Hudspeth, P.E., IH 635 Project Manager, TxDOT and Jack Antebi, P.E., Mobility Coordinator, Texas Transportation Institute.

Attachments:

1. LBJ Presentation Letter
 2. The New LBJ Presentation
-

Item #R4 - Discussion and update regarding the establishment of an Addison Community Foundation.

Attachment:

1. Council Agenda Item Overview
-

Item #R5 - Discussion and consideration of approval of an agreement with Rodney Hand & Associates Marketing Communications, LP, to advertise in the November 2008, February 2009, May 2009 and August 2009 editions of the Addison/North Dallas Corridor Guide publication.

Attachments:

1. Council Agenda Item Overview
2. Rodney Hand Agreement
3. Exhibit "A"

Administrative Recommendation:

Administration recommends approval.

Item #R6 - Discussion and consideration of approval of a contract with Harris Computer Systems, for the purchase and installation of a Code Enforcement, Permits & Inspections, and Business License System, in the amount of \$138,748.00, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Addison Project Milestones
3. Addendum-N. Harris Computer Company
4. System Development & Integration Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R7 - Discussion and consideration of approval of a request by SNK Realty Group for an ordinance for a meritorious exception to Chapter 62, Signs, Sec. 62-285, Luminescent gaseous tubing.

Attachments:

1. Staff Report
2. Application
3. Plat w/picture

Administrative Recommendation:

Administration recommends approval.

Item #R8 - Discussion and consideration of approval of the annual contract for FY 2008 with the Trinity River Authority, in an amount not to exceed \$3,500 nor be less than \$1,500, per annum, to provide inspection, sampling and laboratory analysis on certain industries in Addison to comply with wastewater pretreatment laws as required by the EPA.

Attachments:

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

Administrative Recommendation:

Administration recommends approval.

Item #R9 - Discussion and consideration of approval of the annual contract, in the amount of \$5,751 with Dallas County Health and Human Services (DCHHS) for the Town of Addison to participate in the cost of providing selected public health services at reduced prices to Addison residents.

Attachments:

1. Council Agenda Item Overview
2. DCHHS Summary
3. DCHHS Fee Schedule
4. DCHHS Cover Letter
5. DCHHS Contract

Administrative Recommendation:

Administration recommends approval.

Item #R10 - Discussion and consideration of approval of the First Amendment to Rooftop Telecommunications License Agreement between GPI Spectrum, LLC and the Town of Addison providing for a five year extension of a license agreement for rooftop space at Spectrum Center located at 5080 Spectrum Drive for installation and operation of infrastructure equipment to support the public safety radio simulcast system, with an annual license fee of \$17,389.20.

Attachments:

1. Council Agenda Item Overview
2. Amendment to Contract

Administrative Recommendation:

Administration recommends approval.

Item#R11 - Discussion and consideration of approval of a professional service agreement between the Town of Addison and Halff Associates, Inc., in an amount not to exceed \$87,000.00, for preparation of Phase I of a Stormwater Masterplan for the Town of Addison.

Attachments:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R12 – Discussion and consideration of approval to enter into an agreement with Kleinfelder in the amount of \$755,000.00 for Construction Inspection and Materials Testing service for the Vitruvian Park Infrastructure in accordance with the Master Facilities Agreement for Vitruvian Park.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R13 - Discussion and consideration of approval of (i) a Contract for Services with each of the following non-profit entities: 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, The Dance Council, Richardson Symphony Orchestra, and WaterTower Theatre, Inc., and (ii) an Agreement for Use of the Addison Theatre Centre with WaterTower Theatre, Inc.

Attachments:

1. Council Agenda Item Overview
- Proposed Contracts for:
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. The Dance Council
10. Richardson Symphony Orchestra
11. WaterTower Theatre, Inc.
12. Agreement for Use of Addison Theatre Centre with WaterTower Theatre, Inc.

Administrative Recommendation:

Administration recommends approval.

Item #R14 - Discussion and consideration of approval of a resolution of the Town of Addison, Texas, authorizing the Cities Aggregation Power Project, Inc.

(CAPP), to negotiate an electric supply agreement for deliveries of electricity and necessary, related services effective January 1, 2009; approving CAPP contracting with FPL Energy and Direct Energy for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013, and providing for other matters related thereto.

Attachments:

1. Council Agenda Item Overview
2. Resolution

Administrative Recommendation:

Administration recommends approval.

Adjourn Meeting

Posted:

October 24, 2008 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 13, 2008, 6:00 P.M.
Service Center, 16801 Westgrove
Addison, TX 75001

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

Item #WS1 - Discussion regarding the following (submitted by Mayor Pro Tempore Roger Mellow):

- Update on 75001 Zip Code

Mayor Pro Tempore Roger Mellow led this discussion.

Ron Whitehead provided an update on this Item.

No action was taken.

Item #WS2 - Discussion regarding the following (submitted by Deputy Mayor Pro Tempore Dennis Kraft):

- Annual budget process

Councilmember Dennis Kraft led this discussion.

Ron Whitehead provided a response to Mr. Kraft's question related to Addison's budget process. Mr. Whitehead indicated that he has asked Ryan Adams, Finance Director, to review the budget process and provide recommended changes.

No action was taken.

Item #WS3 - Discussion regarding the following (submitted by Councilmember Tom Braun):

- Minimum standards on residential properties

Councilmember Tom Braun led this discussion.

Carmen Moran addressed the Council related to the property maintenance code and developing an educational piece to provide information to residents.

There was some conversation regarding the establishment of a Council subcommittee to review the existing ordinances and recommend changes.

No action was taken.

Item #WS4 - Discussion regarding the following (submitted by Councilmember Greg Hirsch):

- Cotton Belt Rail update
- Supporting and fostering infrastructure for community gatherings
- Athletic Club Survey
- Explanation on the Addison Way
- Training/Orientation for New Councilmembers and appointees
- Welcome kits for new Addison businesses and residents
- Next steps for business development and retention programs
- Addison strategic goals and Citizen Advisory Committee updates
- Maintenance and updating of mature parks, landscapes, and medians
- Status and update on Addison Advocates

Councilmember Greg Hirsch led this discussion.

Ron Whitehead updated Council on the *Cotton Belt Rail* progress which included DART developing a potential public private partnership for the implementation of the Cotton Belt by 2012/2013. COG is also looking at funding a study for the feasibility of regional rail.

Ron Davis provided comments regarding the *National Night Out* in 2008.

Ron Whitehead discussed the possibilities of researching practices of other cities in orientation of new councilmembers.

No action was taken.

Item #WS5 - Discussion regarding the following (submitted by Councilmember Todd Meier):

- Review of annual budget process
- Addison beautification
- Encouragement of residential upkeep and maintenance
- Process to review policy provision on alcoholic sales
- Worksession to discuss Addison's Economic Development efforts

Councilmember Todd Meier led this discussion and discussed a scheduled work session for November 1, 2008.

No action was taken.

Item #WS6 - Discussion regarding the following (submitted by Councilmember Jimmy Niemann):

- Update on Addison's dog parks
- State Legislative priorities for Addison

Councilmember Jimmy Niemann was absent. Slade Strickland provided an update on Addison's dog parks. The State Legislative priorities for Addison Item was postponed until a later date.

No action was taken.

Item #WS7 - Discussion regarding the following (submitted by the City Manager's Office):

- Update regarding the Addison Arbor Foundation

Councilmember Mario Canizares led this discussion.

No action was taken.

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

Mayor-Joe Chow

Attest:

City Secretary-Mario Canizares

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

October 14, 2008
7:30 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

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

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Rodney Johnson with the General Services Department, Eugenio Morales with the Parks Department and Zienia Cabrera with the Police Department.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

September 23, 2008, Regular City Council Meeting

Dennis Braun moved to duly approve Item #2a, Minutes for September 23, 2008, Regular City Council Meeting and Work Session.

Councilmember Meier seconded. Motion carried.

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

Item #R3 - Introduction of Blaine Herron, Addison Airport Air Traffic Control Tower Manager.

Joe Chow introduced Blaine Herron, Addison Airport Air Traffic Control Tower Manager.

Item #R4 - Presentation of the *Arts and Cultural Awareness Month in the Town of Addison* Proclamation.

Barbara Kovacevich presented the *Arts and Cultural Awareness Month in the Town of Addison* Proclamation.

Item #R5 - Presentation of the International Festivals and Events Association Award to the Special Events Team for winning the Silver Grand Pinnacle Award.

Barbara Kovacevich made the presentation of the International Festivals and Events Association Award to the Special Events Team for winning the Silver Grand Pinnacle Award.

Item #R6 - Discussion and consideration of approval of a resolution to continue with the Selective Traffic Enforcement Program (STEP) grant for traffic safety.

Councilmember Mellow moved to duly approve Resolution R08-018 to continue with the Selective Traffic Enforcement Program (STEP) grant for traffic safety.

Councilmember Meier seconded. Motion carried.

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

Voting Nay: Kraft

Absent: Niemann

Item #R7- Discussion and consideration of approval of a resolution giving commemorative names to three Addison Parks Facilities.

Councilmember Meier moved to approve Resolution R08-019 giving commemorative names to three Addison Parks Facilities.

Councilmember Braun seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R8 - REPLAT/Asbury Circle. Discussion and consideration of approval of a replat for 73 lots on 8.140 acres, located at the southeast and southwest corners of the intersection of Belt Line Road and Commercial Drive, on application from Dowdey, Anderson & Associates, represented by Mr. Casey Ross.

Councilmember Meier moved to duly approve a replat for 73 lots on 8.140 acres, located at the southeast and southwest corners of the intersection of Belt Line Road and Commercial Drive, on application from Dowdey, Anderson & Associates, represented by Mr. Casey Ross.

Councilmember Kraft seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R9 - **PUBLIC HEARING** Case 1565-SUP/Patton's Christmas Trees. Public hearing on and discussion and consideration of approval of an ordinance approving a Special Use Permit for a Christmas tree lot, located at 14639 Dallas Parkway, on application from Mr. Jeff Patton of Patton's Corner.

Mayor Chow opened the meeting as a public hearing. No one spoke. Mayor Chow closed the meeting as a public hearing.

Councilmember Braun moved to duly approve Ordinance 008-042 approving a Special Use Permit for a Christmas tree lot, located at 14639 Dallas Parkway, on application from Mr. Jeff Patton of Patton's Corner.

Councilmember Mellow seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R10 - **PUBLIC HEARING** Case 1564-SUP/Antonio Ristorante. Public hearing on and discussion and consideration of approval of an ordinance amending an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, in order to add a patio, located at 4985 Addison Circle, on application from Mr. Luciano Cola.

Mayor Chow opened the meeting as a public hearing. No one spoke. Mayor Chow closed the meeting as a public hearing.

Councilmember Kraft moved to approve Ordinance 008-043 amending an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, in order to add a patio, located at 4985 Addison Circle, on application from Mr. Luciano Cola.

Councilmember Hirsch seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item # R11 - **PUBLIC HEARING** Case 1566-SUP/Smashburger. Public hearing on and discussion and consideration of approval of an ordinance approving a Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 4980 Belt Line Road, on application from Smashburger, represented by Ms. Lisa Davis of Intertech Design Services.

Mayor Chow opened the meeting as a public hearing. No one spoke. Mayor Chow closed the meeting as a public hearing.

Councilmember Mellow moved to duly approve Ordinance 008-044 approving a Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 4980 Belt Line Road, on application from Smashburger, represented by Ms. Lisa Davis of Intertech Design Services.

Councilmember Kraft seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R12 - **PUBLIC HEARING** Case 1567-SUP/Twin Peaks. Public hearing on and discussion and consideration of approval of an ordinance amending an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 5260 Belt Line Road, on application from Front Burner, LLC, represented by Mr. Bruce Russo of Techcon Dallas, Inc.

Mayor Chow opened the meeting as a public hearing. No one spoke. Mayor Chow closed the meeting as a public hearing.

Councilmember Braun moved to duly approve Ordinance 008-045 amending an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 5260 Belt Line Road, on application from Front Burner, LLC, represented by Mr. Bruce Russo of Techcon Dallas, Inc.

Councilmember Kraft seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R13 - **PUBLIC HEARING** Case 1568-Z/Town of Addison. Public hearing on and discussion and consideration of approval of an ordinance amending the Code of Ordinances, Appendix A (the Comprehensive Zoning Ordinance), Article XX, Special Uses, to add a new paragraph, paragraph 38, in order to require a Special Use Permit for a wind energy system, and amending Article XXX, Definitions, to add a definition for a Wind Energy System, on application from the Town of Addison.

Mayor Chow opened the meeting as a public hearing.

The following residents spoke:

Bianca Noble, 4008 Bobbin

Bill Perry, 3837 Azure
Chris Mulvaney, 3867 Lakeview Court

Mayor Chow closed the meeting as a public hearing.

Councilmember Mellow moved to approve Ordinance 008-046 amending the Code of Ordinances, Appendix A (the Comprehensive Zoning Ordinance), Article XX, Special Uses, to add a new paragraph, paragraph 38, in order to require a Special Use Permit for a wind energy system, and amending Article XXX, Definitions, to add a definition for a Wind Energy System, on application from the Town of Addison.

Councilmember Kraft seconded. Motion carried.

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

Item #R14 - Discussion and consideration of approval of a request from United Dominion Realty (UDR) for an exception to Chapter 62, Signs, Section 62-210, Construction signs, to be placed in the Brookhaven Club area along Brookhaven Club Drive and Marsh Lane.

Councilmember Braun moved to duly approve (**Ordinance 008-047(?)**) a request from United Dominion Realty (UDR) for an exception to Chapter 62, Signs, Section 62-210, Construction signs, to be placed in the Brookhaven Club area along Brookhaven Club Drive and Marsh Lane.

Councilmember Meier seconded. Motion carried.

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

Item #R15 - Presentation of Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year 2008, October 1, 2007-September 30, 2008.

This Item was withdrawn by Staff. The award will be presented at a future City Council Meeting.

Item #R16 - **PUBLIC HEARING** on and discussion and consideration of approval of an Ordinance of the Town finding that Oncor Electric Delivery Company's requested increases to its electric transmission and distribution rates and charges within the Town should be denied, finding that the Town's reasonable rate case expenses shall be reimbursed by Oncor Electric Delivery Company, and including other provisions related thereto.

Mayor Chow opened the meeting as a public hearing.

The following resident spoke:

Bill Perry, 3837 Azure

Mayor Chow closed the meeting as a public hearing.

Councilmember Meier moved to duly approve Ordinance **008-048(?)** of the Town finding that Oncor Electric Delivery Company's requested increase to its electric transmission and distribution rates and charges within the Town should be denied, finding that the Town's reasonable rate case expenses shall be reimbursed by Oncor Electric Delivery Company, and including other provisions related thereto.

Councilmember Braun seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R17 - Discussion and consideration of approval of an Ordinance of the Town of Addison Texas ("City") approving an electric power contract with Cities Aggregation Power Project, Inc. ("CAPP") for electric capacity and energy, providing capacity payments as public property finance contractual obligations of the Town, pledging and levying an ad valorem tax to such payments, providing for energy payments for electric energy, providing for the assignment of such capacity payments to support debt issued by CAPP incurred to acquire electric capacity rights from Luminant Generation Company and related entities pursuant to a 24-year Power Purchase Agreement, and including other matters related thereto.

Councilmember Kraft moved to duly approve Ordinance **008-049(?)** of the Town of Addison Texas ("City") approving an electric power contract with Cities Aggregation Power Project, Inc. ("CAPP") for electric capacity and energy, providing capacity payments as public property finance contractual obligations of the Town, pledging and levying an ad valorem tax to such payments, providing for energy payments for electric energy, providing for the assignment of such capacity payments to support debt issued by CAPP incurred to acquire electric capacity rights from Luminant Generation Company and related entities pursuant to a 24-year Power Purchase Agreement, and including other matters related thereto, subject to City Attorney's approval.

Councilmember Mellow seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R18 - Discussion and consideration of approval of a Joint Election Agreement and Election Service Contract in the amount of \$9,902.03, between the Dallas County Elections Administrator and the Town of Addison to conduct a joint election to be held November 4, 2008.

Councilmember Braun moved to duly approve a Joint Election Agreement and Election Service Contract in the amount of \$9,902.03, between the Dallas County Elections Administrator and the Town of Addison to conduct a joint election to be held November 4, 2008.

Councilmember Hirsch seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R19 - Discussion and consideration of approval of an Interlocal Agreement with Dallas County for the Town of Addison to join the Household Hazardous Waste Network (HHW Network) with Dallas County and other interested jurisdictions, to participate in an HHW collection program.

Councilmember Braun moved to duly approve an Interlocal Agreement with Dallas County for the Town of Addison to join the Household Hazardous Waste Network (HHW Network) with Dallas County and other interested jurisdictions, to participate in an HHW collection program.

Councilmember Kraft seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R20 - Discussion and consideration of approval of a construction contract with Tri Dal Celina, Ltd., in the amount of \$369,746.79, with a contract duration of 40 calendar days for Vitruvian Park Public Infrastructure – Phase 1.

Councilmember Braun moved to duly approve a construction contract with Tri Dal Celina, Ltd., in the amount of \$369,746.79, with a contract duration of 40 calendar days for Vitruvian Park Public Infrastructure – Phase 1.

Councilmember Mellow seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

Item #R21 - Discussion and consideration of approval for the City Manager to execute an estoppel and non-disturbance agreement relating to MSF Properties III, LLC's acquisition of executive hangar condominium leasehold interests at Addison Airport, as requested by United Community Bank, N.A.

Councilmember Meier moved to duly approve for the City Manager to execute an estoppel and non-disturbance agreement relating to MSF Properties III, LLC's acquisition of executive hangar condominium leasehold interests at Addison Airport, as requested by United Community Bank, N.A.

Councilmember Braun seconded. Motion carried.

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

Voting Nay: None

Absent: Niemann

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

Mayor-Joe Chow

Attest:

City Secretary-Mario Canizares

#R3

September 25, 2008

Name
Organization
Address
City, State, zip

Dear Mr. / Ms. _____:

The Texas Department of Transportation (TxDOT) would like to extend an offer to present an update to you and your staff on the I-635 Managed Lanes Project. This vital project is nearing a key milestone which the Texas Transportation Commission identifies the best-value proposer.

We are excited to have reached this stage of project development, and look forward to sharing more details with you soon. As a key stakeholder in this project's development, we feel it is imperative that you be kept informed of project progress as new developments occur.

A project representative will contact you soon to schedule a briefing. If you would prefer to schedule a briefing immediately or have questions about the project, please call:

John Hudspeth, P.E., TxDOT I-635 Project Manager, at (214) 320-4490, or
Jack Antebi, P.E., LBJ Mobility Coordinator, TTI, at (972) 994-0034

The I-635 LBJ Freeway has been an essential part of the Dallas-Fort Worth transportation system for nearly four decades. Thanks in large part to you, the "New LBJ" will be no less vital to our future mobility, safety and prosperity.

Thank you for your time and consideration. We look forward to meeting with you soon.

Sincerely,

William L. Hale, P.E.
Dallas District Engineer, TxDOT

cc: Amadeo Saenz, Jr., P.E., Executive Director, TxDOT
Coby Chase, Director, Government and Public Affairs Division, TxDOT
Robert M. Brown, P.E., Dallas Deputy District Engineer, TxDOT
John Hudspeth, P.E., Dallas District, TxDOT
Jack Antebi, P.E., LBJ Mobility Coordinator, TTI



What is the schedule for completion?

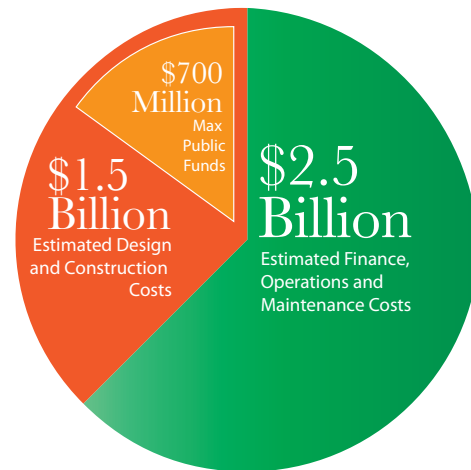
- ★ Winter 2008 Contract award
- ★ Winter 2008 Project open house
- ★ Summer 2009 Construction begins
- ★ 2014 Roadways opens

How will The New LBJ be paid for?

The New LBJ is a public-private partnership. A private-sector developer will provide the majority of funding for the project. That developer will then design, build, maintain and operate the roadway for 52 years.

That means:

- ★ The roadway is finished faster, relieving congestion sooner, maximizing cost savings, and minimizing the pollution impacts of construction.
- ★ The risks associated with big construction ventures are shifted from the taxpayers to developers and investors.
- ★ Public funds are conserved for other local transportation needs.
- ★ The State of Texas retains ownership and oversight of the project.
- ★ A portion of the excess revenue will be shared with the region and the project's funding partners.



The total construction cost of the New LBJ project is estimated at \$1.5 billion, most of which will be provided by the developer. A maximum of \$700 million in public funds could be required.

The project's funding partners are RTC, DART, the City of Dallas and Dallas County.



Faster.
Safer.
Cleaner.

Why do we need The New LBJ?

When the LBJ Freeway first opened 40 years ago, it was designed to carry 180,000 cars and trucks a day. Amid the doubts of those who thought Dallas would never see that kind of traffic, the LBJ was built to accommodate an ambitious vision for the city.

Dramatic growth and economic prosperity have made that vision a reality. But the roadway that's become the backbone for growth and prosperity now carries more than a quarter million vehicles a day, succumbing to gridlock that cripples our mobility, threatens our safety and pollutes our air. A decade from now, travel demand along the LBJ corridor is projected to exceed 450,000 cars and trucks per day.

Involvement from more than 6,000 citizens at more than 300 meetings with the public over the last 15 years has inspired the New LBJ project to be faster, safer, and cleaner. Just as it did in 1969, Dallas has a bold vision to meet tomorrow's transportation demand. Dallas has The New LBJ.



1969

LBJ was built for 180,000 cars and trucks a day.



2008

Today, the roadway carries 270,000+ vehicles a day. In 2020, traffic demand is projected to be 450,000+.

For more information

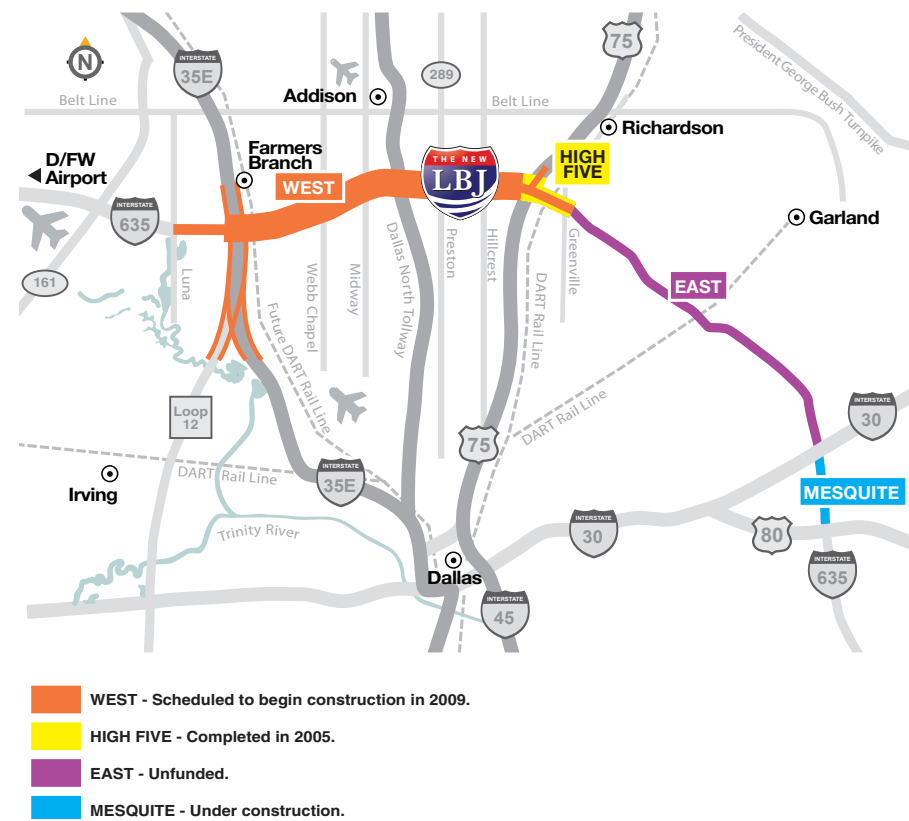
John Hudspeth, P.E.
TxDOT Project Manager
P.O. Box 133067
Dallas, Texas 75313-3067
214-320-4490

Jack Antebi, PE
LBJ Mobility Coordinator
Texas Transportation Institute
972-994-0034
Or visit www.newlbj.com



What major challenges do we face?

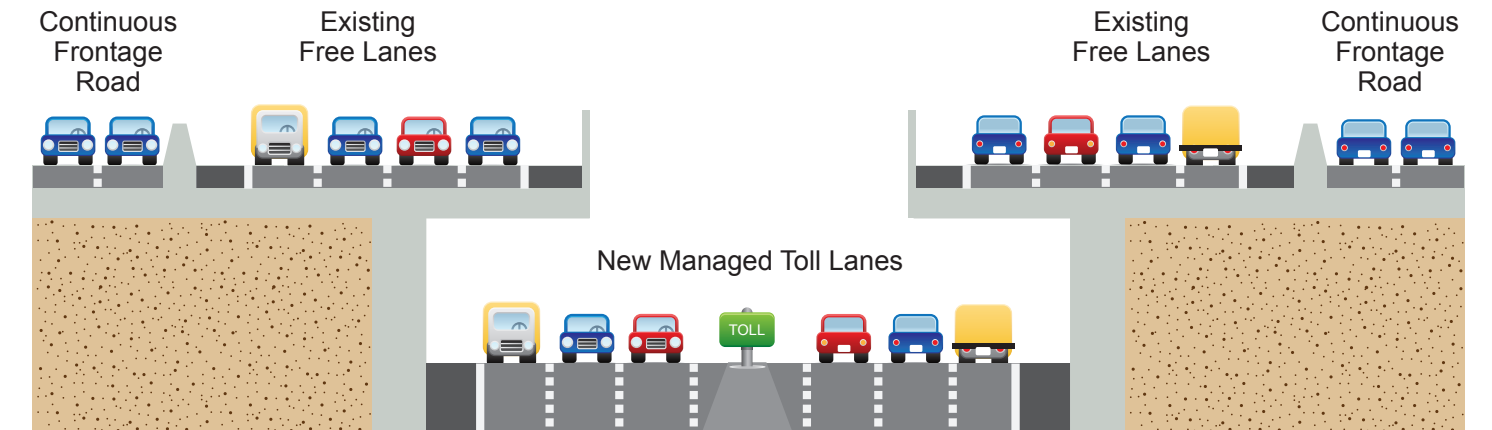
- ★ Aging roadways and bridges
- ★ Growing population, travel and congestion
- ★ Declining funding
- ★ Rising construction, maintenance and land costs
- ★ \$59 billion regional transportation funding shortfall through 2030*
- ★ Poor air quality



What will The New LBJ look like?

- ★ Eight free mainlanes (four in each direction).
- ★ Continuous frontage roads two or three lanes wide throughout the entire length of the project.
- ★ Rebuilt bridges for streets crossing LBJ.
- ★ Six new managed toll lanes (three in each direction).

How do managed toll lanes work?



Managed toll lanes are lanes where traffic is kept moving at a faster, more reliable speed (50 mph) by adjusting the toll rate up and down as the number of vehicles increases or decreases respectively.

Drivers can enter and exit the managed toll lanes at numerous points along the roadway and pay a toll to ensure a faster, more predictable trip time.

How will The New LBJ be better?



Faster

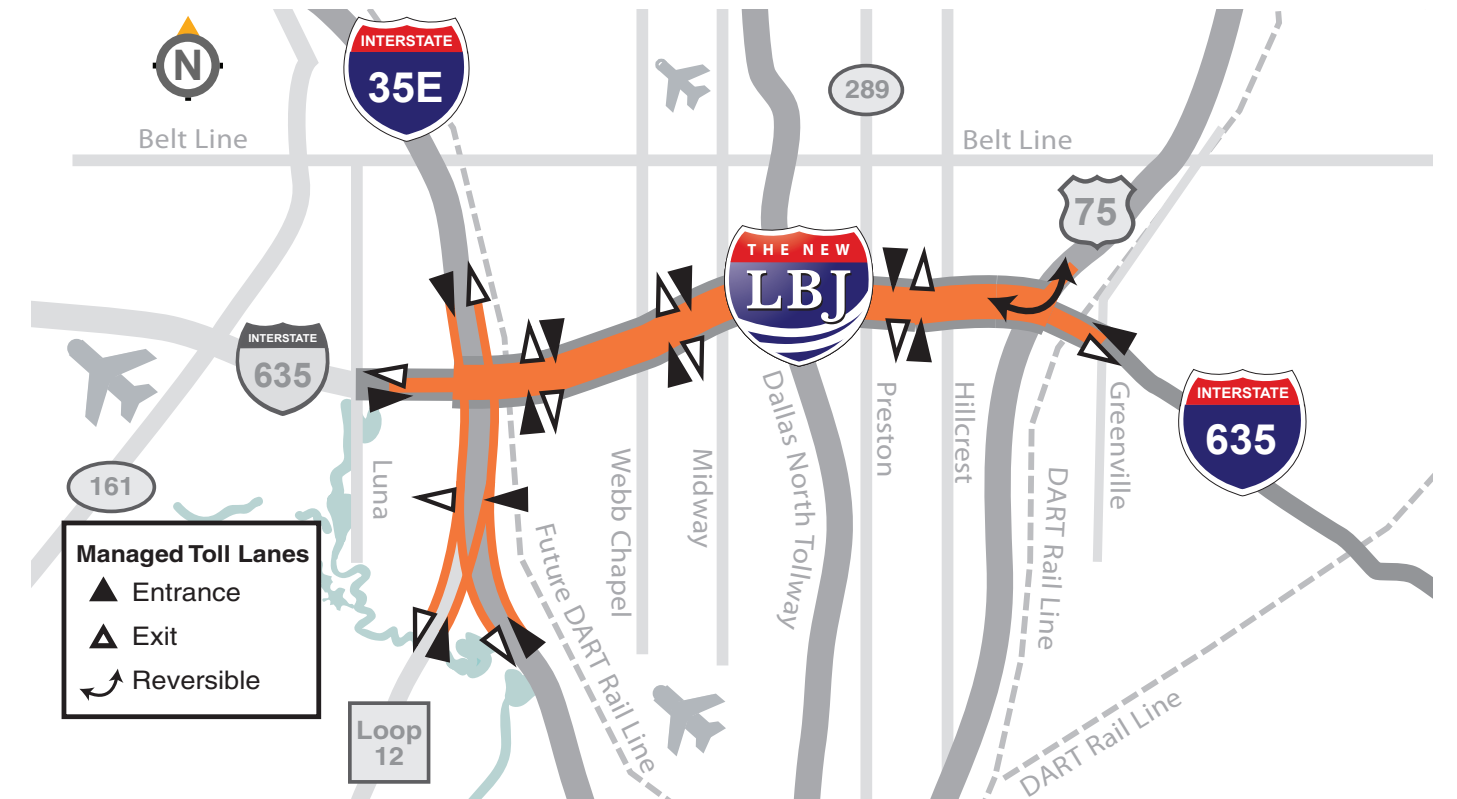
- ✓ Faster more reliable travel speeds keep traffic moving quickly and save you time.
- ✓ Fewer traffic jams thanks to steady traffic flow.
- ✓ Predictable trip times to make your travel plans more certain.
- ✓ Reliable, up-to-the-minute travel condition information to help you adjust your commute.
- ✓ Six new managed toll lanes to relieve congestion on the free lanes and help move traffic more efficiently.

Safer

- ✓ Wider main lanes to help reduce collisions.
- ✓ Additional shoulders to facilitate the clearance of traffic incidents and disabled vehicles.
- ✓ Continuous frontage roads, providing additional flexibility for incident clearance and emergency response.
- ✓ Managed toll lanes are separated from free lanes to reduce the potential for vehicle collisions.

Cleaner

- ✓ Reduced air pollution (because cars that keep moving pollute less than cars stuck in traffic congestion).
- ✓ Sound walls, to insulate nearby neighborhoods from noise pollution.
- ✓ Streamlined construction, to finish the job sooner and reduce construction pollution.
- ✓ Quicker project completion, in only five years instead of 20.



How will tolls be set?

Tolls will be charged at different rates, depending on the type of vehicle (3 or more axles pay more), the number of passengers in the vehicle and traffic conditions as they change during the day.

- ★ Region sets tolling policy.
- ★ Developer will implement the policy.
- ★ NTTA collects and manages the toll tag accounts.
- ★ TxDOT retains ownership and oversight of the project and will review and periodically audit managed toll lanes operation for compliance.

Council Agenda Item: #R4

SUMMARY:

To provide an update to the Council on the discussions and initial recommendations from the Addison Community Foundation Committee.

FINANCIAL IMPACT:

Revenue Budget Amount: \$N/A

Cost: \$N/A
\$N/A

BACKGROUND:

In May 2007, the Human Services Committee that was a component of the Citizens Advisory Committee made a recommendation to the Council that the Town should consider the development of a Community Foundation. The thought behind a community foundation would be to provide a mechanism that allows residents or others interested in the community to donate their wealth to purposes, programs, projects that are beneficial to Addison. Attached is a one-page summary that describes the purpose of having a community foundation.

The Council agreed and encouraged further research in this area. As a result, a subcommittee comprised of Laurel Brewster, Paula Jandura, Jimmy Niemann, Roger Mellow, the City Attorney's Office and Town staff has had a series of meetings since the beginning of the year to discuss, research, and obtain a better understanding on the establishment of a foundation.

Based on this research the subcommittee is making the following initial recommendations:

- 1.) Develop a mission statement of: *"The mission of the Addison Foundation is to encourage philanthropic investment and provide funding for projects for the benefit of the Addison area and its citizens"*.
- 2.) Select *Communities Foundation of Texas* (CFT) to assist in the organization and development of a foundation. This would include performing the back office operations (bookkeeping, tax filings, etc) once the entity is in operation.

Ms. Brewster will be presenting the proposal to the Council. If the Council is agreeable to these proposals then a contract between CFT and the Town will be brought forward for the Council to consider at a future meeting. As the subcommittee makes additional progress such as proposing goals & objectives, governance structure, and applying for non-profit these proposals will also be brought before the City Council for your consideration.

RECOMMENDATION:

Project Future

Starting a Community Foundation in a Small Community

Roger A. Steinberg

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Why Have a Community Foundation?

A community foundation or fund, as they are sometimes called, can receive monies targeted for specific, local projects and programs. It can also establish a permanent, unrestricted endowment from which only the interest earnings may be used in the community.

Local foundations can expose community needs and make recommendations on how to meet those needs. In doing so, they may work alone or with other organizations. A community foundation can fund such things as:

- revolving loan funds for business start-ups
- police or emergency medical equipment
- scholarship programs
- cultural and historical society projects
- daycare centers
- senior citizen transportation
- disaster assistance for residents

Local foundations can seek outside financial support from federal, state, and private sources, serving as an advocacy body for the community. They can coordinate joint local government and private sector efforts. Foundation board members can become knowledgeable about private and public funding sources which can supplement local foundation support when necessary.

Larger Minnesota cities have benefited for many years by having non-profit foundations. It is only recently, however, that smaller communities have begun to do so.

Almost all segments of the community can benefit from an active foundation. During periods of economic uncertainty, a foundation can represent stability. It presents a positive image of the community to residents and visitors. It indicates pride, commitment, and a sense of community.

Council Agenda Item: #R5

SUMMARY: Approval of an agreement with Hand & Associates Marketing Communications to advertise in the November 2008, February 2009, May 2009 and August 2009 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.

RECOMMENDATION:

Staff recommends approval.

STATE OF TEXAS

Addison/North Dallas Advertising Agreement

COUNTY OF DALLAS

This Agreement is made as of _____, 2008 by and between the Town of Addison, Texas (the "Town") and Rodney Hand & Associates Marketing Communications, LP ("Hand").

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

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

WHEREAS, Hand is the owner of two publications known as "Addison and The North Dallas Corridor Visitors Guide" (the "Visitors Guide") and the "Addison and The North Dallas Corridor Magazine" (the "Magazine"), and the Town desires to advertise in these Publications for the purpose of promoting the Town and the surrounding area to residents and visitors through distribution in hotel rooms in the Town and North Dallas area;

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

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

1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.
2. Term. This Agreement shall be in effect from the date of execution hereof by the Town and shall terminate, except as otherwise provided for herein, upon completion of the third issue of the Publication, including its distribution.
3. Conduct of Publication. Hand shall be the owner/publisher of the Publications and the Town shall be considered an advertiser. The Visitors Guide shall be directed and distributed primarily to Addison and North Dallas hotels and visitors (as identified and agreed upon by the Town and Hand). The Magazine shall be directed and distributed primarily to Addison and North Dallas residential properties (as identified and agreed upon by the Town and Hand). The content of the Visitors Guide and of the Magazine will be similar, but the Magazine may include some additional information or features which is pertinent and unique to a residential audience.
4. Obligations, Representations and Warranties; Indemnification.

A. Hand: Hand represents, warrants and covenants that:

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

EXPOSE THE INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY.

- (c) IF AN INDEMNITEE SUFFERS DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES RESULT IN EXPOSURE TO STRICT LIABILITY, OF BOTH HAND AND THE INDEMNITEE, HAND'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A) WILL BE LIMITED TO A FRACTION OF THE TOTAL DAMAGES EQUIVALENT TO HAND'S OWN PERCENTAGE OF RESPONSIBILITY.
- (d) With respect to Hand's duty to defend set forth herein in subsection (a), Hand shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement; provided however, that the Town shall have the right to approve the selection of counsel by Hand and to reject Hand's selection of counsel and to select counsel of the Town's own choosing, in which instance, Hand shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The Town agrees that it will not unreasonably withhold approval of counsel selected by Hand, and further, the Town agrees to act reasonably in the selection of counsel of its own choosing.
- (e) In the event that Hand fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Agreement, the Town shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Hand, and Hand shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the Town in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.
- (f) The indemnity, hold harmless, and defense obligations of Hand set forth in this section or elsewhere in this Agreement shall survive the expiration or earlier termination of this Agreement.
- (6) Hand, its officers, agents and employees do hereby waive any and all claims for damage, injury or loss to any person or property, including the death of any person, that may be caused, in whole or in part, by the act or failure to act of any officer, agent or employee of the Town. Hand, its officers agents and employees assume the risk of all conditions whether dangerous or otherwise, in and about the premises

of the Town, and waive any and all specific notice of the existence of any defective or dangerous condition in or about the said premises. The provisions of this paragraph shall survive the termination of this Agreement.

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

- (1) The Town shall pay Hand a sum of \$26,250 for 18 pages of R.O.B. (Run of Book) advertising in the November 2008 issue of the Publications, \$26,250 for 18 pages of R.O.B. advertising in the February 2009 issue, \$26,250 for 18 pages of R.O.B. advertising in the May 2009 issue and \$26,250 for 18 pages of R.O.B. advertising in the August 2009 issue of the Publications. Such payment shall be made in accordance with the terms of this Agreement, including Exhibit A.
- (2) The Town shall pay Hand a sum of \$1,687.50 for local distribution of each of the November 2008, February 2009, May 2009 and August 2009 Publications respectively to various locations approved by the City Manager. The area distribution will include the Town and extends from the borders of the Town south to LBJ Freeway (IH 635), north to Legacy, east to Hillcrest Road, and west to Marsh Lane. The various local distribution points shall be determined by the Town. Such sum shall be paid by the Town to Hand upon the Town receiving proof acceptable to the Town of the completion of the distribution.

5. Termination. This Agreement may be terminated at any time by either party hereto in the event that the other party is in breach of any term of this Agreement and such breach continues for more than three (3) days after receipt by the breaching party of written notice of the breach from the non-breaching party. In the event of such termination Hand shall be compensated for all services properly performed to the date of termination. In the event of such termination, should Hand have been paid by the Town for services not yet properly performed then Hand shall reimburse the Town all such payments. Acceptance or payment of such reimbursement shall not constitute a waiver of any claim that may otherwise arise out of this Agreement.
6. Delays. No delay by either of the parties hereto in performing their respective duties, or obligations hereunder shall be deemed a breach of this Agreement if such delay arises from causes beyond the reasonable control of party, including delays resulting from labor disputes, strikes, wars, riots, insurrection, civil commotion, government regulations, fire, flood, storm, or acts of God, provided that such affected party uses its best efforts to avoid non-performance and resumes full performance hereunder as soon as practical. Shortage of material or equipment or changes in price of materials or equipment shall not constitute valid grounds for delay.

- b. It will constitute a breach of this Agreement, allowing for termination and/or recovery of damages which the non-breaching party sustains if:
- (i) The Town fails to make any payment due hereunder within thirty (30) days following the receipt of an invoice therefor, (and each such invoice shall include a summary statement of services rendered; and Hand shall supply such supporting documentation with each invoice regarding the services performed by Hand as may be requested by Town from its Staff employees), or
 - (ii) Hand fails to deliver the November 2008 issue of the Publications, in the required quantities (see Exhibit A) on or before November 27, 2008, the February 2009 issue in the required quantities (see Exhibit A) on or before February 15, 2009, the May 2009 issue in the required quantities (see Exhibit A) on or before May 15, 2009 or the August 2009 issue in the required quantities (see Exhibit A) on or before August 15, 2009; provided, however, that the Town agrees to allow Hand a period not to exceed five (5) business days from the delivery date set out above to fully complete Hand's required distribution of the Publications. Failure by Hand to deliver on the dates set above shall result in a late fee of \$400.00 per day which the Town shall deduct from the final amount then payable.

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

To Addison:

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

To Hand:

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

8. Assignment. This Agreement shall not be assigned or otherwise conveyed in whole or in part by Hand without the prior written consent of the Town. Because this is a services contract, the Town is not obligated to consent to any assignment or other conveyance of any portion of this Agreement. Any attempted assignment or other conveyance hereof by Hand shall be null, void and of no force or effect.
9. Independent Contractor. The relationship of Hand to the Town is that of an independent contractor. Neither the Town nor Hand shall be deemed to be the agent of the other and neither is authorized to take any action binding upon the

other. No term or provision of this Agreement or any action in the performance hereof is intended nor shall be construed as making Hand the agent, servant or employee of the Town, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship.

10. Texas Law to Apply. This Agreement and Exhibit "A" shall be governed by the laws of the State of Texas (without reference to its conflict of law provisions), and shall be performable and all compensation payable in Dallas County Texas. Venue under this Agreement lies in Dallas County, Texas.
11. Entire Agreement. This Agreement and the attached "Exhibit A" represents the entire and integrated agreement between the Town and Hand and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.
12. Severability. If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect.
13. Authority to Execute. The undersigned officers and/or agents of the Town and Hand are properly authorized officials of the said parties and have the authority necessary to execute this Agreement on behalf of the respective party, and the parties hereby certify one to the other that any necessary resolutions extending said authority have been duly passed and are now in full force and effect.

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

TOWN OF ADDISON, TEXAS

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

By: _____
Ron Whitehead, City Manager

By: _____
Rodney Hand, Principal

Attest: _____
Mario Canizares, City Secretary

Council Agenda Item: #R6

SUMMARY:

This item is to request the Council's approval of a contract with Harris Computer Systems for the purchase and installation of a Code Enforcement, Permits & Inspections, and Business License System. A Copy of the original contract, addendum, and project milestones are attached.

FINANCIAL IMPACT:

Budgeted Amount: **\$138,748**

Cost: **\$170,000**

BACKGROUND:

In 2006, we began meeting with the Developmental Service Department in order to determine the challenges they were facing with the Permits and Inspection/Business License application and what tools could be provided to assist them in working more efficiently. The Environmental division requested an electronic health inspection form that would replace the hand written form they were leaving with restaurants. We satisfied their request and the two Environmental Services employees were issued laptops and wireless printers to utilize out in the field. However, the Building Inspection division requests were centered on Voice, Web and Mobile interface applications. At that time, the department felt an IVR (Interactive Voice Response) system would be the most beneficial. The goal was that the IVR application would interface with our existing Permits and Inspection/Business License application and provide callers with telephone access for permit scheduling, inspection processing, zoning, inspection results, plan review status, code enforcement and notifying contractors when an inspection had been completed. In budget year 2006-2007, an amount of \$60,000 was requested and approved to acquire an IVR interface. The project was delayed and the amount was carried forward to the 2007-2008 budget.

As we began to look at implementing the project in 2007-2008 several occurrences took place. Our current Permits and Inspection software company, GEMS was acquired by Harris Computer Company. In November 2007, Sheryl Donihoo, Network Specialist, attended the Harris User's Conference and learned Harris had acquired another software application, PG Govern. PG Govern specialized in Land Management and Revenue Management applications. At the conference, she learned that Addison is the only Harris customer that is utilizing the GEMS Permits and Inspection module. She also learned that Harris planned to merge the GEMS Financial and Human Resource applications to the PG Govern Land Management and Revenue application. However, there were no defined timeline on when the products would be merged. Initial indications were that it could take up to two years. It was also mentioned that even though the GEMS Revenue Management application that houses Permits & Inspection, Business License and Utility Billing would not go away, but there will halt release of any major enhancements for this module. The PG Govern Land Management software was demonstrated at the conference and it was apparent that this application exceeded the GEMS application in regards to the utilization of current technology. It is written in .net technology which allows for total user customization. It has a web module and includes GIS and document management integration tools.

Due to these occurrences, Developmental Service Staff and IT concluded that instead of pursuing an IVR interface with our current application, which was becoming antiquated, we would look at the possibility of replacing the Permits and Inspection/ Business License modules. In January 2008, the Developmental Service staff and IT participated in demonstrations of three Land Management software packages. The decision was made to release an RFP seeking a Land Management Software Solution inclusive of permitting, planning, inspections, code enforcement and licensing system.

The RFP was released April 1, 2008 with a proposal due date of May 2nd. The Town received three qualified proposals from Harris - PG Govern, EnerGov - Enterprise License Suite and CRW - Trakit System. IT department evaluated the proposals and ranked them according to the criteria set forth in the RFP and Harris - PG Govern system was selected. Submitted costs were \$177,000 with maintenance costs averaging \$7,400 over the next five years.

On June 9, 2008, Harris announced that it was consolidating three of its divisions, PG Govern, GEMS and SDI into a single entity, MS Govern. MS Govern's software application consists of three major modules: FMS, HRMS and CMS (Community Management System). This announcement reiterated what IT department learned in November at the Users Conference. The GEMS RMS module will be supported, but not enhanced. But to entice users, it was stated in the announcement that existing **GEMS RMS** users like **Addison** will have the option to migrate over to the new **CMS** at their leisure... This is extremely beneficial to Addison since **“”Licensing fees””** will not be applicable as Harris has software for life policy. In another word, only data conversion, implementation and training costs apply to current customers.

In light of the MS Govern announcement, on JULY 08, 2008 we recommended to the Council rejecting the three proposals we received and restarted negotiating with Harris to take advantage of their software for life policy which wasn't in effect when Harris responded to our RFP on May 2nd, 2008.

I have outlined below my justifications for this recommendation.

RMS (Revenue Management Module) (Existing Module) issues:

- Becoming obsolete
- No new development or enhancements will be added - support only
 - Utility Billing will have one major release scheduled for 3rd quarter 2008
- Does not contain Planning and Zoning
- Does not contain Code Enforcement
- Can not have parent - child permit relationships

MS Govern CMS (Community Management System) benefits:

- Contains an extensive suite of modules
- Written in .net - fully customizable
- Web Module (can be used throughout the Town, not just for Permits and Inspections/ Business License)
- Integrates with GIS
- Integrates with Document Management and has the ability to attach multimedia links
- Property Summary Card - Summarizes all activity on a property
- Other Departments can utilize to enter their inspections (currently inspections from these departments are not electronically tied to the permit)
 - Fire, Parks, Utilities, Streets
- Ability to have parent - child permits. The child permit can be created without double entry. (This will be a benefit with the expansion of Addison Circle and the Vitruvian project)
- Workflow function that serves as a checklist of steps or tasks that must be done. Tasks and activities are designed by steps and the outcome of each step determines the next step.
- Full integration with our FMS module. Currently we run scripts to transfer transactions from our RMS module into the FMS module. The CMS module will automatically send the transactions to the general ledger in a batch that can then be updated.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into a contract with Harris Computer Systems for the purchase, and installation of a Code Enforcement, Permits & Inspections, and Business License System in the amount of \$138,748 subject to the City Attorney's final approval....

Addison, Texas P&I Project					
Project Framework					
1. Scope and Requirement Analysis Phase					
	Timeline	High Level Deliverable	Description	Input	Template
	Within 7 business days from signed contract date	(BPS) Business Process Survey	The BPS is a questionnaire that is sent to the customer as soon as a contract is signed. Each module within Govern will have a corresponding questionnaire.	(BPS) Business Process Survey for each Govern module being implemented	(BPS) Business Process Survey
	Within 7 business days from signed contract date	Software installation	Technical Ressources proceed with the remote installation of the latest version of Govern. This installation can be done using a blank database or a sample database. Dependent upon customer hardware and any required system software being installed and configured on the network.	Signed contract	
	Where applicable	(RRM) Requirement Review Matrix	In most cases each contract has a preliminary list of requirements. These requirements can be found in the RFP Response, Contract Schedule, or a separate document from the customer. This step aims to establish a consensus on the meaning of each requirement. It is against these requirements that the deployed solution's success can be measured.	RFP, Proposal, contract	(RRM) Requirement Review Matrix
	Within 6 weeks from contract signed date	Preliminary Scope Analysis Session	The (PSAS) Preliminary Scope Analysis Sessions are conducted on site with representatives of each of the business groups involved in the project. The number of participant in each session should be kept as small as possible. The main objective of these sessions is to identify ALL of the deliverables for each of the modules being deployed, and to clarify our understanding of any unclear requirement.	(RRM) Requirement Review Matrix, (BPS) Business Process Survey	

	Within 6 weeks of Preliminary Scope Analysis	(PSAP) Preliminary Scope Analysis	The (PSAPPR) Preliminary Scope Analysis and Project Plan Report is the end result of the Scope and Requirement Analysis Phase. The document contains a high level description of each deliverable in the project. For each module being deployed the document contains 1) High level description of each of the business process to be managed in Govern 2) High level description of all data conversion, 3) High level description of all interfaces to outside systems, 4) High level description of all software enhancements that may be required to support business process, and 5) List and high level description of each report (print out) that the system will be required to generate. The Report will also make a determination as to the in-scope\out-of-scope status of all items and establish a first	Preliminary Scope Sessions, BPS, RRM	(SAPPR) Scope Analysis and Project Plan Report Template
2. Fit / Gap Analysis					
		Detailed Fit\Gap Analysis Session			
	Within 8 weeks of Preliminary Scope Analysis	(DSAP) Detailed Scope Analysis	The DSAPPR is completed on the basis of the same template as the PSAPPR. Additionnal details are added to the later (file layout, sample reports, detailed design, etc). In some cases the preliminary and the detailed report can be done simultaneously. This report is presented to the customer and signed off.	(PSAPPR) Preliminary Scope Analysis and Project Plan Report, Fit Session	(SAPPR) Scope Analysis and Project Plan Report Template
	Where applicable	Determine proposed configuration	Based on the requirement detailed in the PSAPPR the Business Analyst and Project Manager select the closest fit from existing customer databases.	Other Existing Clients DB	
3. Construction					

	Within 12 weeks of Preliminary Scope Analysis	Planning configuration	The sample database chosen can be emptied of all the customer's data leaving only the configuration settings, creating the start up database. Using reports into this database, the configuration specifications are extracted and presented to customer. The Customer (alone or in worksession with the business analyst) reviews each module and its configuration and adapts it to the specific configuration of the customer (example list of AR Classes, Cycle Codes, Rate Codes, etc...)	Starting Database	Configuration report (per system)
	Within 16 weeks of Preliminary Scope Analysis	Configure system	Using the configuration document the business analyst configures the startup database to the customer specification	Configuration document	
	Within 4 weeks of Planning Configuration	Data migration	Using the (DSAPPR) Detailed Scope Analysis and Project Plan Report, the developers plan and develop and test the migration scripts.		
	Within 4 weeks of Planning Configuration	Interfaces	Using the (DSAPPR) Detailed Scope Analysis and Project Plan Report, the developers plan and develop and test the interfaces.		
	Within 6 weeks of Planning Configuration	Report Development	Using the (DSAPPR) Detailed Scope Analysis and Project Plan Report, the developers plan and develop and test the custom reports.		
	Within 3 weeks of completion of above steps	Configuration review	The Business Analyst reviews with the customer, going through each of the processes identified in the (DSAPPR) Detailed Scope Analysis and Project Plan Report. This is an interactive process that concludes when the customer is satisfied that the configuration is complete enough to go through user acceptance testing.	Alpha database 1...n	
4. Acceptance					
	Within 3 weeks of Configuration Review	User Acceptance Testing Scripts	User Acceptance Testing Scripts are developed	Final configuration, Business process described in the (DSAPPR) Detailed Scope Analysis and Project Plan Report	Application Testing Script Template
	Within 4 weeks of Configuration review	User acceptance training	A group of core users are trained so they can test the application		

	Within 6 weeks of Configuration review	User acceptance testing	The group of core users go through each scenario in the testing script, reporting any issues encountered. The issues are fixed and retested. This is an iterative process that ends when the customer is satisfied that the application performs as expected		
	Within 3 weeks of Acceptance Testing	Admin Training	The administrative group is trained. This can be done in a "train the trainer" or "train the user" approach. This should be done as close to the expected Go-Live as possible.		Admin Training Material Template
	Within 3 weeks of Acceptance Testing	End User training	The end users are trained. This can be done in a "train the trainer" or "train the user" approach. This should be done as close to the expected Go-Live as possible.		End User Training Material Template
	Within 10 business days of All Training Completed	Data conversion	The last export is generated from the legacy system and converted into the Govern database.		
	Within 10 business days of All Training Completed	Data reconciliation	The data exported from the legacy system is compared to the data migrated to Govern. A reconciliation report is generated and signed off by the customer.		
	Within 14 business days of All Training Completed	Go-Live	The Business Analyst remains on site when the system goes on-line to resolve any issues that may arise.		
6. Close					
	Within 7 business days of Go-Live	Hand-off to support	During a meeting, the project manager hands-off the delivered project to the customer support staff.		
	Within 7 business days of Go-Live	Archive project documents	All of the documents on the project SharePoint are moved to a server and the Project site is taken down.		
	Within 14 business days of Go-Live	Update lessons learned	The Project Manager presents a lessons learned report on the project to the PMO for continued improvement to the Project Frame Work		Lesson Learned Template

ADDENDUM REGARDING PERMITS AND INSPECTIONS APPLICATION

This Addendum Regarding Permits and Inspections Application (“Addendum”) is made and entered into on _____, 2008 by and between N. Harris Computer Corporation, a corporation incorporated under the laws of the Province of Ontario, Canada (“Harris”) and Town of Addison, TX (“Customer”).

WHEREAS, Systems Consultants, Inc. (“SCI”), predecessor in interest to Government e-Management Solutions, Inc., a Missouri corporation (“GEMS”), and Customer entered into that System Development and Integration Agreement and related Software Products Agreement, each dated November 14, 2000, as amended (together, the “System Agreement”) (copy of the System Agreement is attached hereto as Exhibit A and incorporated herein by reference), providing for the City’s acquisition of an integrated computer system for the City’s financial affairs, including computer hardware, data conversion, software, and related installation, maintenance, training and support services; and

WHEREAS, pursuant to its purchase on January 2, 2001 of certain assets of SCI, GEMS succeeded to the duties, rights, and responsibilities of SCI under the System Agreement; and

WHEREAS, GEMS and the City entered into that certain Addendum Regarding Browser Interface dated _____, 2002, as amended (the “Browser Interface Addendum”) (copy of the Browser Interface Addendum is attached hereto as Exhibit B and incorporated herein by reference), which in part provided for the City’s purchase from GEMS of certain browser interface software, including a license and maintenance services therefor; and

WHEREAS, in December 2005, Harris purchased substantially all of the assets and assumed certain liabilities of GEMS (the “Purchase and Assumption”), including the System Agreement and the Browser Interface Addendum, and Harris has succeeded to all of the rights, duties and liabilities of GEMS under the System Agreement and the Browser Interface Addendum; and

WHEREAS, in addition to the software, services and other items provided by Harris to Customer under the Agreements, Customer desires to order from Harris certain Permits and Inspections application, maintenance services, and/or hardware as described in this Addendum to the System Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereby mutually promise, covenant and agree as follows:

1. The recitals above are true and correct and are made a part of this Addendum.

2. The following definitions shall apply to this Addendum:

(a) “Designated Computer System” shall mean the Customer’s platform and operating system environment which is operating the Licensed Programs.

(b) “Licensed Program” or “Licensed Programs” shall mean program material in machine-readable or interpreted form, and may include, where appropriate, listings of either machine code or source code and related materials, including operating instructions and documentation provided by Harris to Customer, and including any such programs previously provided to Customer by SCI pursuant to the System Agreement, and including all copies made by Customer.

(c) “Reimbursable Expenses” shall refer to the expenses for travel (including one-way travel time spent by any Harris employee), lodging, meals, car rental, mail charges (including overnight courier service), and related expenses incurred by Harris in connection with rendering the maintenance services and any other services described in this Addendum.

3. Customer hereby orders from Harris, and Harris agrees to deliver to Customer, the Permits and Inspections application and related hardware and software (including the Permits and Inspections application Software (as defined herein)), if any (collectively, the “Permits and Inspections application”) listed and described on Exhibit A attached hereto, for the prices listed on Exhibit A. Harris shall install the Permits and Inspections application on the Designated Computer System for the installation price described on Exhibit A. Customer shall reimburse Harris for Reimbursable Expenses incurred by Harris in connection with Harris’ delivery, installation and maintenance of the Permits and Inspections application in an amount up to but not exceeding \$_____. Harris shall deliver invoices to Customer for amounts due under this Addendum in accordance with Harris’ customary invoicing procedure (and such invoices shall include, among other things, true and correct copies of any and all receipts, invoices, and other documents and materials in support of any Reimbursable Expenses, and such additional documents, materials and information as the City may request in connection with and which substantiates the invoice). Customer shall make prompt payment of any annual license and maintenance fees, initial license fees, installation fees, hardware, and other fees as described in this Addendum (and Exhibit A hereto) within thirty (30) days following Customer’s receipt of an invoice as described herein (together with all materials and information in connection therewith) from Harris.

4. Harris grants to Customer and Customer hereby accepts a personal, non-exclusive, non-transferable right and license to use the software included in the Permits and Inspections application (“Permits and Inspections application Software”) on the Designated Computer System. All Permits and Inspections application Software shall constitute a Licensed Program, and all of the terms of the System Agreement applicable to the Licensed Program(s) (including, without limitation, the terms of the System Agreement relating to Licensed Program(s) classified as Warranty Class “1”) shall also apply to the Permits and Inspections application Software, and are fully incorporated herein by reference. Harris may terminate the license granted under this Addendum

upon default by Customer under any of the applicable terms of the System Agreement or this Addendum.

5. Harris agrees to render for Customer, and Customer agrees to accept from Harris, maintenance services for the Permits and Inspections application. Such maintenance services shall be rendered during the same maintenance year previously established by SCI, GEMS, or Harris pursuant to the Agreement. Customer shall pay to Harris an annual license and maintenance fee for such maintenance services (as listed on Exhibit A attached hereto), which shall be included and payable along with Customer's payment of the other annual license and maintenance fees for the other Licensed Programs as set forth in the System Agreement. The annual license and maintenance fee for the Permits and Inspections application (listed on Exhibit A) shall be subject to the same increases and other adjustments to the other annual license and maintenance fees as provided for in the System Agreement.

6. Harris and Customer shall each have the same rights and remedies with respect to the maintenance services for the Permits and Inspections application as provided in the Agreement for all other maintenance services. Notwithstanding the foregoing, Harris may terminate the maintenance services for the Permits and Inspections application thirty (30) days following written notice to Customer if Customer defaults in any of its obligations of the Agreement or this Addendum and if such default is not corrected within thirty (30) days after Customer's receipt of written notice thereof (which written notice must set forth particulars of the alleged fault).

8. Harris warrants and represents to Customer as follows:

(a) Harris is the owner of and has the right to grant a license to Customer to use the Permits and Inspections application Software specified in this Addendum, free of all liens, claims, encumbrances, and other restrictions and without otherwise violating any rights of any third party, including any patent, copyright, trade secret or other proprietary rights.

(b) There are no actual or threatened suits or claims pending that involve Harris' right to grant a license to use the Permits and Inspections application Software or that would otherwise affect Harris' performance under this Addendum.

(c) Customer shall quietly and peacefully possess the Permits and Inspections application and related materials.

(d) Documentation provided by GEMS to Customer in connection with the Permits and Inspections application is substantially complete and accurate.

(e) Any installation, maintenance, support and other services that Harris provides to Customer under this Addendum, directly or through its subcontractors, shall be provided by personnel in a professional, good and workmanlike manner, who are trained and skilled in the provision of such services consistent with commercially accepted best practices and standards.

7. This Addendum shall be binding and inure to the benefit of the parties hereto, and to their respective approved successors and assigns; provided, however, that neither Harris nor Customer shall have any right or authority to assign, transfer, pledge, or otherwise convey this Addendum or any rights, duties or obligations hereunder to any other person or entity without the prior written approval of the other party.

8. In the event of any conflict between the terms of this Addendum and the Agreement, this Addendum shall control.

11. For any action, suit, or proceeding under or pursuant to this Addendum, exclusive venue 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.

(a) In connection with this Addendum and the System Agreement, Harris irrevocably and unconditionally:

(i) submits for itself and its property in any legal action or proceeding relating to this Addendum, or for recognition and enforcement of any judgment in respect of this Addendum, to the exclusive general jurisdiction of the courts of the State of Texas located in the County of Dallas, and the appellate courts thereto;

(ii) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court, and agrees not to plead or claim the same;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to Harris at the following address: _____;

(iv) agrees that nothing in this Section shall affect the right of Customer to effect service of process in any other manner permitted by law or shall limit its right to sue in any other jurisdiction; and

(v) appoints _____ (the "Process Agent") with an office at _____, as its agent to receive on its behalf and its property service of copies of the summons and complaint and any other process which may be served in any action or proceeding in any court described in paragraph 15(a)(i) and agrees promptly to appoint a successor Process Agent in the United States of America (which successor Process Agent shall accept such appointment in a writing) prior to the termination for any

reason of the appointment of the initial Process Agent or if the appointed Process Agent no longer maintains residence in the United States in a manner sufficient to act as Process Agent pursuant to applicable law.

(b) In any action or proceeding in any court described in paragraph 11(a)(i), above, service may be made on Harris by: (i) delivering a copy of the summons and complaint and any other process to Harris in care of the Process Agent at the Process Agent's address, or (ii) by depositing a copy of such process in the mails by certified or registered mail, addressed to Harris as provided in paragraph (a)(iii) of this paragraph 11, above. Harris irrevocably and unconditionally authorizes and directs the Process Agent to accept such service on its behalf. Harris agrees that, to the fullest extent permitted by applicable law, a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) The consent to personal jurisdiction set forth herein shall be self operative and no further instrument or action, other than service of process as provided for herein, shall be necessary in order to confer jurisdiction upon Harris in any such court.

(d) Provided that service of process is effected upon Harris in the manner prescribed by law, Harris irrevocably waives, to the fullest extent permitted by law, and agrees not to assert, by way of motion, as a defense or otherwise:

(i) any objection that it may have or may hereafter have to the laying of the venue of any such suit, action or proceeding brought in any court mentioned in paragraph 11(a)(i) above;

(ii) any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum; or

(iii) any claim that it is not personally subject to the jurisdiction of the above-named courts. Provided that service of process is effected upon Harris in one of the manners herein specified in this Addendum or as otherwise permitted by law, Harris agrees that final judgment shall be binding upon Harris, and may, so far as is permitted under applicable law, be enforced in the courts of any state or any Federal court and in any other courts to the jurisdiction of which Harris is subject, including, without intending any limitation, as to Harris the courts of Texas, any other court in the United States, and/or Canada by a suit upon such judgment and that Harris will not assert any defense, counterclaim, or set off in any such suit upon such judgment.

12. Harris agrees to be substituted as, and in the place and stead of, GEMS under the System Agreement and the Browser Interface Addendum and shall perform the duties and obligations of GEMS from and after the date hereof.

Harris agrees to **defend, indemnify and hold harmless** Customer, its officials, officers, employees, representatives and agents from and against any and all claims, liability, lawsuits, actions, causes of action, judgments, damages, costs, expenses, or

fees (including, without limitation, attorney's fees) (together, "Claims") of any nature whatsoever, whether at law or in equity or otherwise, which may be brought by GEMS, any successor entity to GEMS, or any officer or employee of GEMS or its successor(s), to the extent that such Claims result directly from or are proximately caused by the substitution of Harris under the System Agreement in the place and stead of GEMS.

13. This Addendum may only be amended or modified by a written instrument signed by both parties. 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.

<p>N. Harris Computer Corporation</p>	<p>Town of Addison, TX Customer</p>
<p>By: _____ _____ Craig Ross, Executive Vice President</p>	<p>By: Print: _____</p>
<p>Date: _____ _____</p>	<p>Date: </p>



Town of Addison, TX
 Date of Issuance: September 10, 2008
 As prepared by Carol Oberlohr

SUMMARY OF ALL COSTS	
	Totals
Proposed Govern Software Costs	
Software Licensing	\$33,950.00
Software for Life Discount	-\$25,000.00
System Software Sub-Total	\$8,950.00
Professional Services Costs	
Data Conversion Services	\$17,440.00
Implementation Services	\$62,010.00
Training Services	\$8,800.00
Project Management	\$17,550.00
Professional Services Sub-Total	\$105,800.00
Performance Bond (3% of \$134,925)	\$4,048.00
Estimated Travel Cost (but not to exceed)	\$19,950.00
GRAND TOTAL (Includes Software Licensing & Professional Services Costs)	\$138,748.00

GOVERN SOFTWARE MAINTENANCE & SUPPORT COSTS	
	Total
Support & Maintenance Costs	
YEAR 1 - Maintenance and Support Costs	\$6,790.00
YEAR 2 - Maintenance and Support Costs	\$7,129.50
YEAR 3 - Maintenance and Support Costs	\$7,485.98
YEAR 4 - Maintenance and Support Costs	\$7,860.27
YEAR 5 - Maintenance and Support Costs	\$8,253.29

- Exhibit A includes an estimated travel time and related expenses (flight, hotel, meals, rental car, etc.). Associated travel expenses are billed at actual cost with meals billed at the government per diem rate.
- All time is billed in one hour increments.

- Maintenance will commence 90 days from system acceptance date. Maintenance will be prorated to coincide with your standard billing cycle.
- Prices valid 120 days from date of issuance pursuant to signature.

**SYSTEM DEVELOPMENT AND INTEGRATION AGREEMENT
BETWEEN
TOWN OF ADDISON AND SYSTEMS CONSULTANTS, INC.
Dated as of November 14, 2000**

SYSTEM DEVELOPMENT AND INTEGRATION AGREEMENT
BETWEEN
TOWN OF ADDISON AND SYSTEMS CONSULTANTS, INC.

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SYSTEM DEVELOPMENT AND INTEGRATION AGREEMENT

BETWEEN THE TOWN OF ADDISON

AND

SYSTEMS CONSULTANTS, INC.

Recitals

The Town of Addison ("Buyer") is a municipality organized under the laws of the State of Texas with offices at 5300 Belt Line Road, Addison, Texas 75001-0144. Buyer enters into this Agreement to obtain an integrated Enterprise Financial System ("System") to meet the needs of the Town's financial affairs, including financial management, purchasing, treasury and human resources. The System will include certain computer hardware, data conversion, software, and related installation, maintenance, training and support services. Buyer has solicited proposals for such products and services by issuance of a Request for Proposals dated November, 1999 (the "RFP"). In response to the RFP, Systems Consultants, Inc., a Missouri corporation, with its principal offices at 121 Hunter Avenue, Suite 100, St. Louis, Missouri 63124 ("Vendor"), submitted its proposal, dated January 25, 2000 ("Proposal").

Vendor is an established provider and integrator of a broad range of municipal government financial applications. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the RFP, the Proposal and this Agreement in an efficient and cost-effective manner with a high degree of quality and responsiveness and has performed and continues to perform the same and similar services for other buyers.

Vendor has agreed to design, develop, implement, install, warrant, support, and maintain a solution meeting the requirements as described in the RFP, the Proposal, and this Agreement. As part of its services, Vendor recommends computer hardware and software vendors (in addition to the software it directly licenses) to provide computers and software for inclusion in the System to be installed by Vendor under this Agreement.

Buyer's objectives in entering into this Agreement include obtaining (i) high quality, flexible enterprise-wide financial systems in the areas meeting Buyer's needs as expressed in the RFP, and not obtaining merely a computer system or stand-alone

software applications; (ii) a flexible, mutually beneficial and long-term relationship with Vendor under which Vendor will be responsive to the requests of Buyer and to changes in technology and methods for providing the System; and (iii) identification of methods to continuously improve products and services and reduce Buyer's associated costs with the implementation and maintenance of the System. Vendor has thoroughly reviewed and analyzed Buyer's requisite current and future needs and requirements as expressed in the RFP. Based on its review of the RFP, Vendor has proposed a System to Buyer that Vendor represents has the capability to achieve those objectives. Vendor shall provide the System and services described in this Agreement in a manner that will best support Buyer's ongoing objectives, considering the Buyer's municipal status and the public constituency.

On the basis of and in reliance upon the inducements described above and in Vendor's Proposal and the representations and warranties made by Vendor in this Agreement, Buyer desires to engage Vendor to perform the services described herein under the terms and conditions of this Agreement. Buyer has selected Vendor with the full expectation that Vendor will provide the System and services described herein in accordance with the performance levels and standards described in this Agreement.

Agreement

NOW THEREFORE, in consideration of the mutual promises and covenants set forth below, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows (the "Agreement"):

1 Names of Contracting Parties and Effective Date

The Parties to this Agreement are Buyer and Vendor (the "Parties"). This Agreement is effective as of November 14, 2000 (the "Effective Date").

2 Contract Documents/Order of Precedence

All activities and transactions contemplated by this Agreement will be governed by the following documents, cited below in order of precedence from highest to lowest in the event of any conflict between them. The documents listed in 2.3, 2.4 and 2.5 below are for informational purposes to assist in interpretation of this Agreement and the Schedules, and are not incorporated by reference. Any change to any document made in accordance with the change control procedures set forth in this Agreement (Change Control Procedures), or otherwise agreed to by the Parties in writing, will take precedence over all previous versions of the changed document.

2.1 This Agreement (not including the Recitals);

2.2 The Schedules attached to this Agreement;

2.3 The written questions of Buyer seeking clarification of the Vendor's Proposal and the responses thereto by Vendor;

2.4 The Proposal of Vendor dated January 25, 2000; and

2.5 The RFP of Buyer dated November 1999.

3 System Development and Delivery

3.1 System Specification

Vendor agrees to provide Buyer with a computer-based System that satisfies all the System Specifications described in Schedule 9. The initial System Specification is the Vendor base System prior to modifications made under this Agreement. The modifications for the System Specification, as customized for the Buyer, will be developed pursuant to the Implementation Plan which is attached as Schedule 8. Vendor is responsible for procuring the Computer Hardware, Software and Materials described in Section 3.2, developing the Custom Software described in Section 3.3, creating and managing the Implementation Plan under Section 3.4, and providing the Services described in Section 3.5. The responsibilities of the Parties for completion of the tasks required to develop the System in order to meet the System Specifications are included within the Implementation Plan. The intent of the Parties is for Vendor to deliver to Buyer a functional, effective and reliable System that will address the needs of Buyer. The omission of any obligation by Buyer in describing the System in this Agreement or Schedules does not excuse Vendor from the performance of such obligation in delivering the System as long as it is within the scope of the System Specifications.

3.2 Specification of Computer Hardware and Software Products

Vendor will provide all of the Computer Hardware; the Vendor Software (including the compiler and run time application bundled with the operating system); the Third Party Software; the Materials; and such other items as may be necessary for Vendor to complete the implementation of the System in accordance with the System Specification.

3.3 Custom Software

Vendor will modify existing computer code and create additional computer code, in order to provide the Custom Software as stated in the Implementation Plan. The Custom Software will be developed by Vendor to address the specific needs of the Buyer and will be described in a document jointly prepared by Buyer and Vendor that, once completed, will be included in the System Specification. Vendor will use commercially reasonable efforts to incorporate the customization features into the base code version of the SCI Software and into all future releases of the SCI Software. Vendor will also use commercially reasonable efforts to provide six months advance notice to Buyer concerning customization features that Vendor will not be able to incorporate as described above. In such instance, the Parties may mutually agree to incorporate such customization into SCI Software provided to Buyer at a mutually agreed upon cost. Vendor agrees that it will use commercially reasonable efforts to

spread such customization incorporation costs across its customer base where possible to reduce costs to Buyer.

3.4 Implementation Plan

Vendor will develop and implement the System under this Agreement as provided in the Implementation Plan. Initially, the Parties have jointly prepared a detailed preliminary Implementation Plan setting forth the tasks to be performed by each Party and the time estimated to complete each task. The Implementation Plan will establish the Phases for the completion of each stage of work and the Test Plan for acceptance. The Milestones that will permit progress payments to be paid are set forth in Schedule I. Vendor will be responsible for tracking all of its ongoing tasks and the project status against the Implementation Plan. After the completion of the specifications for customization under the Implementation Plan, the Parties will amend the Plan if required. If either Party becomes aware of any circumstance that may jeopardize the delivery of the System in accordance with the Implementation Plan, it will immediately notify the other Party. Upon Buyer's written request, Vendor will prepare, at no additional cost to Buyer, alternative action plans and revised schedules that the Parties could implement by mutual agreement to eliminate or minimize the delay.

3.5 Services

Vendor shall provide Services to Buyer for the integration of the System. The Services are described in the Implementation Plan and shall at a minimum require Vendor to complete all of the tasks described in the Implementation Plan, which Plan will include the following matters:

3.5.1 Test System

Utilizing the Computer Hardware, Software and Materials, Vendor will establish at the Buyer's headquarters (or at such other facility that may be designated by Buyer) a Test System for the following purposes: (a) demonstrate functionality of System components; (b) verify System integrity and integration steps; (c) acceptance testing; and (d) training.

3.5.2 Delivery, Staging, and Administration

Vendor is responsible for the delivery of all Computer Hardware, Software and Materials. The Vendor will stage the Hardware and Software at the Vendor's facility prior to delivery and installation at the Buyer's site. Buyer will provide secure storage space of an agreed size in Buyer's facilities for the storage of Computer Hardware and Materials. Notwithstanding the foregoing, Vendor will notify Buyer of the delivery of the System consoles and will coordinate the staging and installation of the consoles. Buyer also will provide reasonable administrative space (not less than two desks) and support (telephones, faxes and copying) provided that Vendor will be responsible for all long distance charges and other charges directly attributable to such support. Vendor acknowledges that Buyer will continue its operations throughout the installation process

and that Vendor will undertake to install the System with as little disruption to Buyer's on-going operations as possible.

3.5.3 System Cutover

Vendor will have the primary responsibility with the assistance of the Buyer's personnel to design and manage a detailed plan for the preparation for and conversion of the Existing System to the System as described in the Implementation Plan so that there will be no unplanned loss of Buyer's financial services during the System Cutover. The Implementation Plan will identify the Cutover Dates (herein so called) for each Phase as the calendar dates upon which each of the operations are transferred from the Existing System to the System.

3.6 Vendor Status Reports and Status Meetings

3.6.1 Monthly Status Reports

Vendor shall submit monthly status reports to Buyer upon the fifth business day of each month, which reports shall include, at a minimum, progress and status of work being performed under the terms of this Agreement, Milestones attained, and any problems or delays in performance. If any delay is reported, Vendor's report will additionally state the reason for the project delay, the corrective actions that are available and the corrective actions taken or that should be taken by Vendor and/or the Buyer, any modification of the Implementation Plan, if required, and the estimated impact of the change resulting from the delay or modification.

3.6.2 Monthly Status Meetings

Vendor shall meet with Buyer, whether in person or telephonically, upon the tenth business day of each month (or on such other day as the Parties may mutually agree) during the term of this Agreement to discuss the status of the Implementation Plan and Monthly Performance Report, change orders to date and such other matters the Parties may elect to address.

3.7 System Acceptance

3.7.1 Vendor and Buyer will work together to develop a test plan, based on the Buyer's RFP, for the initial System (Vendor base code). The test plan will be conducted during the training phase and after each of the data conversion checkpoints set forth on Schedule 8. Vendor will also assist in developing a mutually agreeable test plan for the custom software development, based upon the detailed design specifications. Vendor shall provide test criteria for Buyer's approval. Both of these test plans are hereinafter referred to as the "Test Plan." The Test Plan for the Custom Software will be conducted within ninety days of delivery of the Custom Software. The Test Plan will be performed at the Buyer's headquarters. The purpose of the Test Plan is to demonstrate that the System meets the System Specifications. The Parties shall manage the tests and the tasks set forth in the Test Plan. The Test Plan will also address the contingencies

associated with the System Cutover. Once approved by the Buyer, the Test Plan will be included as part of the Implementation Plan, Schedule 8.

3.7.2 Buyer will notify Vendor in writing when all of the acceptance criteria set forth in the Test Plan (the "Acceptance Criteria") have been met for each Phase. Vendor will supply to Buyer, and Buyer may review, all test data, reports and results, in order to verify that each Phase of the System complies in all respects with the Acceptance Criteria. Buyer will have ten (10) business days to review such information and to notify Vendor in writing that the Phase of System that has been tested complies with the Acceptance Criteria. If Vendor has not met some or all of the Acceptance Criteria, the procedures of Section 3.7.3 will apply.

3.7.3 If Buyer notifies Vendor that any Phase of the System does not meet all of the Acceptance Criteria, Vendor will correct the deficiencies and acceptance testing will be repeated to the extent necessary to demonstrate that the deficiencies have been corrected and approved by Buyer under Section 3.7.2. If after ninety (90) calendar days (unless further extended by Buyer) the System still has not met all of the Acceptance Criteria under the Implementation Plan, Buyer may elect to exercise its remedies under Section 13.

3.7.4 Vendor will assist Buyer to conduct a test for Final Acceptance of the entire System. The Acceptance Criteria that must be met include the RFP requirements and the detailed design specifications for all the Software, which shall include a 30 consecutive day, 24 hour per day period of System performance within the System Specifications. Upon completion of the Acceptance Criteria for final testing, Buyer will issue an acceptance certificate to Vendor for the System ("Final Acceptance"). No use of the System by Buyer prior to Final Acceptance shall constitute an acceptance of the System, any component thereof, or any Services. System acceptance may include a "punch list" of non-conforming items that are not material to System Performance. Vendor agrees to use commercially reasonable efforts to promptly address all items on the punch list.

3.7.5 Disagreements between the Parties as to whether or not the System has met any or all of the Acceptance Criteria will be resolved in accordance with the Dispute Resolution Procedures of this Agreement.

3.7.6. Buyer shall obtain from Vendor the final source code, including all customized source code before Buyer's final acceptance of the System. Buyer shall only use the Software to process the data of the Buyer.

3.8 System Manuals

(a) Vendor shall deliver to Buyer the System Manuals describing in detail the operations of the System and each of its subsystems, the Computer Hardware, the Software, and the Materials consistent with the level of content, format and detail of the examples of documentation provided by Vendor. Concurrently, the Vendor will provide all Vendor Documentation and Third Party Documentation. Vendor shall incorporate any reasonable comments and suggestions made by Buyer.

(b) As long as Buyer is under Warranty or receiving Maintenance Services, and at no additional charge to Buyer, Vendor shall provide updates in electronic format to the System Manuals to reflect changes in the System and the procedures and in the Computer Hardware, Software and Materials used to operate the System.

4 Vendor Warranties

4.1. General System Warranty

The parties acknowledge that components of the System will be delivered and integrated together over an interim time period prior to Final Acceptance by Buyer. In light of this, Vendor hereby warrants that, for the periods described below, the System (and/or delivered portions thereof) will all perform in accordance with the applicable System specifications:

- (a) all delivered components of the System will be warranted for a period of:
 - (i) twelve (12) months from their date of delivery to Buyer (the "Delivery Period"), and
 - (ii) for that period of time extending from the end of the Delivery Period to the date of Final Acceptance by Buyer (the "Extended Delivery Period"); and
- (b) the entire System will be warranted for a period of six (6) months from the date of Final Acceptance by Buyer (the "Final Acceptance Warranty Period").

The length of the Extended Delivery Period cannot be determined at the time of this Agreement's Effective Date. Consequently, Buyer has agreed to pay Vendor an up-front fee in the total amount of \$23,175 to compensate Vendor during the Extended Delivery Period for the SCI Software License fee and maintenance fee.

At the end of the Final Acceptance Warranty Period, regular annual maintenance will commence as described in Section 4.1.6 below.

4.1.2 Upon delivery, Vendor shall assign to Buyer all benefits of the manufacturer's warranty on any Third Party Products provided to Buyer, or any other guarantee which may apply to any such Third Party Products. The third Party warranties shall begin when the Third Party Products are delivered to Vendor. Vendor shall make commercially reasonable efforts to deliver the Third Party Products to Buyer within two weeks of Vendor's receipts. In addition, Vendor represents:

4.1.3 Such Third Party Products shall be of satisfactory quality and fit for any purpose held out by Vendor and its Subcontractors;

4.1.4 Such Third Party Products shall comply in every material respect with any specifications, drawings, samples or description provided by Vendor, and its Subcontractors; and

4.1.5 Such Third Party Products shall comply with all statutory requirements and regulations and all codes of conduct relating to the sale of such Products.

4.1.6 Maintenance Services

Vendor will provide such defect correction and maintenance releases for the SCI Software, which have been developed by Vendor. Such releases shall be licensed to Buyer under the terms and conditions of this Agreement. Each maintenance release will consist of a set of programs and files made available in the form of machine readable media and will be accompanied by a level of documentation adequate to inform the Buyer of the problems resolved including any significant operational differences resulting from the release which are known by Vendor. Vendor agrees to use its best efforts to the end that each maintenance release of SCI Software will be compatible with the then current unaltered release of the system software applicable to the Designated Computer System(s).

Buyer will install all Defect, Error or Malfunction corrections and maintenance releases, provided Buyer receives proper instructions from Vendor.

Buyer is responsible for System administration activities on the Designated Computer System.

Vendor will provide support services as set forth in Schedule 2.

4.2 Warranty for Services

4.2.1 Vendor warrants that all the Services will be performed by competent personnel in a professional, good and workmanlike manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time the Services are provided.

4.2.2 Vendor represents and warrants that it has acted in good faith in its Proposal to provide the Services to Buyer and that, subject to and without prejudice to the other provisions of this Agreement, the Services shall be provided in accordance with and in the spirit of Vendor's Proposal.

4.2.3 Vendor covenants that the Services shall meet Buyer's standard work rules, security regulations or similar requirements if informed of same in writing.

4.3 Other Vendor Warranties

Vendor warrants and represents to Buyer as follows:

4.3.1 Ownership and Licensing of Software

Vendor is the owner of and/or has the right to grant a license (or obtain on Buyer's behalf a license) to use the Software specified in this Agreement, free of all liens, claims, encumbrances, and other restrictions and without otherwise violating any rights of any third Party, including any patent, copyright, trade secret or other proprietary rights.

4.3.2 No Pending Litigation

There are no actual or threatened suits or claims pending that involve Vendor's right to grant a license to use the Vendor Software, perform the Services, or that would otherwise affect Vendor's performance under this Agreement.

4.3.3 Quiet Enjoyment

Buyer shall quietly and peacefully possess the Software, Computer Hardware, and Materials provided under the provisions of this Agreement, and Buyer's right of quiet enjoyment and use and possession of the Software and other materials will not be interrupted or otherwise disturbed by Vendor, its officers, directors, employees, agents, successors or assigns or any person, firm or entity asserting a claim under or through Vendor.

4.3.4 Compliance with Government Requirements

The System will comply with all applicable federal and state government requirements for the preservation and financial reporting of data that is entered into the System in order that the System shall meet the System specification.

4.3.5 Procedures and Documentation

The System Manual and all Third Party and Vendor Documentation provided by Vendor to Buyer in connection with the System is substantially complete and accurate.

4.3.6 Personnel

Any System support and other Services that Vendor provides to Buyer under this Agreement, directly or through its subcontractors, shall be provided by personnel who are trained and skilled in the provision of such services consistent with commercially accepted best practices. All of Vendor's personnel who work on any of Buyer's facilities or in Buyer's vehicles will be subject to Vendor's drug testing and background check policies.

4.4 Disclaimer

Vendor does not warrant that the System will operate in an uninterrupted or error-free manner. THE WARRANTIES SET FORTH EXPLICITLY IN THIS AGREEMENT REPLACE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED,

INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5 Support Services.

The support services provided as part of the Maintenance Services by Vendor are described in Schedule 2.

6 Price and Payment Provisions

6.1 Fixed Price

Vendor will design, develop, implement, install and warrant the System in accordance with this Agreement for the Fixed Price set forth on Schedule 1. The Parties recognize that the customization portion of the total Fixed Price may be variable, as set forth in Schedule 1, but in no event can it be increased by more than ten percent. Schedule 1 also sets forth the payment terms and fees for technical services and training. Schedule 6 sets forth the annual license and maintenance fees.

6.2 Customization Milestone Payments

Buyer agrees to pay Vendor for customization as shown in Schedule 1.

6.3 Taxes

Buyer is exempt from state and local taxes and will provide a tax exemption certificate, if available.

6.4 Due Date

All amounts due and payable under this Agreement to Vendor will be paid by Buyer within thirty (30) calendar days after the receipt of the corresponding invoice. Buyer further agrees to pay a late payment charge at the rate of one and one half (1½) percent per month, or at the maximum late payment charge permitted by applicable law, whichever is less, on any unpaid amount for each calendar month (or fraction thereof) that such payment is late.

6.4.1 Expenses

All estimated expenses relating to the Services are included in the Fixed Price. Actual expenses are billed at cost. Actual expenses which exceed the estimated expenses in total shall not be reimbursed by Buyer unless agreed to by Buyer in writing.

6.4.2 Rights of Set-Off

With respect to any amount which (1) should be reimbursed to a Party or (2) is otherwise payable to the Party pursuant to this Agreement, such Party may upon notice

to the other Party deduct the entire amount owed to such Party against the charges otherwise payable or expenses owed to the other Party under this Agreement.

6.5 Payment for Maintenance and Support

6.5.1 Maintenance Inclusive in System Warranty Period

All System maintenance and support obligations of Vendor described in Section 5 and Schedule 2 shall apply during the Warranty Periods and are included in Vendor's warranty and the acquisition cost of the System, except as provided in Section 4.1.

7 Special Terms and Conditions Applicable to Computer Hardware and Materials

In addition to the terms and conditions of this Agreement regarding Vendor's provision of the System, the following terms and conditions apply when Vendor provides Computer Hardware and Materials under this Agreement. These terms are in addition to the terms of this Agreement and will not abrogate, limit, or otherwise override Vendor's obligations to provide the System meeting the System Specifications.

7.1 Computer Hardware and Materials

7.1.1 Title

Title to Computer Hardware and Materials provided by Vendor to Buyer will transfer to Buyer on delivery. At the request of Buyer, Vendor will provide detailed invoices listing by part number, model, manufacturer and quantity all of the Computer Hardware and Materials as they are placed on any site of Buyer by Vendor under this Agreement. Any Computer Hardware or Materials acquired by Vendor to fulfill its obligations under this Agreement that are not located at Buyer's site shall be specifically identified by model and serial number and, if practical, segregated from the materials held for other customers of Vendor.

7.2 Risk of Loss

Vendor will retain risk of loss and damage for all Computer Hardware and Materials until verified as delivered to the secure storage area at Buyer's site or installed by Vendor at Buyer's site. Vendor will be responsible for any damage caused by its employees or Subcontractors.

7.3 Production Status

All Computer Hardware and Materials shall be the standard products of manufacturers regularly engaged in the production of such Computer Hardware. The Computer Hardware shall be new, manufactured from new parts and consist of the manufacturer's latest design at the time of placing the order as stated in the Implementation Plan. All Computer Hardware shall be Underwriter's Laboratory

approved and shall meet all F.C.C. acceptance (A, B. or both), and, to Vendor's knowledge meet applicable IEEE standards.

7.4 Installation

Buyer agrees to provide an installation environment meeting the power, electrical, and physical interface specifications for the Computer Hardware and Materials as set forth in Schedule 4. Vendor will ensure that all Computer Hardware and Materials installed are in good working order and meet its specifications. Vendor will successfully complete the manufacturer's standard installation tests, if applicable, before Computer Hardware is considered installed.

7.5 Acceptance

The Computer Hardware shall be accepted upon installation, provided, however, that Final Acceptance of the Computer Hardware shall be contingent upon Vendor's completion of the Acceptance Criteria and the other conditions of Section 3.7.

8 Special Terms and Conditions Applicable to Software Licenses

8.1 License Grant

Vendor grants to Buyer a perpetual, non-exclusive and paid-up license on the terms set forth in this Section 8 for all Vendor and Custom Software delivered under this Agreement, including rights to use any embedded software provided Buyer pays annual license fees.

8.2 Third Party Software

Vendor will provide the Third Party Software identified in Schedule 4 pursuant to such third Party's license agreements with terms approved by Buyer.

8.3 Backup or Development Copies and Use

Buyer agrees that all Software will be used only on the Designated Computer System or copied for use on a backup or development computer system for backup or internal development purposes only.

8.4 Annual License Fee for SCI Software

An annual license fee is required for the continued use of SCI Software. The annual license fees are shown on Schedule 6 and must be paid by Buyer each year for as long as the SCI Software is used by Buyer under this Agreement.

8.5 Ownership and Modification

Buyer agrees that the original copy of SCI Software and all copies thereof made by Buyer are and shall remain the sole property of Vendor. Buyer shall have the right to

modify any SCI Software for Buyer's use under this Agreement, and may combine such with other programs or material to form an updated work. However, upon discontinuance or termination of rights granted under this Agreement, the SCI Software shall be completely removed from any updated work and all SCI Software and copies thereof shall be returned to Vendor or disposed of in accordance with Vendor's written instructions. Should Buyer modify the SCI base code, without the prior written approval of Vendor, Vendor shall have no further warranty or maintenance obligations for such modifications.

8.6 Copyright Notice

Buyer expressly agrees to include Vendor's copyright notice and proprietary notice on all modifications and copies in which or in part, made by Buyer under this Agreement.

9 Terms and Conditions Applicable to Custom Software

9.1 Customization

Vendor shall provide the Custom Software as provided in Section 3.3. All customization Services shall be performed exclusively by employees or sub-contractors of Vendor. All Custom Software will be warranted by Vendor under the six (6) month Warranty set forth in Section 4.1 and maintained under Maintenance Services set forth in Section 4.1.6.

9.2 Documentation

Vendor will document the Custom Software consistent with Vendor's standard software documentation. Vendor shall deliver to Buyer, with respect to any Custom Software developed by or for Vendor and delivered to Buyer, all such software documentation.

10 Training

10.1 Training of Buyer Employees

Vendor shall train Buyer's personnel in the use of the System. Such training shall be conducted at a site and at times as stated in the Implementation Plan and shall be provided at no additional charge to Buyer.

10.1.1 Additional Classes

From time to time after Final Acceptance, at Buyer's request, Vendor shall provide additional training classes at sites and at times agreed upon by the Parties. Such additional training shall be at Vendor's standard rates minus any discounts to which Buyer is entitled under this Agreement or otherwise.

10.1.2 Course Materials

All training provided by Vendor shall include written course materials that may be kept, reproduced, and distributed by Buyer, provided that any reproductions of such materials shall include any copyright or similar proprietary notices placed on the materials. Buyer shall have the right to make unlimited copies of training materials, at no additional charge, for internal use only.

10.1.3 Canceling and Rescheduling

Buyer may cancel a training course scheduled by Vendor at any time upon forty (40) days written notice to Vendor.

10.1.4 Training the Trainer Courses

Where appropriate and available, Vendor shall use the "train the trainer" concept that will enable Buyer employees to train other employees upon agreed aspects of the System. Buyer may tape by audio or audio/visual means any training session presented by Vendor and use such tape for Buyer's internal training needs, at no cost to Buyer and free of any claims of any individual directly or indirectly employed by Vendor.

11 Change Control Procedures

11.1 Either Party may request a change to this Agreement (including all Schedules and Attachments hereto). A written change request ("Project Change Request" or "PCR") describing the change requested will be promptly submitted if requested by the other Party. The Buyer and Vendor Project Managers will review the PCR and either mutually approve it for further analysis or reject it. If the change is approved, a written change authorization, detailing all modifications to the scope, price, schedule, or other terms (a "Change Authorization"), will be prepared. Both Parties must sign the Change Authorization to authorize the work described therein and incorporate the changes into this Agreement.

11.2 Vendor will review the Software, Computer Hardware and Materials to determine (a) if additional functionality, storage or capability can be achieved for the same or similar price by substituting a newly released product in place of the product specified in the Schedules; or (b) if the specified Computer Hardware, Software or Materials can be obtained for a price that is less than that which Vendor relied upon for its proposal. It is the intention of the Parties to permit Buyer to receive the benefit of changes in technology capabilities and market prices. If any such benefits are identified by Vendor, they shall be promptly presented to Buyer for its review and action pursuant to the Implementation Plan. Once any Software, Computer Hardware, or Materials have been ordered under the Implementation Plan, the obligations under this Section 11.2 shall terminate as to such Products.

11.3 In addition to changes authorized in accordance with the preceding paragraphs of this Section 11, Buyer may, at any time, by written change order, request changes within the general scope of this Agreement. Such changes may modify the functional or design aspects of the System, or both. Vendor shall evaluate such change

order request to determine whether such modification, change or addition can be provided. All such requests and responses shall be in writing and will invoke a \$250 processing fee. If Vendor determines that it can provide such modification, change or addition to the Vendor Program Product defined, Vendor will provide a preliminary estimate of outlining additional charges, work effort, time of completion, and impact on time schedules. On Buyer approval of estimates, Vendor shall prepare a change order proposal describing such modification, change or addition setting forth any additional charges, efforts required, an estimated time for completion, and any impact upon the existing time schedules. If Buyer does not agree to the change order, then Vendor shall have no further obligation with regard to such change order. Vendor must agree to any changes mandated by federal or state governmental requirements. In all cases the \$250 processing fee will be applied to the agreed upon cost of any change. Failure to agree to an adjustment that includes the addition of subsystems or significant additional functionality or to a change of the design of an operating function of a subsystem shall not obligate Vendor to proceed without reaching an agreement concerning the equitable adjustment.

12 Dispute Resolution Procedures

12.1 Informal Dispute Resolution

In the event of any dispute or disagreement between the Parties either with respect to the interpretation of any provision of this Agreement, or with respect to the performance of either Party hereunder, the Buyer and Vendor Project Managers will meet for the purpose of resolving the dispute. If the Project Managers are unable to resolve the dispute within five (5) working days, or as otherwise agreed, either Project Manager will have the right to submit the dispute to the Vendor Authorized Representative or the Buyer's City Manager or his or her designee (the "Representatives") who will meet as often as the Parties reasonably deem necessary in order to gather and furnish to each other all non-privileged information that the Parties believe germane to resolution of the matter at issue. These Representatives will negotiate in good faith in an effort to resolve the dispute without resort to formal legal proceedings. During the course of such negotiations, all reasonable requests made by one Party to the other for non-privileged information will be honored in order that each of the Parties may be fully informed of the circumstances relevant to the dispute. The Representatives may mutually agree to appoint a neutral advisor to facilitate negotiations and, if requested by both Parties, to render non-binding opinions. No formal proceedings for the judicial resolution of any dispute may be commenced until thirty (30) days following the initiation of negotiations under this Section 13 or for such shorter period as the Parties may mutually agree to in writing.

12.2 Arbitration

In the event the dispute is not settled under Section 12.1 above, any controversy or claim arising out of or relating to this Agreement or the existence, validity, breach or termination thereof, whether during or after its term, will be finally settled by compulsory arbitration in accordance with the Commercial Arbitration Rules and Supplementary

Procedures for International Commercial Arbitration of the American Arbitration Association ("AAA), as modified or supplemented under this Section.

12.2.1 Initiation of Proceedings

To initiate arbitration, either Party will file the appropriate notice at the Regional Office of the AAA in Dallas, Texas. The arbitration proceeding will take place in Dallas, Texas. Unless otherwise agreed to, the arbitration panel will consist of 3 arbitrators agreed to by both Parties, one arbitrator appointed by each Party (the appointment must be of a person having no direct or indirect professional or personal relationship with the appointing Party) and a third neutral arbitrator appointed by the two arbitrators designated by the Parties. . Any communication between a Party and any arbitrator will be directed to the AAA for transmittal to the arbitrator. At least two of the arbitrators must be trial lawyers having experience in commercial cases involving information technology.

Parties agree to exchange detailed statements of claims and defenses, exchange of relevant non-privileged documents, and permit a limited number of depositions to be taken

12.2.2 Arbitration Award

Except for a breach of Section 14 or Section 15 below, the arbitral award will be the exclusive remedy of the Parties for all claims, counterclaims, issues or accountings presented or plead to the arbitrators. The award will (i) be granted and paid in U.S. dollars exclusive of any tax, deduction or offset and (ii) include interest from the date that the award is rendered, until it is fully paid, computed at the rate of 10% per annum. Judgment upon the arbitral award may be entered in any court that has jurisdiction thereof. Any additional costs, fees or expenses incurred in enforcing the arbitral award will be charged against the Party that resists its enforcement.

12.2.3 Injunctive Relief Permitted

Nothing in this Section will prevent either Party from seeking interim injunctive relief or filing a debt collection action against the other Party in the courts having jurisdiction over it.

12.3 Pending resolution of any dispute, Vendor will proceed in accordance with Buyer's good faith and reasonable written directions.

13 Termination

13.1 Termination for Convenience

Buyer, by written notice, may terminate this Agreement, in whole or in part. Upon receipt of the termination notice, Vendor will stop work as specified in the notice in an orderly and expeditious manner, place no further subcontracts or orders in connection

with this Agreement (except as necessary to complete the continuing portion of the Agreement, if any), terminate all subcontracts to the extent they relate to terminated work and, with the approval of Buyer, settle all outstanding liabilities arising thereunder, deliver to Buyer all Software, Hardware and Materials in progress (including all applicable interests in and rights thereto), completed work, supplies, and Services produced or acquired for the work terminated, and complete performance of any work not terminated. Buyer will pay Vendor for all Software, Hardware and Materials delivered and all Services provided through the effective date of termination, including reasonable subcontract settlement and wind-down costs incurred by Vendor in accordance with this Section. Buyer will also pay applicable software license fees owed through the date of termination.

13.2 Termination for Cause

Either Party may terminate this Agreement for the other Party's failure to meet any material obligation hereunder if the defaulting Party has failed to take corrective action within thirty (30) days (or such longer period as the Parties may agree) of its receipt of written notification of the default, which corrective action has a substantial likelihood of effecting a cure within a reasonable period thereafter. If Buyer terminates the Agreement for default by Vendor, Buyer will pay Vendor for any Software, Hardware and Materials that Buyer elects to accept. Buyer will return to Vendor any Software, Hardware and Materials that it does not elect to accept and pay for, and all licenses associated with such returned Software will terminate. Vendor will pay to Buyer the actual damages that are caused by Vendor's default. The amount Buyer may recover from Vendor for actual damages in the event of a default by Vendor will not exceed the Fixed Price under this Agreement. In the event of a default by Buyer, the amount of Vendor's damages Vendor may recover against the Buyer will not exceed the Fixed Price.

13.3 Termination for Failure to Pass Acceptance Test

In the event the System or any Phase thereof does not pass the Acceptance Criteria as provided in Section 3.7, Buyer may elect any of the following remedies, after considering them in the order of precedence listed:

13.3.1 Require continued refinement and retesting.

13.3.2 Accept the System with an equitable price adjustment for the non-conforming part of the System; or

13.3.3 Return the System, in whole or in part, and receive the damages described in Section 13.2 above. The Parties agree that this remedy will only be exercised by Buyer as a last resort and in the event that the remedies set forth in Section 13.3.1 and 13.3.2 are not sufficient.

14 Damages and Other Remedies

14.1 Damages Limitation for Claims Against Vendor

Regardless of the basis on which Buyer is entitled to claim damages from Vendor, Vendor is liable only for:

14.1.1 payments for indemnification pursuant this Section 14 or damages sustained due to a breach of a Party's obligations under Section 15;

14.1.2 bodily injury (including death), and damage to real property and tangible personal property caused by Vendor or its agents or employees; and

14.1.3 if the termination is the result of Vendor's default or failure to pass the final System Acceptance Test, the damages stated in Section 13.

14.2 Indemnification for Intellectual Property Claims

14.2.1 If a third Party claims that any Computer Hardware, any current, unaltered release of any Software or Material ("Product") that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend Buyer against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that Buyer:

14.2.1.1 promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and

14.2.1.2 allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

14.2.2 If such a claim is made, or appears likely to be made, Vendor must provide to Buyer one of the following alternatives at Buyer's election: i) enable Buyer to continue to use the Product, ii) modify the Product so as to make it non-infringing, or iii) replace the Product with a non-infringing Product that is functionally equivalent to or superior to the Systems or iv) terminate the applicable licenses and remove the infringing Product.

14.3 General Indemnity

Vendor shall defend, indemnify and hold harmless Buyer, its corporate affiliates and their officers, directors, employees, and agents and their successors and assigns (referred to jointly hereinafter as the "indemnitee") against and from any and all losses, liabilities, suits, damages, claims, demands, and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from (i) the negligent or intentional acts or omissions of the Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by the Vendor, and, (iii) assertions under Worker's Compensation or similar laws made by persons furnished by the Vendor. Buyer shall notify the Vendor within thirty (30) days of the receipt of any written claim, loss, or demand for which the Vendor is responsible under this Section. Except as

provided in Section 14.2, in no event shall Vendor be obligated to indemnify against any loss, claim or damage arising from or related to the operation or failure of operation, for any reason, of the Software, Hardware, Materials or the System, or any component thereof, after such product has been put into productive use by Buyer, except as may otherwise be expressly warranted by Vendor under the contract documents.

14.4 Exclusions

14.4.1 Force Majeure

Neither Party will be responsible for failure to meet its obligations under this Agreement if the failure arises from causes beyond the reasonable control and without the fault or negligence of the non-performing Party. The performance of Vendor's subcontractors shall be deemed within the control of Vendor, except to the extent the subcontractors' failure arises from causes beyond the reasonable control and without the fault or negligence of the subcontractor and Vendor could not reasonably obtain the Products or Services from another source. Examples of causes beyond a Party's reasonable control include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions (7) strikes, (8) freight embargoes, and (9) unusually severe weather.

14.4.2 Consequential Damages

EXCEPT AS PROVIDED IN SECTION 19 BELOW, IN NO EVENT WHATSOEVER SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOSS OF PROFIT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR OF OBLIGATIONS UNDER THIS AGREEMENT OR THE LICENSE GRANTED.

15 Confidentiality

15.1 Confidential Information

The Parties acknowledges that, for purposes of this Agreement, each Party will be providing to the other certain non-public and proprietary information that is confidential and that shall be clearly marked as such ("Confidential Information"). Any of Buyer's information consisting of or relating to police records, fire records or court records that are not generally available to the public shall be deemed to be Confidential Information provided, however, that Vendor may not disclose any non-public police, fire or other information that cannot be disclosed under applicable law.

15.2 Protection of Confidential Information

The receiving Party will use the same care and discretion to avoid disclosure, publication or dissemination of Confidential Information as it uses with its own confidential information.

15.3 The receiving Party may disclose Confidential Information:

15.3.1 to its employees and employees of its subsidiary companies who have a need to know for purposes relating to this Agreement;

15.3.2 to any other Party with the disclosing Party's prior written consent; or

15.3.3 to the extent required by law or a valid order of a government agency, Congressional subcommittee, or court of competent jurisdiction, provided, however, that the receiving Party gives the disclosing Party prompt notice such that Buyer may obtain a protective order.

15.4 The receiving Party will have no obligation to the extent that Confidential Information:

15.4.1 is, at the time of disclosure or thereafter, in the public domain;

15.4.2 has been disclosed by the disclosing Party to others without any obligation of confidentiality;

15.4.3 was known by the receiving Party at the time of disclosure without any obligation of confidentiality; or

15.4.4 was developed independently by the receiving Party.

15.5 Confidential Information will continue to be subject to the terms of this Agreement for five (5) years following the Acceptance Date. Prior to the end of such five (5) year period, Vendor will return or certify destruction of Confidential Information in its possession.

16 Other Contract Administration

16.1 Key Personnel

16.1.1 Vendor will designate the key personnel to work on this project; including the project manager and lead programmer. Buyer may interview such individuals and will have a right of refusal as to the proposed individuals, provided such refusal right is reasonably exercised. Vendor agrees that lack of experience in the installation of Vendor systems comparable to the System is a reasonable ground for refusal.

16.1.2 Vendor will make best efforts to not make substitutions of the key personnel during the first twelve (12) months following the Effective Date (other than substitutions required because of death, disability, or termination of employment) without the written consent of Buyer, which consent shall not be unreasonably withheld. Buyer may designate a Project Manager and change such designation at any time upon written notice to Vendor.

16.1.3 If Vendor proposes to substitute any key personnel at any time during the term of this Agreement, Vendor will promptly notify Buyer's Project Manager in writing, specifying the reasons for the proposed substitution and identifying the proposed substitute as well as his/her qualifications. All proposed substitutes will have qualifications relevant to the Project that are equal to or greater than those of the key personnel being replaced, and Buyer will have the same right to interview and approve such individuals as provided in Section 16.1.1.

16.2 Availability of Personnel

In the event of a dispute regarding this Agreement, both Parties will attempt to contact and solicit information from the individuals who participated in contract negotiations, subsequent meetings, and/or contract performance as such may be applicable to the dispute, and to make such individuals available to the negotiators in person or via telephone, to the extent feasible.

16.3 Notices

All notices required or permitted to be made or given by either Party under this Agreement shall be in writing and shall be mailed or faxed (with confirmation) to the designated Project Manager, subject to the rights of the Parties to change such Project Manager in accordance with the terms of this Agreement. Notices shall be effective upon receipt.

16.4 Authorized Representatives for Contract Change

This Agreement can only be amended by means of a written document signed by the authorized representatives of the Parties.

16.5 Response To Requests

Unless otherwise expressly stated herein, Vendor and Buyer shall use their commercially reasonable to provide information, data, decisions, and approvals within ten (10) business days of the other Party's request, unless the Parties mutually agree to an extended response date. If Vendor requests information that is needed to by Vendor complete a project task, Vendor may stipulate that it will proceed with a notice of intended course of action for that task (described in reasonable detail so that Buyer is informed of the consequences of such action) at the end of the request period unless Buyer provides the information. If the information is not provided, Vendor may proceed as stated in its notice.

17 Other Warranties, Covenants & Representations

17.1 Authority

Each Party hereby represents that as of the Effective Date it has full power and authority to enter into and to perform this Agreement.

17.2 Organization

Each Party hereby represents, covenants, and warrants that as of the Effective Date it is duly organized, validly existing, authorized to do business and in good standing in all applicable governmental jurisdictions in which the failure to so qualify would have a materially adverse effect on such Party's ability to perform its obligations hereunder.

17.3 Title and Right to Transfer Software, Computer Hardware

Vendor represents and warrants that it has clear title to and the right to sell or license the Software, Computer Hardware and Materials to be delivered hereunder.

17.4 Insurance

Vendor represents that it currently has and will maintain during the term of this Agreement, from a good and responsible company or companies, insurance policies of the following types and in the respective minimum amounts of coverages, as required by Buyer.

18 Miscellaneous Provisions

18.1 Survival

Any provisions which by their terms survive the termination of this Agreement shall bind the Parties, and their legal representatives, heirs, and assigns as set forth herein.

18.2 Publicity

Nothing contained in this Agreement shall be construed to confer any right to use in any manner any name, tradename, trademark, or other designator of either Party without the express written consent of such Party. Other than listing Buyer as a customer in general marketing literature, Vendor shall not publicize this Agreement's existence or refer to Buyer in promotion or publications without Buyer's prior written consent. Vendor shall not disclose the terms or conditions of this Agreement without the prior written consent of Buyer.

18.3 Integration of Agreement

This Agreement constitutes the entire agreement between the Parties. The terms and conditions of this Agreement specifically replace and supersede any prior discussions, terms, documents, correspondence, conversations, or other written or oral understanding not contained herein.

18.4 Successors and Assigns

This Agreement will inure to the benefit of and be binding upon the successors and permitted assigns of the Parties hereto. Buyer may assign all of its rights hereunder to any entity in connection with an outsourcing transaction relating to the System, provided that the transferee agrees in writing to comply with Buyer's obligations under, and to be bound by, this Agreement. Vendor may not assign all or any part of this Agreement without the written consent of Buyer, which consent may not be unreasonably withheld. Any assignment or attempted assignment, in whole or in part, of rights under this Agreement, except as specifically set forth herein shall be null and void and without legal effect whatsoever. No assignment shall relieve the assignor of liability hereunder.

18.5 Subcontractors

18.5.1 Vendor reserves the right to assign personnel or to subcontract to third Parties who are, in Vendor's sole judgment, reasonably qualified to provide Services hereunder, provided that Buyer has the right to reasonably reject particular individuals who, in the sole opinion of Buyer, are not satisfactory.

In addition, Vendor shall not disclose any Buyer Confidential Information to such Subcontractor until such subcontractor has agreed in writing to assume the obligations described in Article 16 (Confidentiality).

18.5.2 Buyer may advise Vendor that it desires to review the performance of a Subcontractor previously approved if the subcontractor's performance has been materially deficient, good faith doubt exists concerning the Subcontractor's ability to render future performance, or there have been material misrepresentations by or concerning the Subcontractor. Upon Buyer's written request, Vendor shall investigate such Subcontractor's performance and take appropriate action to protect Buyer's interests.

18.5.3 Vendor shall remain liable for obligations performed by Subcontractors to the same extent as if a Vendor employee had performed such obligations, and for purposes of this Agreement such work shall be deemed work performed by Vendor.

18.6 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.

18.7 Section Headings

Section headings are provided for reference purposes only, and are not to be deemed to constitute part of this Agreement.

18.8 Injunctive Relief.

The Parties agree that in the event of any breach or threatened breach of this Agreement, the other Party may not have an adequate remedy at law. Consequently, each Party agrees that the other Party shall be entitled to seek the remedies of temporary and permanent injunction, specific performance or any other form of equitable relief without the necessity of proving actual damages. This provision shall not, however, be construed as a waiver of any rights that either Party may have for damages, or any other remedies to which either Party shall be entitled.

18.9 Non-Solicitation.

During the term of this Agreement and for one year thereafter, both Parties agree not to knowingly solicit or to offer employment to any then current employees of the other Party without it's the other Party's prior written consent.

18.10 Independent Contractors.

The Parties are independent contractors and nothing in this Agreement shall be deemed to make either Party an agent, employee, partner or joint venturer of the other Party. Neither Party shall have the authority to bind, commit, or otherwise obligate the other Party in any manner whatsoever.

18.11 Business Continuity.

At all times Vendor shall maintain documented and tested business continuity plans in order to ensure and preserve Vendor's ability to perform its obligations under this Agreement upon which Buyer is relying in licensing the System hereunder.

19 Definitions and Index to Definitions

Capitalized terms in this Agreement shall have the meanings ascribed to them below. If a capitalized term is not defined in this Section 19, the meaning of the term shall be interpreted so as to give the Agreement as broad and complete effect as possible.

Acceptance Criteria has the meaning described in 3.7.2.

Agreement means this System Development and Integration Agreement.

Buyer means the Town of Addison, and all of its employees, representatives, and agents, including consultants.

Change Authorization has the meaning described in Section 11.1.

Computer Hardware means the computers and machines listed in Schedule 4, all additions, components and replacements thereof, and all Third Party Documentation relating to such Computer Hardware.

Custom Software means the new or modified computer programs that are developed by Vendor in the performance of this Agreement, and including all Vendor Documentation.

Cutover Date has the meaning described in Section 3.5.3.

Defect, Error or Malfunction shall mean a significant deviation from the System Specification for the current release of Software.

Delivery shall mean the day when Software has been delivered by Vendor to Buyer's premises.

Designated Computer System shall mean the Unisys ES5044.

Effective Date has the meaning described in Section 1.

Existing System means the financial management systems that are utilized by Buyer prior to the System Cutover.

Final Acceptance has the meaning described in Section 3.7.4.

Fixed Price has the meaning described in Section 6.1.

Implementation Plan means the plan that describes the installation of the System and includes the and test plan.

Materials means any peripheral equipment, telecommunications equipment, cabling, supplies or other materials necessary for the System that is not included in the definition of Computer Hardware, and all related Third Party Documentation.

Milestones means the stage at which certain deliverables are due to be delivered to Buyer from Vendor as described in the Implementation Plan.

Milestone Payment means the date on which a payment to Vendor is due upon the completion of a Milestone under the Implementation Plan.

Milestone Performance Date means the date upon which a Milestone is to be delivered pursuant to the Implementation Plan.

Proposal has the meaning described in the Recitals.

RFP has the meaning described in the Recitals.

Representatives has the meaning described in Section 12.1.

Services means all of the Custom Software development, system design, system integration, and other services of Vendor described in this Agreement.

Software means all of the Vendor Software, Custom Software, and Third Party Software. Vendor Software may also be referred to as SCI Software.

System means the complete, fully-function computer systems for enterprise financial management, that is described in *this* Agreement and the Schedules.

System Cutover means the conversion of the Existing System to the System so that the System becomes operational and the primary means for providing the Enterprise Financial Services.

Test Plan has the meaning described in Section 3.7.1.

Third Party Documentation means all user guides and manuals, specifications and technical descriptions relating to any Third Party Software or any Computer Hardware or Materials.

Third Party Products means any Computer Hardware, Software or Materials provided or manufactured by any supplier other than Vendor.

Third Party Software means any Software used in the System that is not proprietary Software of Vendor or Custom Software.

Vendor means Systems Consultants, Inc. and, if the context so requires, any Subcontractor.

Vendor Documentation means all programming manuals, technical specifications and any other documents that will allow a reasonably skilled computer programmer to understand and manipulate the computer program's structure and function to which such documentation relates.

Vendor Software means all of the Software owned by Vendor that is licensed by Buyer under *this* Agreement, including the Software listed on Schedule 4, together with all source code and object code versions, and all Vendor Documentation. Vendor Software may also be referred to as SCI Software.

20 List of Schedules

Schedule 1	Payment Schedule
Schedule 2	Client Services Support & Escalation Process
Schedule 3	SCI Software, Training, Services
Schedule 4	Server Hardware, Third Party Software
Schedule 5	SCI Software Customization
Schedule 6	SCI Software Annual License and Maintenance Fees and Third Party Software, Hardware Annual Maintenance Fees (Estimated)
Schedule 7	Estimated Expenses
Schedule 8	Implementation Plan

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the 14 day of November, 2000.

VENDOR

Systems Consultants, Inc.

By: _____
Ron Whitehead
Its: City Manager

BUYER

Town of Addison

By: _____
John A. Sharp
Its: President & Chief Executive Officer

**MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE
STAFF REPORT
ME 2008-7**

Date: October 22, 2008
Address: 15750 & 15800 Spectrum Dr
Business: Allegro

<u>Ordinance Requirement</u>	<u>Request</u>	<u>Variance</u>
<p>(1) 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>The applicant is requesting attached LED skeleton type accent lighting along and or on the edges of building elements.</p>	<p>The ordinance only allows tube type lighting on an attached sign complying with the sign ordinance.</p>

#R7

STAFF RECOMMENDATION: The staff believes this type of LED lighting done in soft tones and in limited areas as shown on the plans is not offensive and adds a little character to the structures. Therefore we recommend approval.

STAFF: 
Lynn Chandler, Building Official

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

ACCENT LIGHTING Sign Ordinance

Application Date: 10/17/08

Filing Fee: \$200.00

Applicant: SNK

Address: 15750 SPECTRUM DR. Suite#:

ADDISON TX 75001 Phone#: 214.536.7104
City State Zip

Fax#:

Status of Applicant: Owner Tenant Agent

Location where exception is requested:

ON BUILDINGS

Reasons for Meritorious Exception:

WE THINK THE ACCENT LIGHTS ON THE BUILDINGS WILL ENHANCE THE AMBIANCE OF THE ADDISON CIRCLE AREA AND CONTRIBUTE TO THE VIBRANCE AND FEEL OF AN URBAN AREA. THE LIGHTS WILL BE LED LIGHTS

YOU MUST SUBMIT THE FOLLOWING:

12 COPIES OF THE PROPOSED SIGN SHOWING:

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

Date Fees Paid 10-17-08 Check # 3396 Receipt #

Council Agenda Item: #R8

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 \$3,500. 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

TECHNICAL SERVICES FEE SCHEDULE
FOR
LABORATORY ANALYSES,
INDUSTRIAL INSPECTIONS
AND
INDUSTRIAL SAMPLING

FISCAL YEAR 2009

December 1, 2008 through November 30, 2009

CHEMICAL ANALYSES

Alkalinity, Total	\$ 9.95
Alkalinity, Phenothalein	\$10.06
Bicarbonate	\$13.76
Carbonate	\$14.69

Biochemical Oxygen Demand:	
5-Day BOD	\$24.85
Carboneeous 5 day	\$25.20
Filtered (Dissolved)	\$30.70
7-Day BOD	\$29.55
Extra Dilution (Each)	\$ 2.50

Chlorophyll "a"	\$15.40
Chlorophyll "a" and Pheophytin "a"	\$20.21
Chemical Oxygen Demand	\$13.50
Chloride	\$10.00
Chromium Hexavalent	By Quote
Conductance, Specific	\$ 8.35
Cyanide	\$37.80
Cyanide (Amendable to Chlorination)	\$46.40
Fluoride, Total	\$14.00
Glycols	\$12.80
Hardness	\$14.50

Nitrogen:	
Ammonia	\$11.43
Ammonia by Distillation	\$18.50
Kjeldahl, Total	\$20.75
Nitrate	\$10.70
Nitrite	\$10.70
Organic	\$43.05

Oil and Grease	\$45.70
pH	\$ 8.77
Phenols	By Quote

Phosphorus:	
Ortho	\$10.70
Total	\$19.00

Solids:	
Total (TS)	\$12.00
Total Dissolved (TDS)	\$16.50
Total Suspended (TSS)	\$14.20
Volatile Suspended (VSS)	\$ 8.05
After TSS	

Organic Carbon:	
Dissolved	\$16.25
Total	\$14.70

Sulfate (Turbidimetric)	\$17.75
Sulfide	\$15.35
Surfactants - MBAS	\$34.23
Total Petroleum Hydrocarbons	By Quote
UV254	\$16.00

SEDIMENT, SLUDGES

Chemical Oxygen Demand	\$36.00
Cyanide	\$55.20
Nitrogen, Kjeldahl, Total	\$26.00
Oil and Grease	By Quote
Phosphorus, Total	\$22.72
pH Sediment	\$12.16
Solids, Total Volatile	\$ 7.94
Total Petroleum Hydrocarbons	By Quote

METALS ANALYSES (TOTAL)

\$10.75 PER METAL

Aluminum	Cobalt	Silver
Arsenic	Copper	Tellurium
Antimony	Iron	Thallium
Barium	Lead	Tin
Beryllium	Manganese	Uranium
Boron	Molybdenum	Vanadium
Cadmium	Nickel	Zinc
Chromium	Selenium	

MINERAL ANALYSIS

\$10.75 EACH (DISSOLVED)

Calcium	Potassium	Sodium
Magnesium	Silica	

TCLP METALS ANALYSIS

By Quote

<u>Mercury</u>	\$21.46
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MICROBIOLOGICAL ANALYSES

Drinking Water:		Other:	
Total Coliform (MMO/MUG)	\$ 12.80	Coliform, Fecal (Membrane Filter)	\$ 14.35
Heterotrophic Plate Count	\$ 14.70	Coliform, Fecal (MPN)	\$ 40.55
Coliform, Total (Membrane Filter)	\$ 14.17	Coliforms, Total (MPN –Q Tray)	\$ 14.99
		E. Coli (MPN –Q Tray)	\$ 14.99
		Streptococcus, Fecal (Membrane Filter)	\$ 14.90
Raw Water and Wastewater:			
Microscopic General Examination	\$18.00		

GAS CHROMATOGRAPH ANALYSES

PRIORITY POLLUTANTS (Gas Chromatograph-Mass Spectrometer) w/Preparation

EPA 624/8260 :

Acrolein	Chlorobenzene	1,2-Dichloroethane	Trichloroethene
Acrylonitrile	2-Chloroethylvinyl ether	Ethyl Benzene	Trichlorofluoromethane
Bromomethane	Dibromochloromethane	1,1-Dichloroethene	Vinyl Chloride
Bromoform	1,2 Dichlorobenzene	Methylene Chloride	
Bromodichloromethane	1,3 Dichlorobenzene	1,1,2,2-Tetrachloroethane	
Benzene	1,4 Dichlorobenzene	Tetrachloroethene	
Carbon Tetrachloride	1,1-Dichloroethane	1,1,2-Trichloroethane	
Chloromethane	1,2-Dichloropropane	trans-1,2Dichloroethene	
Chloroethane	cis-1,3-Dichloropropene	Toluene	
Chloroform	trans-1,3-Dichloropropene	1,1,1-Trichloroethane	

BTEX Volatiles: \$ 55.00
Benzene, Toluene, Ethyl Benzene

Standard Volatiles: \$105.00

Bromomethane	1,2-Dichloropropane	Methylene Chloride	trans-1,3-Dichloropropene
Bromoform	2-Chloroethylvinyl ether	1,1,2,2-Tetrachloroethane	
Bromodichloromethane	Dibromochloromethane	1,1,1-Trichloroethane	
cis-1,3-Dichloropropene	1,2 Dichlorobenzene	Trichloroethene	
Chloroethane	1,3 Dichlorobenzene	1,1,2-Trichloroethane	
Chloroform	1,4 Dichlorobenzene	Trichlorofluoromethane	
Chlorobenzene	1,1-Dichloroethane	trans-1,2-Dichloroethene	
Chloromethane	1,1-Dichloroethane	Tetrachloroethene	
Carbon Tetrachloride	1,2-Dichloroethane	Vinyl Chloride	

Acrolein/Acrylonitrile Volatiles: \$ 55.00
3 Day Analysis (unpreserved samples) \$250.00
VOC Trip Blanks₆ \$ 55.00

EPA 625
Total Semi-volatiles \$340.00

By Quote:

Organophosphate Pesticide

TCLP Organic Compounds

Pesticides/PCB'S by Gas Chromatograph

Pesticide/PCB Preparation:	\$100.00
(Sample preparation, extraction, and clean-up per sample)	
Solids Pesticide/PCB Preparation:	\$120.00
Full EPA 608 (Confirmation and quantification)	\$ 88.00
Cl-Pesticides	\$ 81.45
Polychlorinated Biphenyls (PCB)	\$ 94.56
EPA 8141	
Diazinon	\$ 88.80
EPA 8082	
Polychlorinated Biphenyls (PCB)	\$ 94.56
EPA 525	
Atrazine	\$110.00

TOXICITY TESTING

Chronic, <u>C. dubia</u> (3 Brood)	\$700.00	48 hr. Acute <u>C. dubia</u>	\$400.00
Chronic, <u>P. promelas</u> (Fathead Minnow – 7 Day)	\$700.00	48 hr. Acute <u>D. pulex</u>	\$400.00
24 hr. Acute <u>C. dubia</u>	\$225.00	48 hr. Acute <u>P. promelas</u> (Fathead Minnow)	\$400.00
24 hr. Acute <u>D. pulex</u>	\$225.00		
24 hr. Acute <u>P. promelas</u> (Fathead Minnow)	\$225.00		

INDUSTRIAL PRETREATMENT SERVICES

INDUSTRIAL SAMPLING

Composite Sample	\$ 100.00
Additional Composite Sample	\$ 35.00
Grab Sample	\$ 50.00
Additional Grab Sample	\$ 10.00
Field pH	\$ 5.50
Field Measurement	\$ 10.00
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
Boat Fee	\$ 40.00

INDUSTRIAL INSPECTION

Inspection/On-Site	\$ 105.00
Inspection/On site unpermitted	\$ 90.00
Permit Preparation (New)	\$ 150.00
Permit Renewal	\$ 95.00

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

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

GENERAL SERVICE INFORMATION

1. Effective Date: December 1, 2009. All prices listed are per sample and subject to review.
2. 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."
3. Prices include a 10 percent charge added to the analyses cost to maintain the normal quality assurance program.
4. Standard turn-around time is considered 15 business days for most testing. Priority is half of the standard time for the test. Customer required PRIORITY samples will be billed at one and one-half (1 ½) times the routine rate. Customer required RUSH samples will be billed at two times the normal rate. It is recommended to call in advance of sample turn-in or inquire at the time of turn-in for estimated turn around time.
5. The Laboratory will follow Chain of Custody procedure 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.
6. For VOC 3 day analysis, do not lower the pH of the sample. For 14 day hold time preserve Acrolein samples to pH 4 or 5.
7. Sampling supplies will be provided upon request at a reasonable charge. Bacteriological sampling supplies are included in the cost of analyses.
8. Samples* should be delivered to the laboratory before 4:00 p.m. on weekdays. Samples cannot be accepted on weekends or holidays unless special arrangements are made in advance. *Bacteriological samples should be delivered prior to 2:00 p.m. unless special arrangements are made in advance. For after-hour samples, please call and arrange for leaving in cold storage vault with analyses request form.
9. A monthly invoice for completed analyses is mailed the following month.
10. Laboratory hours are weekdays 7:00 a.m. to 4:30 p.m. To contact the lab prior in emergency use the number below for weekend testing needs.
11. Environmental Field, Engineering Field and Pretreatment Services office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. For after-hour emergencies, leave message with computer operator.
12. Environmental Field and Engineering Field Services are requested to be scheduled a minimum of 72 hours in advance.

FOR MORE INFORMATION, CONTACT:
METRO: (972) 263-2251 FAX: (972) 331-4414

WILLIAM B. CYRUS
Manager
Technical Services

CRAIG HARVEY
Laboratory Division
Chief

JENNIFER MOORE
Pretreatment
Coordinator

JOHN HERNDON
Environmental Service
Coordinator

CATHY HENDERSON
Quality Assurance
Coordinator

MARK ORBECK
Technical Services Engineer

Trinity River Authority of Texas



Central Regional Wastewater System

3110.500.040.100

August 8, 2008

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 2009
Revised Technical Services Fee Schedule
Central Regional Wastewater System

The Trinity River Authority Board of Directors, in Board Action June, 2008, approved the Technical Services Fee Schedule for Fiscal Year 2009 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 2009 attached for your review and official authorization. Upon the City's approval for requested services between the City and Trinity River Authority, please return both notarized or sealed copies with Attachment A - Technical Services Fee Schedules for final execution to this office. After execution by the Authority's General Manager, one (1) original Contract for Services will be returned for your files unless otherwise noted by the City.

Please address and refer the correspondence regarding this matter to:

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

6500 W. Singleton Blvd.
Dallas, Texas 75212
Metro (972) 263-2251
Admin Fax (972) 331-4412
Lab Fax (972) 331-4414

August 8, 2008
FY-2009 Contract for Services
Page 2

To coordinate our efforts accordingly, the Authority requests the approval of the contract to begin on October 1, 2008, 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 2009 Services Fee Schedule for your use and files. The service fees are effective December 1, 2008 through November 30, 2009. Historically the fee schedule for these services is derived annually from the direct costs of performing each test, including manpower, materials, supplies, and equipment costs. Additionally, the cost associated with maintaining quality assurance is included in the cost of the test.

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

Sincerely,

A handwritten signature in black ink that reads "WM. B. CYRUS". The signature is written in a cursive style with a long horizontal flourish extending to the right.

WM. B. CYRUS
Manager, Technical Services

BC/mlt

Enclosures

CONTRACT FOR TECHNICAL SERVICES

I. CONTRACTING PARTIES

The Receiving Agency: **TOWN OF ADDISON**, whose authorized address is:

**PO Box 9010
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 **003-003**, and EPA General Pretreatment Regulations for Existing and New Sources. Records of Inspections, Applications and Permits shall be maintained as required by EPA General Pretreatment Regulations, 40 CFR 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 Five Hundred Dollars (\$3,500)** for the period of this Contract.

IV. CONTRACT AMOUNT

The total amount of this Contract shall not exceed **Three Thousand Five Hundred Dollars (\$3,500)** 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, 2008** and shall terminate **September 30, 2009**, 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.

Council Agenda Item: #R9

SUMMARY:

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

FINANCIAL IMPACT:

Budgeted Amount: \$5,751

Cost: \$5,751

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

N/A

BACKGROUND:

Being that the Town of Addison does not offer public health services in-house (i.e. immunizations, sexually transmitted disease screening, etc.), we enter into an annual contract with DCHHS to make available and defray some of the costs of certain health services for less fortunate residents. Find attached a cover letter from Dallas County and a draft contract obligating the Town of Addison for payment of \$5,751. Be informed that contract language and cost are identical to last year.

Historically, contract costs for participating municipalities have been linked to the number and types of services accessed by citizens of Addison during previous fiscal years. However, DCHSS has recently adopted a “fair share” philosophy toward assessments that causes contract amounts for all municipalities to be identical to last year.

For your perusal, please find attached a historical summary of past contracts and several addendums relevant to this year’s contract.

RECOMMENDATION:

Staff recommends approval

**HISTORICAL SUMMARY OF PUBLIC HEALTH SERVICES ACCESSED
BY ADDISON RESIDENTS**

<u>Cal yr</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
STD	43	37	80	56	72	61	56	62
TB	199	85	179	102	200	377	465	217
LAB	197	301	280	367	346	318	408	602
COM DIS	276	172	127	97	10	153	171	190

STD - sexually transmitted diseases

TB - tuberculosis

LAB - laboratory services

COMM DIS - communicable diseases

FY'2009 FEE SCHEDULE

EXHIBIT A

SEXUALLY TRANSMITTED

Treatment	\$20 - \$45 (Sliding Scale)
Blood Drawing	\$5
Cryotherapy	\$15
Chemical Lesion Reduction	\$45
Medical Records Copies	\$5 each

TUBERCULOSIS

TB Testing-Level I (Office Visit)	\$25
TB Testing-Level II (QuantiFeron)	\$50
Chest X-Ray Copies	\$5

LABORATORY

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

NURSING SERVICE

Hepatitis A Havrix	\$45/Injection
Hepatitis B Vaccine	\$150/Series
Twinrix	\$60/Injection
HDCV (IM) Rabies	\$540/Series
HDCV (ID) Rabies	\$270/Series
Pneumococcal	\$45/Injection
Adacel (Pertusis)	\$50/injection
Hepatitis C Screening	\$35/Test
Japanese Encephalitis	\$330/Series
Meningococcal Vaccine	\$115/Injection
Typhoid (Polysaccharide)	\$60/Injection
Typhoid (Oral)	\$45/box
Varivax	\$95/Injection
Yellow Fever Vaccine	\$85/Injection
Boostrix Vaccine	\$45/Injection
HIB	\$40/injection
Rabies Administrative Fee/ Serves State Vaccine	\$25
Foreign Travel Office Visit Fee	\$25

ENVIRONMENTAL HEALTH

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

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

CRIMINAL TESTING

Blood Draws	\$38
Buccal Swabs	\$38

Comprehensive TB Testing & Evaluation (Incl. Chest X-ray)	\$60
--	------

Pregnancy Test	\$20 each
Urinalysis	\$15 each
Dark Field	\$16 each
Chancroid Culture	\$10 each
Herpes Culture	\$38 each
Herpes Type 1 & 2 Serology	\$50 each
Group A Strep	\$14 each

<i>Urine Screen:</i>	
Neisseria Gonorrhoeae	\$47 each
Chlamydia Trachomatis	\$47 each
Lead Screen	\$10 each
Staphylococcus/Aureus Culture	\$17 each

Influenza Vaccine	\$20/Injection
MMR	\$65/Injection
TD	\$35/Injection
IPV	\$40/Injection
Menactra	\$110/Injection
Zostavax (Shingles)	\$160.00/Injection
Gardasil (HPV)	\$140.00/Injection

<i>Immunization/VFC Program:</i>	
DPT,DT,Hib,	\$5/Per child
Well Baby	\$5/Visit
Diabetic Testing	\$5/Test

<i>Records:</i>	
Immunization Record	\$5 each
Foreign Travel Yellow Card	\$5 each

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

January, 2007 thru December, 2007

<i>Municipality</i>	<i>Tuberculosis</i>	<i>Sexually Transmitted Diseases</i>	<i>Laboratory</i>	<i>Communicable Disease</i>
<i>Addison</i>	217	62	602	190
<i>Balch Springs</i>	101	144	703	285
<i>Carrollton</i>	1008	245	2044	884
<i>Cedar Hill</i>	771	231	264	491
<i>Cockrell Hill</i>	371	0	15	320
<i>Coppell</i>	147	31	62	422
<i>Dallas</i>	35909	12983	53741	38847
<i>Desoto</i>	991	341	373	1120
<i>Duncanville</i>	639	207	628	855
<i>Farmers Branch</i>	335	106	815	790
<i>Garland</i>	4716	772	6663	2889
<i>Glenn Heights</i>	42	51	94	53
<i>Grand Prairie</i>	1596	465	2456	1821
<i>Highland Park</i>	0	0	0	292
<i>Hutchins</i>	41	44	182	56
<i>Irving</i>	3484	1000	6356	2642
<i>Lancaster</i>	598	416	591	759
<i>Mesquite</i>	1042	551	2890	1594
<i>Richardson</i>	1081	190	981	1628
<i>Rowlett</i>	415	77	234	571
<i>Sachse</i>	122	30	37	197
<i>Seagoville</i>	88	51	299	203
<i>Sunnyvale</i>	9	3	2	226
<i>University Park</i>	8	0	0	241
<i>Wilmer</i>	148	33	2362	19
<i>Out of County</i>	967	1280	109680	8390
Total	54846	19313	192074	65785

DALLAS COUNTY HEALTH & HUMAN SERVICES

FY '09

EXHIBIT C

Municipality	TB Clinic	STD Clinic	Public Health Lab	Communicable Disease Control		FY '09 Contract Total
				Public Health Lab	Communicable Disease Control	
Addison	4,374	3,776	3,749	1,492	5,751	
Balch Springs	2,036	8,771	4,379	2,238	9,377	
Carrollton	20,317	14,923	12,731	6,943	23,823	
Cedar Hill	15,540	14,070	1,644	3,856	2,498	
Cockrell Hill	7,478	0	93	2,513	2,301	
Coppell	2,963	1,888	386	3,314	3,131	
Dallas	723,756	790,788	334,718	305,113	1,754,252	
Desoto	19,974	20,770	2,323	8,797	17,620	
Duncanville	12,879	12,608	3,911	6,715	11,273	
Farmers Branch	6,752	6,456	5,076	6,205	6,856	
Garland	95,052	47,022	41,499	22,691	80,156	
Glenn Heights	847	3,106	585	416	574	
Grand Prairie	32,168	28,323	15,297	14,303	38,854	
Highland Park	0	0	0	2,293	132	
Hutchins	826	2,680	1,134	440	3,149	
Irving	70,221	60,909	39,587	20,751	81,906	
Lancaster	12,053	25,338	3,681	5,961	12,106	
Mesquite	21,002	33,561	18,000	12,520	31,608	
Richardson	21,788	11,573	6,110	12,787	23,756	
Rowlett	8,364	4,690	1,457	4,485	4,925	
Sachse	2,459	1,827	230	1,547	362	
Seagoville	1,774	3,106	1,862	1,594	6,440	
Sunnyvale	181	183	12	1,775	99	
University Park	161	0	0	1,893	48	
Wilmer	2,983	2,010	14,711	149	2,597	
Out of County	19,490	77,964	683,125	65,897	77,142	
	\$1,105,436	\$1,176,345	\$1,196,304	\$516,690	\$2,200,736	

EXHIBIT D

FY'09 CONTRACT COSTS

MUNICIPALITIES	CONTRACT COST
ADDISON	\$5,751
BALCH SPRINGS	\$9,377
CARROLLTON	\$23,823
CEDAR HILL	\$2,498
COCKRELL HILL	\$2,301
COPPELL	\$3,131
* DALLAS	\$1,754,252
* DESOTO	\$17,620
* DUNCANVILLE	\$11,273
FARMERS BRANCH	\$6,856
* GARLAND	\$80,156
GLENN HEIGHTS	\$574
GRAND PRAIRIE	\$38,854
HIGHLAND PARK	\$132
HUTCHINS	\$3,149
IRVING	\$81,906
LANCASTER	\$12,106
* MESQUITE	\$31,608
* RICHARDSON	\$23,756
ROWLETT	\$4,925
SACHSE	\$362
* SEAGOVILLE	\$6,440
SUNNYVALE	\$99
UNIVERSITY PARK	\$48
* WILMER	\$2,597
* UNINCORPORATED	\$77,142
TOTAL	\$2,200,736



DALLAS COUNTY
DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION

ZACHARY S. THOMPSON, M.A.
DIRECTOR

August 11, 2008

Honorable Joe Chow
Mayor of the Town of Addison
P.O. Box 9010
Addison, TX 75001

Dear Mayor Chow:

Enclosed please find the **FY'09** contract for **Health Services** between your city and the Dallas County Department of Health and Human Services. The contract cost is based on the FY'08 contract amount.

Please present this contract to your city council for their approval and return both signed copies to Dallas County Department of Health and Human Services. If our services are required in presenting the agreement to your council, we will be more than happy to assist you. Also enclosed is a copy of the **FY'09 Exhibits A, B, C, and D**. If you would like to receive an electronic version of the FY'09 contract for Health Services, please email Pamela Dorrough at pdorrough@dallascounty.org. Thank you for your continued support for quality health care for the citizens of Dallas County.

Should you have any questions, please feel free to contact Denise Cherry at (214) 819-2104.

Sincerely,


Zachary Thompson
Director

enclosures

xc: Denise Cherry, Program Monitor

2377 Stemmons Freeway Dallas, Texas 75207-2710
Suite 600 LB-12

(214) 819-2100 Office
(214) 819-6012 Fax

**THE STATE OF TEXAS § AGREEMENT BETWEEN DALLAS COUNTY,
 § ON BEHALF OF DALLAS COUNTY HEALTH
 § AND HUMAN SERVICES, AND THE TOWN OF
COUNTY OF DALLAS § ADDISON, TEXAS**

1. PARTIES

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

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

Whereas, County will operate certain health services for the residents of Town in order to promote the effectiveness of local public health programs; and

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

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

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

2. HEALTH SERVICES TO BE PERFORMED

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

- 4) Laboratory Services: performing chemical, biological, and bacteriological analysis and tests on which are based diagnosis of disease, effectiveness of treatment, the quality of the environment, the safety of substance for human consumption, and the control of communicable disease;

B. County agrees to provide to Town, in accordance with state and federal law, the following public health services:

- 1) Immunizations;
- 2) Child health care;
- 3) High risk infant case management; and
- 4) Home visits.

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

C. County agrees to charge a sliding fee based on ability to pay to all residents of every municipality, including Town, in Dallas County. The fees charged by County for the services listed in Section 2A of this Agreement will be used to offset the Town's Program costs for the next Agreement Term. A schedule of fees to be charged by County is set out in "Exhibit A" attached hereto and incorporated herein for all purposes.

D. County agrees that the level of service provided in the Program for Town will not be diminished below the level of service provided to Town for the same services in the prior Agreement Term except as indicated in Section 2E of this Agreement. For purposes of Section 2E, level of service is measured by the number of patient visits and number of specimens examined. County will submit to Town a monthly statement, which will also include the number of patient visits and number of specimens examined during the preceding month.

E. The possibility exists of reductions in state and federal funding to the Program that could result in curtailment of services if not subsidized at the local level. County will notify Town in writing of any amount of reduction, and any extent to which services will be curtailed as a result. The notice will also include an amount that Town may elect to pay to maintain the original level of services. Town will notify County in writing no later than fourteen (14) calendar days after the date of Town's receipt of the notice of funding reduction as to Town's decision to pay the requested amount or to accept the curtailment of service. If Town elects to pay the requested amount, payment is due no later than forty-five (45) calendar days after the date of the notice of funding reduction.

3. BUDGET

- A. County agrees to submit to Town by July 31st of each year a proposed budget describing the proposed level of services for the next Agreement Term;
- B. For the Term of this Agreement County agrees to provide the services listed in Section 2 of this Agreement at the level of services and for the amount stated in Exhibit D, which is attached hereto and incorporated herein for all purposes;
- C. Town shall pay to County for the Term of this Agreement the amount stated in Exhibit D, Five thousand seven hundred fifty one and 00/100 Dollars (\$5,751.00), which is the agreed upon amount of Town's share of the total cost of the Program less federal and state funding.
- D. In lieu of paying the actual dollar amount stated in this Agreement, Town has the option, to the extent authorized by law, ordinances or policy, of making a request to negotiate for in-kind services that are equal in value to the total amount.
- E. This Agreement is contingent upon Town's appropriation of funds, or ability to perform in-kind services as described in Section 3D of this Agreement, for the services set forth herein. In the event Town fails to appropriate such funds, or provide in-kind services, County shall not incur any obligations under this Agreement.

4. ASSURANCES

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

5. FINANCING OF SERVICES

- A. The health services provided under this Agreement will be financed as follows:
- 1) Town and County will make available to the Program all appropriate federal and state funds, personnel, and equipment to provide the health services included under this Agreement and will use best efforts to cause these funds and resources to continue to increase.
 - 2) Town shall pay to County, or provide in-kind services, its share of budgeted costs that are in excess of the federal and state funding for providing the health services under this Agreement. Budgeted costs shall not exceed those reflected in Exhibit D for the appropriate Agreement Term.
- B. Town has elected to pay to County a lump sum payment for the Term the amount stated in Exhibit D.
- C. Any payment not made within thirty (30) calendar days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.
- D. Town and County agree that no more than ten percent (10%) of the Town's cost of participating in the Program will be used for administration of the Program.

6. TERM

This Agreement shall be effective from October 1, 2008 through September 30, 2009 ("Term"), unless otherwise stated in this Agreement.

7. TERMINATION

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

- C. In the event of any such termination, County shall refund to Town a pro-ratable portion of Town's lump sum payment made to County hereunder in accordance with the following formula: Amount of Town's Payment x Number of Months Remaining in Fiscal Year (excluding the month of termination) ÷ 12.

8. RESPONSIBILITY

County and Town agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without waiving any governmental immunity available to County or Town or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

9. INSURANCE

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

10. ACCESS TO RECORDS RELEVANT TO PROGRAM

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

11. NOTICE

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

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

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

12. IMMUNITY

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

13. COMPLIANCE WITH LAWS AND VENUE

In providing services required by this Agreement, Town and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and exclusive venue shall lie in Dallas County, Texas.

14. AMENDMENTS AND CHANGES IN THE LAW

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

15. ENTIRE AGREEMENT

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

16. BINDING EFFECT

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

17. GOVERNMENT FUNDED PROJECT

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

18. DEFAULT/CUMULATIVE RIGHTS/MITIGATION

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

19. FISCAL FUNDING CLAUSE

Notwithstanding any provisions contained herein, the obligations of County and Town under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein for the Term of the Agreement and any extensions thereto. Town and County shall have no right of action against the other party in the event the other party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future Agreement Terms. In the event that County or Town is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, each party, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the other party at the earliest possible time.

20. COUNTERPARTS, NUMBER/GENDER AND HEADINGS

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

21. PREVENTION OF FRAUD AND ABUSE

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

22. AGENCY / INDEPENDENT CONTRACTOR

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

23. SEVERABILITY

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

24. SIGNATORY WARRANTY

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

The Town of Addison has executed this Agreement pursuant to duly authorized Town Council Resolution No. _____, dated _____, 20____. The County of Dallas has executed this Agreement pursuant to Commissioners Court Order No. 2008 1429, dated July 29, 2008.

[SIGNATURE PAGE SHALL FOLLOW]

Executed this _____ day of _____ 2008.

COUNTY:

TOWN:

By: Jim Foster
Dallas County Judge

By: _____
Town Manager/Mayor

Recommended:

Attested:

By: Zachary Thompson
Director, DCHHS

By: Carmen Moran
Town Secretary

Approved as to Form*:

Approved as to Form:

By: Bob Schell
Chief, Civil Division
Assistant District Attorney

By: _____
Town Attorney

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

Council Agenda Item: #R10

SUMMARY:

License agreement between Granite Properties, Inc. (GPI Spectrum, LLC) for rooftop space at Spectrum Center located at 5080 Spectrum Drive for installation and operation of infrastructure equipment to support the Public Safety Radio simulcast system.

FINANCIAL IMPACT:

Budgeted Amount: \$1,449.10 per month, \$17,389.20 annual

Cost: \$1,449.10 per month, \$17,389.20 annual

BACKGROUND:

The Town entered into a license agreement in 2003 with Crescent Spectrum Centre, L.P., the previous owners of Spectrum Center. This property was sold in 2008 to Granite Properties, Inc. (GPI Spectrum, LLC). This agreement renews the license agreement previously held with Crescent Spectrum Centre, L.P. and extends termination to October 31, 2013, with Granite Properties, Inc. the present owner of Spectrum Center.

Attachment:

First Amendment to Rooftop Telecommunications License Agreement

RECOMMENDATION:

Staff recommends approval.

**FIRST AMENDMENT TO ROOFTOP TELECOMMUNICATIONS LICENSE
AGREEMENT**

This FIRST AMENDMENT to the ROOFTOP TELECOMMUNICATIONS LICENSE AGREEMENT (this "**Amendment**"), dated effective October 1, 2008, is made and entered into by and between **GPI SPECTRUM, LLC**, a Texas limited liability company, successor in interest to **SPECTRUM CENTER PARTNERS, L.P.**, ("Owner"), and **TOWN OF ADDISON, TEXAS** ("Provider").

WITNESSETH:

WHEREAS, pursuant to that certain Rooftop Telecommunications License Agreement between **SPECTRUM CENTER PARTNERS, L.P.** and **TOWN OF ADDISON** with a Commencement Date (so called in the Agreement) of October 1, 2003 (the "**Agreement**"), Owner and Provider desire to amend the Agreement to extend the term of the Agreement.

NOW, THEREFORE, in consideration of the mutual obligations set forth in this Amendment and in the License Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Provider hereby agree as follows:

1. The above recital is incorporated into this Amendment
2. The Agreement is hereby amended by renewing the same and extending the Term thereof, so that the Term as extended will be effective October 1, 2008 and will terminate on October 31, 2013 unless otherwise terminated under the terms of the Agreement.
3. The License Fee for the new term shall be \$1,449.10 per month effective November 1, 2008.

Except as amended herein, this Agreement shall remain unchanged and in full force and effect for the Term of the Agreement as renewed and extended by this Amendment.

The undersigned officers and/or agents of the parties hereto are properly authorized and have the necessary authority to execute this Amendment on behalf of the parties hereto. Owner represents that it is the sole owner of the Building and that there are no other entities or persons with an interest in the Building, including (without limitation) any holder of a mortgage, who must, should, or may have the right to consider and/or consent to this Amendment.

Executed effective as of the date and year first written above.

PROVIDER:

TOWN OF ADDISON
a Texas municipality

By: _____

Name: _____

Its: _____

Date: _____

OWNER:

GPI SPECTRUM, LLC
a Texas limited liability company

By: Granite Properties, Inc.
a Texas corporation, its manager

By: _____

Name: Clint Osteen

Its: Director, IT

Date: _____

Council Agenda Item: #R11

SUMMARY:

This item is for the approval of a Professional Services Agreement with Halff Associates, Inc. in the amount not to exceed \$87,000.00 for Phase I of a Stormwater Master Plan Study.

FINANCIAL IMPACT:

Cost: \$87,000.00

Funds for this professional service are available in Capital Improvement Bond Fund 41.

Project Manager: Nancy S. Cline, P.E.

BACKGROUND:

The Town of Addison is responsible for providing and maintaining safe, efficient and effective drainage systems throughout the Town. As the Town of Addison continues to develop, there are remaining parcels of land where there is inadequate downstream drainage capacity. Staff is recommending the development of a detailed Stormwater Management Plan to answer questions regarding the capacity of existing storm drainage facilities, the impact of providing or not providing detention facilities and a review and recommendations for Capital Improvements to the studied drainage areas in order to facilitate future development. Phase I of the program would address the Upper DNT area, one of the Town's eight watershed areas. The study will include analysis of the capacity of the existing culvert for the Upper DNT Basin under the Dallas North Tollroad in addition to the upstream drainage pipe systems.

Halff Associates, Inc. recently completed the update of the FEMA Region VI Dallas County Flood Insurance Rates Maps (FIRM). Halff Associates has also completed many drainage master plans throughout Texas. Halff Associates submitted the attached proposal for Phase I to conduct the analysis of the Upper DNT drainage basins. The Stormwater Engineering Study will include: Initial Phase / Data Collection, Drainage Basin Delineation, Interactive Stormwater GIS Database, Hydrology Analysis, Hydraulic Analysis, Existing Storm Drainage System Evaluation, Conceptual Alternatives and Cost Estimates, and Master Plan Recommendation for the drainage sub-basins.

RECOMMENDATION:

Staff recommends approval of a Professional Services Agreement with Halff Associates, Inc. in the amount not to exceed \$87,000.00 to prepare Phase I of a Stormwater Master Plan (SWMP) Study of the Upper DNT Drainage Basins.

Council Agenda Item: #R12

SUMMARY:

Staff requests Council authorize the City Manager to enter into an agreement with Kleinfelder in the amount of \$755,000 for Construction Inspection and Materials Testing services for the Vitruvian Park Infrastructure in accordance with the Master Facilities Agreement for Vitruvian Park.

FINANCIAL IMPACT:

Material Testing Contract Amount: \$755,000

Source of Funds: Phase 1 of the Master Facilities Agreement for Vitruvian Park included \$18,865,224 from Certificates of Obligation. From this amount, 4% of the construction cost was established for Inspection and Materials Engineering and Testing.

BACKGROUND:

Upon the approval of the Master Facilities Agreement with UDR on October 9, 2007, the Public Works Department began the process of procuring the professional services needed for the Inspection and Materials Engineering and Testing of the Vitruvian Park Public Infrastructure. On May 29, 2008, Requests for Qualifications were sent to four (4) highly respected and qualified engineering firms that provide these services. A Statement of Qualifications was received from each firm and interviews were conducted on June 18, 2008. Although all of the firms were qualified, two firms were selected to complete a trial period during the summer. At the completion of the trial period for both firms, it was determined that Kleinfelder would be the optimal firm to perform the Inspection and Materials Engineering and Testing of the Vitruvian Park Public Infrastructure.

Although it is requested that the Council authorize the City Manager to enter into an agreement for the maximum anticipated cost of the Inspection and Materials Engineering and Testing, the amount to be spent on each project will be issued in the form of a work order to Kleinfelder that will be based on actual construction cost. Cost above the amount authorized will be reimbursed by the Developer in accordance with the Master Facilities Agreement. Each work order will be signed by the City Manager's office. The project manager will be Clay Barnett in the Public Works Department.

RECOMMENDATION:

It is recommended that the Council authorize the City Manager to enter into an agreement with Kleinfelder in the amount of \$755,000 for Construction Inspection and Materials Testing services for the Vitruvian Park Infrastructure in accordance with the Master Facilities Agreement for Vitruvian Park.

Council Agenda Item: #R13

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 2008/09 budget.

FINANCIAL IMPACT:

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

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

BACKGROUND:

During the FY 2008/09 budget process, the City Council reviewed the following non-profit agencies and funding amounts for FY 2008/09. 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	\$25,000	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	\$105,000	TOTAL	\$427,000

RECOMMENDATION:

It is recommended that the City Council authorize 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 ("Contract") is made and entered into as of the 1st day of October, 2008 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 2008 through the 30th day of September 2009, 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) continue mobilization of the 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, 2009, 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.

(b) ***INDEMNITY OWED BY COMMUNITIES IN SCHOOLS.*** Communities in Schools covenants and agrees to FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an "Addison Person" and collectively the "Addison Persons"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon any Addison Person, whether directly or indirectly, (the "Claims"), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by Communities

in Schools under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Communities in Schools, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Communities in Schools, or any other person or entity for whom Communities in Schools is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if 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, 2008, with the last quarter ending September 30, 2009), 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. Communities In Schools is an independent contractor, and 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, or to allow the City to exercise discretion or control over the manner in which Communities in Schools performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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 Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

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

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and 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, 2008 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, 2008 through September 30, 2009, 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, 2009, 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.

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

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if 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, 2008, with the last quarter ending September 30, 2009), 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. Senior Adult Services is an independent contractor, and 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, or to allow the City to exercise discretion or control over the manner in which Senior Adult Services performs the services which are described in this Contract.

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 Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

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

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and 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:

Gregory Gerendas
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

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____
Gregory Gerendas, Executive Director

ATTEST:

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, 2008 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, 2008 through the 30th day of September, 2009, 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-five Thousand and No/100 Dollars (\$25,000.00). Such sum shall be paid on or before January 1, 2009, provided Metrocrest is not then in default of this Contract.

IV. INDEMNIFICATION

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

(b) ***INDEMNITY OWED BY METROCREST SOCIAL SERVICES.*** Metrocrest Social Services covenants and agrees to FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison Person” and collectively the “Addison Persons”), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon any Addison Person, whether directly or indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this

Contract; (2) representations or warranties by Metrocrest Social Services under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Metrocrest Social Services, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Metrocrest Social Services, or any other person or entity for whom Metrocrest Social Services is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Metrocrest has failed at the time of such cancellation and termination to provide all of the services set forth herein, Metrocrest shall refund to the City that portion of funds paid to Metrocrest under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Metrocrest shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of Metrocrest and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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, 2008, with the last quarter ending September 30, 2009), 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. Metrocrest is an independent contractor, and no term or provision of this Contract or action by Metrocrest in the performance of this Contract is

intended nor shall be construed as making Metrocrest the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which Communities in Schools performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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

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

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

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

XI. NON-DISCRIMINATION

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. 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, 2008 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, 2008 through the 30th day of September, 2009, 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) Provision of evening medical clinics, staffed by volunteer personnel, which provide medical attention to the residents of our service area who would otherwise not be able to receive treatment of episodic medical attention;

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

(b) Present a mid-year written report to the City on the progress and status of services provided by Metrocrest 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, 2009, 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.

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

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

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Metrocrest 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, 2008, with the last quarter ending September 30, 2009), 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. Metrocrest Family Medical Clinic is an independent contractor, and 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, or to allow the City to exercise discretion or control over the manner in which Metrocrest Family Medical Clinic performs the services which are described in this Contract.

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 Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict

compliance with all the terms hereof. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and Metrocrest 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 §
 §
COUNTY OF DALLAS §

CONTRACT FOR SERVICES

This Contract for Services ("Contract") is made and entered into as of the 1st day of October, 2008 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 2008 through the 30th day of September 2009, 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.
6. Engagement in legislative affairs including:
 - (a) identification and publication of key legislative priorities

- (b) collaboration with city and school district lobbying efforts
 - (c) participation in area events in Austin
 - (d) ongoing legislative “alerts” and other communications
7. Continuation of a recent strategic planning program, which identified pursuit of Transit Oriented Development. This seeks a meaningful role to help expedite the extension of DART rail to the City, as well as to help the Cities of Farmers Branch and Carrollton capitalize on business development opportunities created by the extension of the DART light rail through those communities.

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, 2009, 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.

(b) ***INDEMNITY OWED BY THE CHAMBER.*** The Chamber covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison Person” and collectively the “Addison Persons”), from and against any and all

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

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if 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, 2008, with the last quarter ending September 30, 2009), 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. The Chamber is an independent contractor, and 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, or to allow the City to exercise discretion or control over the manner in which the Chamber performs the services which are described in this Contract.

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 Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

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

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and 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:

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

Chamber's address:

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, 2008 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, 2008 through the 30th day of September, 2009, 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, 2009, provided The Family Place is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

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

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

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

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

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

V. TERMINATION

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

this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of The Family Place and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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, 2008, with the last quarter ending September 30, 2009), 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. The Family Place is an independent contractor, and no term or provision of this Contract or action by The Family Place in the performance of this Contract is intended nor shall be construed as making The Family Place the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which The Family Place performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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

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

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

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

XI. NON-DISCRIMINATION

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

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

XVI. NOTICES

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

The City's address:

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

The Family Place's address:

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

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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, 2008 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, 2008 through the 30th day of September, 2009, 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) Use the funds paid to Senior Adult Services pursuant to this Contract for services provided to children and adults who receive services in Addison only; and

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

(e) Continuation of the ECI program, which help babies and toddlers, birth to age three, with autism, spina bifida, Down syndrome, cerebral palsy, and other disabilities and developmental potential and improve their ability to be successful in school; and

(f) Provide services for clients that include career assessment; placement in jobs that match up their skills to the needs of the employers; on the job training; and ongoing support to ensure our clients' success; and

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

III. COMPENSATION

For the operation and provision of the services, projects and programs of 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, 2009, 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.

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

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other

party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if 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, 2008, with the last quarter ending September 30, 2009), 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. Provider is an independent contractor, and 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, or to allow the City to exercise discretion or control over the manner in which Provider performs the services which are described in this Contract.

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 Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

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

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and 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, 2008 by and between the Town of Addison, Texas (the "City") and the Dance Council (the "Dance Council").

WITNESSETH:

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

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

WHEREAS, it is the City's desire to encourage and promote the arts, including dance; and

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

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

I. TERM

The term of this contract and agreement shall be for a period of one year from the 1st day of October, 2008 through the 30th day of September, 2009, except as otherwise provided for herein.

II. SERVICES

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

(a) Provide participation in Addison Urbanato: A Kaleidoscope of Art, Music, Culture, and Fun in October 2009, with participation details to be determined with the Town of Addison during the City's 2008-2009 fiscal year.

(b) Provide a program entitled "Taste Dance: Addison Style". This program shall be a four part series of lecture/demonstrations on dance to be presented at the Conference and Theatre Centre for a Sunday afternoon festival in August 2009, on dates and at times to be decided. Dance

themes addressed in the lecture/demonstrations shall include the following or items like the following:

-Elledanceworks - Modern Dance

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

-Contemporary Ballet Dallas – Contemporary Ballet

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

-Legacy Tap Project - Tap

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

-North Texas Middle Eastern Dance Association - Bellydance

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

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

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

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

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

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

III. COMPENSATION

For the operation and provision of the services, projects and programs of the Dance Council as described herein, the City shall pay the Dance Council the sum of Seven Thousand and No/100 Dollars (\$7,000.00). Such sum shall be paid on or before April 9, 2009, provided Dance Council is not then in default of this Contract.

IV. INDEMNIFICATION

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

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

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

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

V. TERMINATION

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

VI. CONFLICT OF INTEREST

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

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

VII. ACCOUNTING

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

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

Dance Council shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2008, with the last quarter ending September 30, 2009), Dance Council shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Dance Council of the funds paid to Dance Council under this Contract; and (b) a year-to-date report of the expenditures made by Dance Council of the funds paid to Dance Council under this Contract (and if this Contract is terminated prior to its expiration, Dance Council shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Dance Council shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of Dance Council's fiscal year, Dance Council shall provide the City with a financial statement signed by the Chairman of Dance Council's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Dance Council's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

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

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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

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

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

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

XI. COPYRIGHT

Dance Council assumes full responsibility for complying with all United States laws and treaty terms pertaining to intellectual property issues and any applicable regulations, including but not limited to the assumption of all responsibilities for paying all royalties which are due for the use of domestic or foreign copyrighted works in Dance Council's performances, transmissions or broadcasts, and DANCE COUNCIL, without limiting any other indemnity given by Dance Council as set forth herein, AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AND AGENTS, 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 DANCE COUNCIL'S INFRINGEMENT OR VIOLATION OF ANY STATUTE, TREATY TERM, OR REGULATION APPLICABLE TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING BUT NOT LIMITED TO COPYRIGHTS.

XII. NON-DISCRIMINATION

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

XIII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIV. VENUE; GOVERNING LAW

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

XV. COUNTERPARTS

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

XVI. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a

waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVII. NOTICES

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

The City's address:

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

Dance Council's address:

Ralph Blackburn
Executive Director
3530 Harry Hines Blvd.
Dallas, Texas 75219

XVIII. SEVERABILITY

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

XIX. AUTHORITY TO EXECUTE CONTRACT

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

XX. ENTIRE AGREEMENT

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

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

TOWN OF ADDISON, TEXAS

DANCE COUNCIL

By: _____
Ron Whitehead, City Manager

By: _____
Ralph Blackburn, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

STATE OF TEXAS

§
§
§

CONTRACT FOR SERVICES

COUNTY OF DALLAS

This Contract for Services ("Contract")_ is made and entered into as of the 1st day of October, 2008 by and between the Town of Addison, Texas (the "City"), and the Richardson Symphony Orchestra (the "Orchestra").

WITNESSETH:

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

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

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

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

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

I. TERM

The term of this contract and agreement shall be for a period of one year from the 1st day of October, 2008 through the 30th day of September, 2009, except as otherwise provided for herein.

II. SERVICES

The Orchestra shall provide the following services:

(a) Provide participation in Addison Urbanato: A Kaleidoscope of Art, Music, Culture, and Fun in October 2009, with participation details to be determined with the Town of Addison during the City's 2008-2009 fiscal year.

(b) Provide free chamber music concerts featuring ensembles made up of the principal players in the Richardson Symphony for a variety of businesses and retail locations around the Town;

(c) Continuation of RSO players to perform at multiple times at venues ranging from the Spectrum and Colonnade office buildings to Town Hall to the Crowne Plaza and Marriott Quorum hotels, to Dunn Brothers Coffee House and restaurants such as Chamberlain's and Truluck's;

(d) Performance of the string and brass players from the orchestra in June at Symphonic Saturdays at Esplanade Park;

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

(f) Provide an annual audit of financial condition to the City; and

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

III. COMPENSATION

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

IV. RESPONSIBILITY; INDEMNIFICATION

(a) ORCHESTRA 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 ORCHESTRA OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY RICHARDSON SYMPHONY ORCHESTRA.*** Richardson Symphony Orchestra covenants and agrees to FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an "Addison Person" and collectively the "Addison Persons"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon any Addison Person, whether directly or indirectly, (the "Claims"), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by Richardson

Symphony Orchestra under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Richardson Symphony Orchestra, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Richardson Symphony Orchestra, or any other person or entity for whom Richardson Symphony Orchestra is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

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

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

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Orchestra has failed at the time of such cancellation and termination to provide all of the services set forth herein, Orchestra shall refund to the City that portion of funds paid to the Orchestra under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Orchestra 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 Orchestra and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and

should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business.

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

VII. ACCOUNTING

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

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

Orchestra shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2008, with the last quarter ending September 30, 2009), Orchestra shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Orchestra of the funds paid to Orchestra under this Contract; and (b) a year-to-date report of the expenditures made by Orchestra of the funds paid to Orchestra under this Contract (and if this Contract is terminated prior to its expiration, Orchestra shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Orchestra shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of Orchestra's fiscal year, Orchestra shall provide the City with a financial statement signed by the Chairman of Orchestra's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Orchestra's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

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

allow the City to exercise discretion or control over the manner in which Orchestra performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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

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 Orchestra are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. COPYRIGHT

Orchestra assumes full responsibility for complying with all United States laws and treaty terms pertaining to intellectual property issues and any applicable regulations, including but not limited to the assumption of all responsibilities for paying all royalties which are due for the use of domestic or foreign copyrighted works in Orchestra's performances, transmissions or broadcasts, and ORCHESTRA, without limiting any other indemnity given by Orchestra as set forth herein, AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AND AGENTS, 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 DANCE ORCHESTRA'S OR VIOLATION OF ANY STATUTE, TREATY TERM, OR REGULATION APPLICABLE TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING BUT NOT LIMITED TO COPYRIGHTS.

XII. NON-DISCRIMINATION

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

XIII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIV. VENUE; GOVERNING LAW

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

XV. COUNTERPARTS

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

XVI. NO WAIVER; RIGHTS CUMULATIVE

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

XVII. NOTICES

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

The City's address:

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

Orchestra's address:

George Landis
President/Executive Director
Richardson Symphony Orchestra
2100 North Collins Boulevard, Suite 310
Richardson, TX 75081

XVIII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be

deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XIX. AUTHORITY TO EXECUTE CONTRACT

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

XX. ENTIRE AGREEMENT

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

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

TOWN OF ADDISON, TEXAS

**RICHARDSON SYMPHONY
ORCHESTRA**

By: _____
Ron Whitehead, City Manager

By: _____
George Landis, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

Council Agenda Item: #R14

SUMMARY:

Council approval is requested of a resolution authorizing the city manager, or his designee, to enter into agreement with the Cities Aggregation Power Project (CAPP) for electric power for the period beginning January 1, 2009 and ending December 31, 2013.

FINANCIAL IMPACT:

This action will have no direct financial impact. However, the Town of Addison spends almost \$1 million a year for the purchase of electric power, and by authorizing the city manager to enter into agreement with CAPP, the association will be able to negotiate the best pricing for power for the next five years.

BACKGROUND:

The Town is one of over 110 governmental entities that are members of CAPP. CAPP's current electric contract will expire on December 31, 2008. The CAPP Board has approved indicative electric pricing available through FPL Energy and Direct Energy Business Services (DEBS) for all CAPP members for a five (5) year term beginning January 1, 2009 through December 31, 2013. Energy markets have been falling in response to recessionary pressures and the CAPP Board desires to lock-in very favorable gas based pricing for an extended period. CAPP should be able to fix rates for each of the next five years at commodity prices (i.e. excluding non-bypassable wires charges) that range from 8.0 cents (possibly lower) to 8.5 cents per kilowatt hour. This means that CAPP members will lock-in prices for five years that are below the electric prices members are currently paying.

The resolution is needed regardless the outcome of the long-term power purchase agreement (LTPPA) that Council authorized at its October 14, 2008 meeting. If the LTPPA is successful, then the resolution will allow for CAPP to obtain "wrap" pricing that will supplement the base power demand that will be satisfied by the LTPPA. If, for any number of reasons, CAPP is unable to finalize a LTPPA, then the resolution will authorize CAPP to obtain electric power for all of the Town's needs for the next five years.

RECOMMENDATION:

It is recommended council approve the attached resolution that will allow the city manager, or in his absence, Randolph C. Moravec, Addison's Chief Financial Officer to act quickly to lock in prices for electric power over the next five calendar years.

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF ADDISON, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CITY MANAGER OR OTHER DESIGNATED CITY OFFICIAL TO SIGN A CONTRACT WITH CAPP FOR THE CITY'S ELECTRICITY NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2009 AND EXTENDING UP TO DECEMBER 31, 2013; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2009, AND EXTENDING UP TO DECEMBER 31, 2013 PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the "City") is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its 111 political subdivision members in the competitive retail market; and

WHEREAS, CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and

WHEREAS, the City's current contract for power expires December 31, 2008; and

WHEREAS, CAPP members must secure power supplies for 2009 or revert to high price standard contracts and independently shop for a power contract; and

WHEREAS, the CAPP Board of Directors is currently considering indicative retail energy prices that point to favorable pricing for the five year period ending December 31, 2013; and

WHEREAS, power providers desire to execute a contract with one, and only one, entity rather than have unique contracts for each CAPP member; and

WHEREAS, CAPP believes that the pricing opportunity window for favorable 2009 deliveries will be short-lived and that CAPP must be able to commit contractually to prices within a 24-hour period in order to lock-in favorable prices; and

WHEREAS, experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

WHEREAS, aggregated rates contracted during favorable pricing periods are likely to be lower than prices obtained by the City contracting individually during the same time period; and

WHEREAS, suppliers demand assurance that CAPP will pay for all contracted load; and

WHEREAS, the City must assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2009 and extending through December 31, 2013; and

WHEREAS, CAPP intends to continue to contract with both FPL Energy (power supply) and Direct Energy (billing, administrative and other customer services); and

WHEREAS, the current contractual relationships between CAPP and FPL Energy and Direct Energy have been beneficial and cost effective for CAPP members and the City.

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

Section 1. The CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of CAPP for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 2. The City approves CAPP contracting with FPL Energy and Direct Energy for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

Section 3. The City will execute a contract with CAPP that permits the Chairman of CAPP to sign a Commercial Electric Service Agreement for the City's electricity needs and related, necessary services beginning January 1, 2009 and extending up to December 31, 2013, as a member of CAPP and commits its load for the same period pursuant to the contract recommended and approved by the CAPP Board of Directors.

Section 4. The City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and signed by the Chairman of CAPP on behalf of all CAPP members for the term beginning January 1, 2009 and extending up to December 31, 2013, but the same is subject to the City's rights, power, and authority under applicable law and the Texas Constitution.

Section 5. A copy of this Resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

Section 6. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas on this _____ day of _____, 2008, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of _____, Texas.

Joe Chow, Mayor

ATTEST:

By: _____
Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney