

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

AGENDA

WORK SESSION OF THE CITY COUNCIL

6:00 P.M.

AND

REGULAR MEETING OF THE CITY COUNCIL

7:30 P.M.

APRIL 28, 2009

TOWN HALL

5300 BELT LINE ROAD

WORK SESSION

Item #WS1 - Presentation and discussion regarding a water conservation ordinance.

Item #WS2 - Presentation and discussion regarding an ordinance establishing regulations and standards for and relating to the cross-connection control of water connections within the Town.

REGULAR SESSION

Pledge of Allegiance

Item #R1 - Consideration of Old Business
Introduction of Employees
Discussion of Upcoming Events

Item #R2 - Consent Agenda

#2a - Approval of the Minutes for:

April 4, 2009, Special Meeting of the City Council
April 14, 2009, Regular City Council Meeting and Work Session

Item #R3 - Discussion and consideration of approval of an appointment of a member to the Board of Zoning Adjustment to replace Kathryn Wheeler (appointment recommendation to be received from Council Member Daseke).

Item #R4 - Presentation, discussion and consideration of approval of an ordinance providing for certain amendments to Chapter 10, Animals, of the Code of Ordinances of the Town, including the addition of provisions concerning leaving animals unattended in a vehicle and feeding of waterfowl, amendments to the provision regarding the number of animals allowed in a residence, and other amendments.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R5 - Presentation, discussion and consideration of approval of an ordinance abandoning various water, sanitary sewer and utility easements within that area of the Town generally known as Vitruvian Park.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R6 - Presentation, discussion and consideration of approval of a construction contract with North Texas Contracting, Inc., in the amount of \$5,954,740.00, with a contract duration of 365 calendar days, for the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Project – Phase 1B).

Attachments:

1. Council Agenda Item Overview
2. Breakdown of the Cost for Compliance with the Master Facilities Agreement
3. Summary of Vitruvian Costs to Date

Administrative Recommendation:

Administration recommends approval.

Item #R7 - Presentation, discussion and consideration of approval of an Assignment and Construction Services Agreement between the Town of Addison and UDR, Inc., in the amount of \$476,379.20, for and regarding the management of the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Project – Phase 1B).

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R8 - Presentation, discussion and consideration of approval of a Construction and Utility Adjustment Agreement between the Town of Addison and Southwestern Bell Telephone Company, d/b/a AT&T Texas to implement the construction of the duct bank and the relocation of AT&T facilities for the Vitruvian Park Public Infrastructure Project – Phase 1B project.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R9 - Presentation, discussion and consideration of approval of a contract with Jim Bowman Construction Company, LP, in the amount of \$224,646.00, for Miscellaneous Pavement Improvements throughout the Town.

Attachments:

1. Council Agenda Item Overview
2. Bid Tabulation

Administrative Recommendation:

Administration recommends approval.

Item #R10 - Presentation, discussion and consideration of approval to enter into a Project Supplemental Agreement (PSA) with Dallas County to contract for the implementation of a Traffic Signal Upgrade – MCIP Project 10301 within the Town.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R11 - Presentation, discussion and consideration of approval of an ordinance adding a new Section 82-98 to the City's Code of Ordinances regarding and relating to water conservation.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R12 - Presentation, discussion and consideration of approval of an ordinance adding a new Section 82-97 to the City's Code of Ordinances regarding and relating to cross-connection control of water connections, including provisions for backflow prevention assembly requirements, fire protection systems, fees, suspension of utility service, enforcement, penalty, and other and related standards and provisions, and repealing Section 82-94 of the Code of Ordinances regarding installation of check valves.

Attachments:

1. Council Agenda Item Overview
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R13 - Presentation, discussion and consideration of approval for the Addison Fire Department to submit a grant application to the U.S. Department of Homeland Security, Assistance to Firefighters Grant Program.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R14 - Presentation, discussion and consideration of approval of an agreement with BlueLine Services, for the purchase and replacement of the Town Local Area Network servers, in the amount of \$140,859.54, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Firewall-Switches Comparison Spreadsheet w/Packet
3. Blueline Services Contract
4. 09-07 Technology Specifications (Refer to this Attachment for Items #R14 thru #R21)

Administrative Recommendation:

Administration recommends approval.

Item #R15 - Presentation, discussion and consideration of approval of an agreement with TFE Connect, for the purchase and replacement of the Town Local Area Network storage and routers, in the amount of \$116,548.33, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Routers-Backup Hardware Comparison w/Packet
3. TFE Connect Contract
4. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R16 - Presentation, discussion and consideration of approval of an agreement with CompuCom, for the purchase and replacement of the storage resources and management software, backup hardware and software, KVM devices, and VMWare products, in the amount of \$188,599.94, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Routers-Backup Comparison Spreadsheet w/Package
3. Refer to Firewall-Switches Comparison Spreadsheet w/Package
4. Refer to KVM-UPS Comparison Spreadsheet w/Package
5. CompuCom Contract
6. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R17 - Presentation, discussion and consideration of approval of an agreement with Solid IT Networks, Inc., for the purchase and replacement of the Town Local Area Network switches and localized indoor wireless devices, in the amount of \$146,783.00, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Firewall-Switches Comparison Spreadsheet w/Package
3. Solid IT Networks Contract
4. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R18 - Presentation, discussion and consideration of approval of an agreement with CDWG, for the purchase and replacement of the UPS (uninterrupted power supply), Citrix remote access gateway software, and DR (Disaster Recovery) software, in the amount of \$31,884.00, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Routers-Backup Comparison Spreadsheet w/Package
3. Refer to Firewall-Switches Comparison Spreadsheet w/Package
4. Refer to KVM-UPS Comparison Spreadsheet w/Package
5. CDWG Contract
6. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R19 - Presentation, discussion and consideration of approval of an agreement with Peak Resources, Inc., for the license upgrade and replacement of the Town Local Area Network firewall, in the amount of \$40,765.00, subject to the City attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to Firewall-Switches Comparison Spreadsheet w/Package
3. Peak Resources Contract
4. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R20 - Presentation, discussion and consideration of approval of an agreement with SHI Direct, for the purchase and upgrade of the Town Local Area Network Microsoft licenses, in the amount of \$166,020.00.

Attachments:

1. Council Agenda Item Overview
2. Refer to AV&License Comparison Spreadsheet w/Package

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3. SHI Contract
 4. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R21 - Presentation, discussion and consideration of approval of an agreement with CCS Presentation Systems, for the purchase and installation of audio visual presentations systems at the Town facilities conference and meeting rooms, in the amount of \$71,273.00, subject to the City Attorney's final approval.

Attachments:

1. Council Agenda Item Overview
2. Refer to AV&License Comparison Spreadsheet w/Packet
3. CCS Presentation Systems Contract
4. 09-07 Technology Specifications (See Attachment for #R14-4)

Administrative Recommendation:

Administration recommends approval.

Item #R22 - Presentation, discussion and consideration of approval of (1) a proposed Addison Airport Master Landlord's Consent to Sublease form, and (2) the delegation of authority to the City Manager or the City Manager's designee to execute the Master Landlord's Consent to Sublease form for Addison Airport on behalf of the Town.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R23 - Presentation, discussion and consideration of approval of a proposed Addison Airport Non-Aeronautical Use License Agreement, to be used when the owner of off-Airport property desires to use or access any portion of the Airport public area for non-aeronautical purposes.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

EXECUTIVE SESSION

Item #ES1 - Closed (executive) session of the Addison City Council, pursuant to Section 551.072, Texas Government Code, to deliberate the lease or value of certain real property located within the Town.

Adjourn Meeting

Posted:
April 24, 2009 at 5:00 P.M.
Lea Dunn - 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.**

Council Agenda Item **#WS1**

There are no attachments for this Item.

Council Agenda Item **#WS2**

There are no attachments for this Item.

**OFFICIAL ACTIONS OF A SPECIAL MEETING
OF THE CITY COUNCIL**

April 4, 2009
11:30 A.M.
Addison Service Center
16801 Westgrove
Addison, TX 75001

Present: Mayor Chow, Councilmembers Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Absent: None

Item #S1 - Presentation and discussion regarding the organization, activities, and budgets of the Town of Addison and its departments:

Introduction to Town organization and the Town's budgeting process by the City Manager/City Manager's Department.

Ron Whitehead of the City Manager/City Manager's Department made the introduction to the Town organization and the Town's budgeting process.

There was no action taken.

Presentation by Town Departments and discussion regarding their organization, activities, and budgets:

Presentations and discussions were led by the following Town Departments regarding their organization, activities, and budgets:

Police Department
Fire Department
Parks and Recreation Department
Public Works Department
Development Services Department
General Services Department
Information Technology Department
Finance Department
Human Resources Department

Ron Davis led the discussion for Police.

Davis Benson, Chris Kellen and Gordon Robbins led the discussion for Fire.

Slade Strickland led the discussion for Parks and Recreation.

Nancy Cline led the discussion for Public Works.

Carmen Moran led the discussion for Development Services.

Mark Acevedo led the discussion for General Services.

Hamid Khaleghipour led the discussion for Information Technology.

Randy Moravec led the discussion for Finance.
Passion Hayes led the discussion for Human Resources.

There was no action taken.

Budgeting Presentation.

There was no action taken.

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

Mayor-Joe Chow

Attest:

City Secretary-Lea Dunn

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

April 14, 2009
6:00 P.M. – Town Hall
5300 Belt Line Road
Upstairs Conference Room

Council Members Present:

Mayor Chow, Councilmembers Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Absent: None

Work Session

Item #WS1 - Presentation and discussion regarding joining the U.S. Mayors Climate Protection Agreement and ICLEI (Local Governments for Sustainability) which promote Cool Cities Solving Global Warming One City at a Time.

Attorney David Griggs made the presentation and led the discussion regarding joining the U.S. Mayors Climate Protection Agreement and ICLEI (Local Governments for Sustainability) which promote Cool Cities Solving Global Warming One City at a Time.

There was no action taken.

Item #WS2 -Presentation and discussion regarding Taser deployment.

Ron Davis made the presentation and led the discussion regarding Taser deployment.

There was no action taken.

Mayor-Joe Chow

Attest:

City Secretary-Lea Dunn

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

April 14, 2009
7:30 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

Present: Mayor Chow, Councilmembers Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Absent: None

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Michele Covino with the City Manager's Department, Jim Clark with the Parks and Recreation Department and Kyle Pierce with the Fire Department.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

March 23, 2009, Special Meeting and Work Session
March 24, 2009, Regular City Council Meeting and Work Session

Councilmember Niemann moved to approve the Minutes for:

March 23, 2009, Special Meeting and Work Session and
March 24, 2009, Regular City Council Meeting and Work Session

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R3 – Presentation of a plaque to Remington's Seafood Grill for thirty years in the restaurant business in Addison.

Mayor Chow made the presentation of a plaque to Bill and Adam Remington, owners of Remington's Seafood Grill, for thirty years in the restaurant business in Addison.

Item #R4 - Presentation of Proclamation for Telecommunications Week to Addison Police Department Dispatch Personnel.

Mayor Chow presented the Proclamation for Telecommunications Week and recognized Addison Police Department Dispatch Personnel.

Item #R5 - Discussion and consideration of approval of an appointment of a member to the Planning and Zoning Commission to replace Paula Jandura whose third term on the Commission expired on April 10, 2009 (appointment recommendation to be received from Council Member Daseke).

Councilmember Daseke moved to appoint Kathryn Wheeler to the Planning and Zoning Commission.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R6 - Discussion and consideration of approval of an appointment of a member to the Planning and Zoning Commission to replace Alan Wood whose second term on the Commission expired on April 10, 2009 (appointment recommendation to be received by Mayor Chow.)

Mayor Chow moved to re-appoint Alan Wood to the Planning and Zoning Commission.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R7- Presentation, discussion and consideration of approval of joining the U.S. Mayors Climate Protection Agreement and ICLEI (Local Governments for Sustainability) which promote Cool Cities Solving Global Warming One City at a Time.

Councilmember Lay moved to approve joining the U.S. Mayors Climate Protection Agreement and ICLEI (Local Governments for Sustainability) which promote Cool Cities Solving Global Warming One City at a Time.

Councilmember Daseke seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None

Absent: None

Item #R8 - No Item / Intentionally Left Blank.

This Item was postponed until a later Council Meeting.

Items #R10 and #R11 were heard before Item #R9.

Item #R10 - **PUBLIC HEARING** on, and presentation, discussion and consideration of approval of an ordinance regarding Case 1575-SUP/Dodie's Cajun Diner, approving a Special Use Permit for a restaurant and approving an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, in order to remodel an existing restaurant, on property located at 4821 Belt Line Road, on application from Dodie's Cajun Diner, represented by Mr. Brian Olds.

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

Councilmember Hirsch moved to approve Ordinance 009-005 regarding Case 1575-SUP/Dodie's Cajun Diner, approving a Special Use Permit for a restaurant and approving an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, in order to remodel an existing restaurant, on property located at 4821 Belt Line Road, on application from Dodie's Cajun Diner, represented by Mr. Brian Olds, subject to condition.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R11 - **PUBLIC HEARING** on, and presentation, discussion and consideration of approval of an ordinance regarding Case 1576-SUP/Colonnade Club approving a Special Use Permit for a restaurant and approving a Special Use Permit for the sale of alcoholic beverages for on-premises consumption on property located at 15305 Dallas Parkway (the Colonnade Office Building), on application from At Your Service Catering, represented by Mr. John Johnston.

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 approve Ordinance 009-006 regarding Case 1576-SUP/Colonnade Club approving a Special Use Permit for a restaurant and approving a Special Use Permit for the sale of alcoholic beverages for on-premises consumption on property located at 15305 Dallas Parkway (the Colonnade Office Building), on

application from At Your Service Catering, represented by Mr. John Johnston, subject to no conditions.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R9 - PUBLIC HEARING on, and presentation, discussion and consideration of approval of an ordinance regarding Case 1574-Z/Methodist Hospital for Special Surgery concerning and providing for (i) a change of zoning from LR Local Retail District to Planned Development District for hospital, medical office, office, parking, and related uses and authorizing and granting a special use permit for hospital (and including a development plan in connection therewith), on a tract of land comprising approximately 7.389 acres and being generally located within the Town on the northwest corner of the intersection of Dallas Parkway and Sojourn Drive and as further described in the ordinance, and (ii) a change of zoning by providing for an amendment to Ordinance No. 829 of the Town, which zoned as Planned Development District a tract of land approximately 2.410 acres in size and located generally at the southwest corner of the intersection of Dallas Parkway and Sojourn Drive, by amending the permitted uses on the said tract of land (to permit hospital, medical and other offices, and parking (including a parking garage), amending the development standards and conditions for the said tract, and authorizing and granting a special use permit for hospital, and including a development plan in connection therewith, on application from Advanta Medical, represented by Mr. Michael Crowe of Boka Powell Architects.

Mayor Chow opened the meeting as a Public Hearing. The following persons spoke:

Laura Scalfano, Trinity Christian Academy (TCA) Parent
Scott Dennis, Chairman, TCA Board of Trustees
Susan Cordre, TCA Teacher/Resident, 14700 Marsh, #521, Addison
JoAnn Duvall, Resident, 17043 Windward, Addison
Michael Alvin, Methodist Hospital
Jim Halter, Resident, 17055 Windward, Addison
Misty Ventura, Attorney
Dr. Cindy Sessions, TCA Parent
Dave Delph, TCA Headmaster

Mayor Chow closed the meeting as a Public Hearing.

Councilmember Niemann moved to approve Ordinance 009-004 regarding Case 1574-Z/Methodist Hospital for Special Surgery concerning and providing for (i) a change of zoning from LR Local Retail District to Planned Development District for hospital, medical office, office, parking, and related uses and authorizing and granting a special use permit for hospital (and including a development plan in connection therewith), on a

tract of land comprising approximately 7.389 acres and being generally located within the Town on the northwest corner of the intersection of Dallas Parkway and Sojourn Drive and as further described in the ordinance, and (ii) a change of zoning by providing for an amendment to Ordinance No. 829 of the Town, which zoned as Planned Development District a tract of land approximately 2.410 acres in size and located generally at the southwest corner of the intersection of Dallas Parkway and Sojourn Drive, by amending the permitted uses on the said tract of land (to permit hospital, medical and other offices, and parking (including a parking garage), amending the development standards and conditions for the said tract, and authorizing and granting a special use permit for hospital, and including a development plan in connection therewith, on application from Advanta Medical, represented by Mr. Michael Crowe of Boka Powell Architects, to approve an ordinance changing and amending the zoning and development standards on the entire property as described in the ordinance, and including approval of the development plan for the first phase of development, the special use permits for the property, the concept plan for the property as amended based on the discussion and presentations, including height restrictions, and to approve those curb cuts to be shown on the approved plans that were recommended by Staff, all subject to City Attorney and City Manager final review of the ordinance and the attachments to the ordinance.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R12 - **PUBLIC HEARING** on, and presentation, discussion and consideration of approval of an ordinance regarding Case 1577-Z/Town of Addison amending Appendix A of the Town of Addison Code of Ordinances (the Zoning Ordinance), Article XXI. Landscaping Regulations, Section 2, Definitions, and Section 8, Tree Replacement and protection, on application from the Town of Addison, represented by Mr. Slade Strickland.

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 approve Ordinance 009-007 regarding Case 1577-Z/Town of Addison amending Appendix A of the Town of Addison Code of Ordinances (the Zoning Ordinance), Article XXI. Landscaping Regulations, Section 2, Definitions, and Section 8, Tree Replacement and protection, on application from the Town of Addison, represented by Mr. Slade Strickland, subject to *Section 8, B. Replacement Trees* being amended to include the following language: "...within thirty (30) days after notification by the Town, *or such longer period of time as deemed appropriate in the opinion of the Director of Parks and Recreation.*"

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R13 - Presentation, discussion and consideration of approval of a 9-1-1 Wireless Service Agreement with MetroPCS Texas, LLC a wireless service provider to obtain the wireless number and location for 911 emergency calls.

Councilmember Niemann moved to approve a 9-1-1 Wireless Service Agreement with MetroPCS Texas, LLC a wireless service provider to obtain the wireless number and location for 911 emergency calls.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R14 - Presentation, discussion and consideration of auditor findings related to the audit of the Town's financial records for development of the 2008 Comprehensive Annual Financial Report.

Randy Moravec made the presentation and led the discussion of auditor findings related to the audit of the Town's financial records for development of the 2008 Comprehensive Annual Financial Report.

There was no action taken.

Item #R15 -Presentation, discussion and consideration of approval of purchasing 230 water meters from Hersey Meter Company in an amount not to exceed \$47,000.00.

Councilmember Braun moved to approve of purchasing 230 water meters from Hersey Meter Company in an amount not to exceed \$47,000.00.

Councilmember Daseke seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann
Voting Nay: None
Absent: None

Item #R16 - Presentation, discussion and consideration of approval of a resolution to enter into a Fiscal Agency Agreement with the City of Dallas to serve as the fiscal agent for the Town's grant award from the Justice Assistance Grant (JAG) program in the amount of \$53,035.00, and to transfer 7% (\$3,712.45) to the City of Dallas for the administration of the grant.

Councilmember Daseke moved to approve Resolution R09-010 to enter into a Fiscal Agency Agreement with the City of Dallas to serve as the fiscal agent for the Town's grant award from the Justice Assistance Grant (JAG) program in the amount of \$53,035.00, and to transfer 7% (\$3,712.45) to the City of Dallas for the administration of the grant.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Voting Nay: None

Absent: None

Item #R17 - Presentation, discussion and consideration of approval of a resolution authorizing the City Manager to enter into a Federal Aviation Administration Grant Agreement administered by the Texas Department of Transportation, to make airport improvements.

Councilmember Daseke moved to approve Resolution R09-011 authorizing the City Manager to enter into a Federal Aviation Administration Grant Agreement administered by the Texas Department of Transportation, to make airport improvements.

Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Daseke, Hirsch, Lay, Mellow and Niemann

Voting Nay: None

Absent: None

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

Mayor-Joe Chow

Attest:

City Secretary-Lea Dunn

Council Agenda Item: #R3

There are no attachments for this Item.

Council Agenda Item: #R4

SUMMARY:

This item is for presentation, discussion and consideration of approval of an ordinance providing for certain amendments to Chapter 10, Animals, of the Code of Ordinances of the Town, including the addition of provisions concerning leaving animals unattended in a vehicle and feeding of waterfowl, amendments to the provision regarding the number of animals allowed in a residence, and other amendments.

FINANCIAL IMPACT:

None

BACKGROUND:

The current animal control ordinance was compiled in 1982. Due to the passing of time some of the items in the ordinance are out dated or simply need to be changed and updated. Additionally, two additions were inserted into the ordinance.

The first addition addresses animals being left unattended in vehicles. The addition explains the conditions to which the animal control officer would have reason for removal of the animal. The conditions are due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal.

The second addition addresses the prohibition of the feeding of public water fowl. Texas Parks and Wildlife biologist suggested the following occurs when ducks are fed by humans: poor nutrition, increased hybridization, water pollution, delayed migration, concentrations at unnatural sites, overcrowding, spread of disease, and unnatural behavior.

RECOMMENDATION:

Staff recommends approval of revisions to the animal control ordinance.

ATTACHMENTS:

Animal Control Ordinance with proposed changes

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING VARIOUS SECTIONS OF CHAPTER 10, ANIMALS, INCLUDING ADDING A PROVISION REGARDING LEAVING UNATTENDED ANIMALS IN A VEHICLE AND A PROVISION PROHIBITING THE REGULAR FEEDING OF WATERFOWL, AMENDING THE PROVISION REGARDING THE NUMBER OF DOGS AND OTHER ANIMALS THAT MAY BE HARBORED OR KEPT WITHIN ANY RESIDENCE, AND PROVIDING FOR OTHER AMENDMENTS AND MODIFICATIONS TO THE SAID CHAPTER 10, ANIMALS; PROVIDING A SAVINGS AND REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY, UPON CONVICTION, FOR ANY VIOLATION, NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amendment. The Code of Ordinances (the “Code”) of the Town of Addison, Texas (the “City”) is hereby amended in the following particulars, and all other chapters, articles, sections, subsections, sentences, phrases and words of the said Code of Ordinances are not amended hereby (additions are underlined; deletions are ~~struck through~~):

A. Chapter 10, Animals, of the Code of Ordinances is hereby amended in part as follows:

1. Section 10-8 of the Code is amended to read as follows:

Section 10-8. Harassing, harming or killing of animals or fowl prohibited.

A person commits an offense if the person~~he~~ intentionally harasses, terrorizes, wounds, harms, maims, cripples or kills or causes to be harassed, terrorized, wounded, harmed, maimed, crippled or killed, any animal or fowl in the town with the exception of those of the class Reptilia or rats and other rodents not protected by state law.

2. A new Section 10-10 is hereby added to the Code to read as follows:

Section 10-10.Leaving Animals Unattended in Vehicle.

A person having charge or custody of an animal shall not place or confine such animal or allow such animal to be placed or confined in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal. The animal control officer finding an animal being held in violation of this provision may cite the owner for violating this Ordinance, obtain a search warrant pursuant to state or federal law, and/or use reasonable force to remove an animal from a vehicle whenever it appears the animal's health or safety is, or soon will be endangered, and said neglected or endangered animal shall be impounded and held pending a hearing. It shall be the responsibility of the animal's owner to repair any damaged caused by the removal of the animal from the dangerous situation by the animal control officer or police officer.

3. A new Section 10-11 is hereby added to the Code to read as follows:

Section 10-11.Feeding of Waterfowl.

(a) The large number of waterfowl attracted by feeding in and around small ponds and lakes within the town increases the presence of fecal matter from such waterfowl and corresponding harmful bacteria, which create a potential health hazard and a nuisance. The purpose of this section is to control the regular or habitual feeding of waterfowl in order to protect the public health and public property and the water quality of such ponds and lakes, by reducing the amount of fecal matter deposited by waterfowl in such waters and on the adjacent shoreline and public property.

(b) For purposes of this section, "waterfowl" means those species of birds commonly known as ducks, swans, and geese, and any other waterfowl, whether or not migratory.

(c) No person shall engage in the regular, routine, or habitual practice of feeding any waterfowl within any pond or lake within the town or within any public property adjacent thereto. No person shall regularly, routinely, or habitually create or foster any condition or allow any condition to exist or continue which results in a congregation or congestion of waterfowl.

4. Section 10-52 of the Code is amended by amending subsection (a) thereof to read as follows:

Section 10-52.Authority to impound; procedures.

(a) The supervisor of animal control is authorized to impound such animals running at large, other than a cat, and may impound a cat under conditions specified in this division and when the supervisor~~he~~ has received a complaint that the cat causes a nuisance or hazard to the health or welfare of human or animal population.

5. Section 10-57 of the Code is amended by amending subsections (b) and (c) thereof to read as follows:

Section 10-57. Adoption; conditions.

* * * * *
*

(b) The supervisor of animal control may refuse to allow a person to adopt a cat or dog whom the supervisor~~he~~ has reason to believe:

- (1) Would not be able to obtain a registration certificate under restrictions of this chapter;
- (2) Would not have proper facilities to contain or care for the animal as required by this chapter;
- (3) Wants the dog or cat for the purpose of resale or for purposes other than pet ownership; and
- (4) Would not be a suitable owner within the sole discretion of the supervision of animal control.

(c) Notwithstanding any of the provisions of this section, the supervisor of animal control shall have the authority to waive any and all impoundment, handling, quarantine, or adoption fees whenever it is appropriate in the supervisor's~~his~~ opinion to do so.

6. Section 10-58 of the Code is amended by amending subsection (b) thereof to read as follows:

Section 10-58. Impoundment fees.

* * * * *
*

(b) *Daily handling fees for animals in town pound.* A daily handling fee shall be charged for every day, or fraction thereof, that an animal is in the town's custody~~at the animal shelter~~. The daily handling fee shall be \$10.00 per day or

reasonable fees commensurate with fees charged the town by outside contractor for quarantine or boarding.

* * * * *
*

7. Section 10-82 of the Code is amended to read as follows:

Section 10-82. Manner of disposing of animals exposed to rabies.

Every animal that has been bitten by another animal shall be immediately confined by the owner, who shall promptly notify animal control of the place where such animal is confined and the reason therefor. The owner shall not permit such animal to come in contact with any person or animal. Any animal exposed to rabies shall be handled in one of the following manners:

- (1) Humane destruction, with notification to, or under supervision of, animal control;
- (2) If not currently vaccinated, the animal must be given an immediate vaccination with appropriate boosters there after at the appropriate intervals and be placed in quarantine at a veterinary hospital for at least ninety (90) days~~six months~~ immediately following the date of the exposure; or
- (3) If currently vaccinated, immediate booster vaccination~~revaccination~~ and quarantine for at least forty-five (45)~~30~~ days immediately following the date of the exposure.

8. Article III of Chapter 10 of the Code is hereby renamed to read as follows:

ARTICLE III DOGS, AND CATS AND OTHER ANIMALS

9. Section 10-111 of the Code is amended to read as follows:

Section 10-111. Numbers of animals~~dogs~~ allowed.

No residence within the town shall harbor or keep more than four (4) adult dogs, and/or five of any other type of animal, bird or reptile over the age of sixteen (16) weeks. No residence within the town shall harbor or keep more than one (1) litter of puppies and/or one (1) litter of kittens.~~It shall be unlawful and an offense to keep or harbor more than four dogs six months of age or older on any lot within the town.~~

10. Section 10-114 of the Code is amended to read as follows:

Section 10-114. Vaccination of dogs and cats required; metal and paper certificates.

All dogs and cats over four months of age must be vaccinated annually for rabies with an antirabies vaccine ~~approved by the town sanitarian and~~ administered by a duly authorized veterinarian. A metal certificate of vaccination with the year of vaccination, a certificate number and the name, address and phone number of the vaccinating veterinarian must be securely attached to a collar or harness that must be worn by the dog or cat at all times. In addition to the metal certificate, a paper certificate must be issued stating the name of the owner, the address of the owner, a description of the dog or cat, the date of the vaccination, the number of the metal certificate and the kind of vaccine used.

11. Section 10-156 of the Code is amended to read as follows:

Section 10-156. Vicious or dangerous dogs prohibited.

It shall be unlawful for any person to keep or harbor any dangerous dog within the town limits, except for dangerous dogs which were registered pursuant to division 2 of this article with the town ~~immediately preceding July 28, 1987.~~

12. Section 10-157 of the Code is amended to read as follows:

Section. 10-157. Registration required.

All persons keeping or harboring dangerous dogs within the town ~~immediately preceding July 28, 1987,~~ shall register such dog ~~within 30 days from July 28, 1987,~~ with the animal control authority and provide the authority with the following:

- (1) The name, address and telephone number of persons keeping or harboring a dangerous dog.
- (2) A \$50.00 registration fee for each dangerous dog being kept.
- (3) Proof that each dangerous dog is four months of age or over, has been vaccinated against rabies by a licensed veterinarian and supply name, address and phone number of veterinarian.
- (4) Two identification photographs, color photos at least three inches by five inches, of each dog with one photograph showing the frontal view and the other showing a side view of each dog.
- (5) Proof of a current public liability insurance policy in the amount of at least \$250,000.00 for personal injury or death and \$50,000.00 for property damage to cover injury or damage caused by a dangerous dog, which policy shall name the town as a co-insured.

13. Section 10-159 of the Code is amended by amending subsection (g) thereof to read as follows:

Section 10-159. Outdoor confinement.

* * * * *
*

(g) For dangerous dogs confined in kennels, pens or structures outdoors, the kennels, pens or structures must comply with this section no later than 60 days from the day the dangerous dog is brought into the Town's limits~~after July 28, 1987.~~

14. Section 10-162 of the Code is amended by amending to read as follows:

Section 10-162. Signs required.

Any person keeping or harboring a dangerous dog within the town shall, ~~within ten days of July 28, 1987,~~ display in a prominent place on the premises a sign easily readable from the public street stating, "BEWARE OF DOG." A similar sign shall be posted on the kennel, pen or structure where a dangerous dog is kept.

15. Section 10-167 of the Code is amended by amending to read as follows:

Section 10-167. Authority to immediately impound.

In the event that the supervisor of animal control shall determine that a dog is dangerous and presents an immediate and imminent threat and danger to the health and safety of the public or of other animals, the supervisor~~he~~ is hereby authorized to immediately impound such animal and keep such animal impounded through the pendency and resolution of the hearing provided for in subsection 10-166(c) and section 10-168. The owner of such dangerous dog shall be responsible to pay all impoundment fees which accrue pursuant to section 10-58.

Section 2. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances shall not affect any right, property or claim which was or is vested in the Town of Addison, Texas, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes effect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 3. Severability. The provisions of this Ordinance are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

Section 4. Penalty. It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount of not more than Two Thousand and No/100 Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation or failure occurs or continues. In addition to and cumulative of all other penalties, the Town of Addison shall have the right to seek injunctive relief (and any other available actions or relief) for any and all violations of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law (including, without limitation, the City Charter, and the ordinances of the City).

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this _____ day of _____, 2009.

Joe Chow, Mayor

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Council Agenda Item: #R5

SUMMARY:

Approval of an Ordinance abandoning various water, sanitary sewer and drainage easements within that area of the Town generally known as Vitruvian Park.

FINANCIAL IMPACT:

None.

PROJECT MANAGER:

Clay Barnett, P.E.

BACKGROUND:

This item is for the approval of an Ordinance abandoning five easements within that area of the Town known generally as Vitruvian Park. These easements are located under the Phase 1 building and need to be removed prior to filing of the final plat. Following is a list of those easements:

1. A 15' Sanitary Sewer Easement recorded in Vol. 70219 Pg. 854,
2. A 15' Water Easement recorded in Vol. 70219 Pg. 858,
3. A 15' Drainage Easement recorded in Vol. 80049 Pg. 2080,
4. A 15' Drainage Easement recorded in Vol. 80049 Pg. 2086, and
5. A 15' Drainage Easement recorded in Vol. 80049 Pg. 2091.

RECOMMENDATION:

Staff recommends that the Council approve an Ordinance abandoning various water, sanitary sewer and drainage easements within that area of the Town generally known as Vitruvian Park.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS PROVIDING FOR THE ABANDONMENT OF THE TOWN'S INTEREST IN AN EASEMENT DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison, Texas, acting pursuant to law, deems it advisable to abandon its easement as described herein which is not needed for a public use, and said described property should be abandoned, relinquished, and vacated; and

WHEREAS, the City Council of the Town of Addison, Texas is of the opinion that the best interest and welfare of the public is served by abandoning same.

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

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

Section 2. Abandonment; Reservation. The Town of Addison, Texas (the "City") does hereby abandon, relinquish and vacate its interest in the easement.

Section 3. Extent of Abandonment. The abandonment provided herein shall apply only to the public right, title, easement and interest that the City may lawfully abandon, vacate and relinquish. The City makes no warranty as to title to the easement and the land abandoned.

Section 4. Recording. The City Secretary is hereby directed to certify a copy of this Ordinance and cause it to be recorded in the Official Public Records of Dallas County, Texas.

Section 5. Effective Date. This Ordinance shall take effect immediately upon passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the _____ day of _____, 2009.

Joe Chow, Mayor

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Council Agenda Item: #R6

SUMMARY:

This item is to authorize the City Manager to execute a Construction contract with North Texas Contracting, Inc. in the amount of \$5,954,740.00 with contract duration of 365 calendar days for the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Phase 1B).

FINANCIAL IMPACT:

Construction Contract Amount: \$5,954,740.00

Source of Funds: General Obligation Bonds for Vitruvian Park

Project Manager: Clay Barnett, P.E.

BACKGROUND:

The Master Facilities Agreement with UDR, Inc., which was approved by Council on October 9, 2007, outlined the funds available for Phase 1. The funds designated by the Master Facilities Agreement are listed in the attachment as "Budget Allocation." The column labeled "Professional Fees" includes the past and expected expenditures for services such as engineering, architectural, inspection, testing and project management services. "Phase 1A Expenditures" column represent the funds spent for Phase 1A, which was authorized by Council on October 14, 2008. Phase 1A included water, wastewater and drainage improvements necessary to begin construction on the building that is now partially complete. The Phase 1A project is complete and final payment was authorized by Council on January 13, 2009. The "Future Expenditures" column is the anticipated costs for construction of the remainder of the project. The column labeled "Total Expenditures" is a total of these latest four columns. The "Balance" column shows where the project is to date. Although there are some overages for the water, wastewater and drainage improvements, overall the project is currently below budget. The "Future Expenditures" column is based on estimates and may not represent what those items may actually cost. Finally, the Master Facilities Agreement caps the Town of Addison's participation in this phase of construction at \$18,865,224. The Master Facilities Agreement stipulates that overages above and beyond this amount be funded by the developer.

This phase of construction, labeled Vitruvian Park Public Infrastructure Phase 1B, includes the majority of the water, wastewater, drainage and utility improvements for Brookhaven Club Drive (to be renamed Vitruvian Way) and Ponte as well as the main travel lanes of Brookhaven Club Drive and Ponte. It also includes the fire lane and

parking lot that will serve the future park. Not included in this phase of construction is the intersection of Brookhaven Club Drive and Spring Valley, the majority of the parallel parking, any of the streetscape improvements and the bridge for Ponte. The cost of these items is represented in the “Future Expenditure” column of the spreadsheet.

The Town received bids on April 7, 2009. The lowest responsive bid received was \$6,867,240.00 from North Texas Contracting, Inc. Included in this figure is the award of Additive Alternates 1 & 4 and the time component of the bid. For A+B Bidding the Time Bid along with the base bid and additive alternates are used to determine the low bidder, however only the base bid plus any additive alternates is awarded. The time is taken into account at the completion of the project. The contractor is either awarded or penalized \$2,500/day based on the number of days under or over the amount bid respectively.

The table below summarizes the bids received for this work:

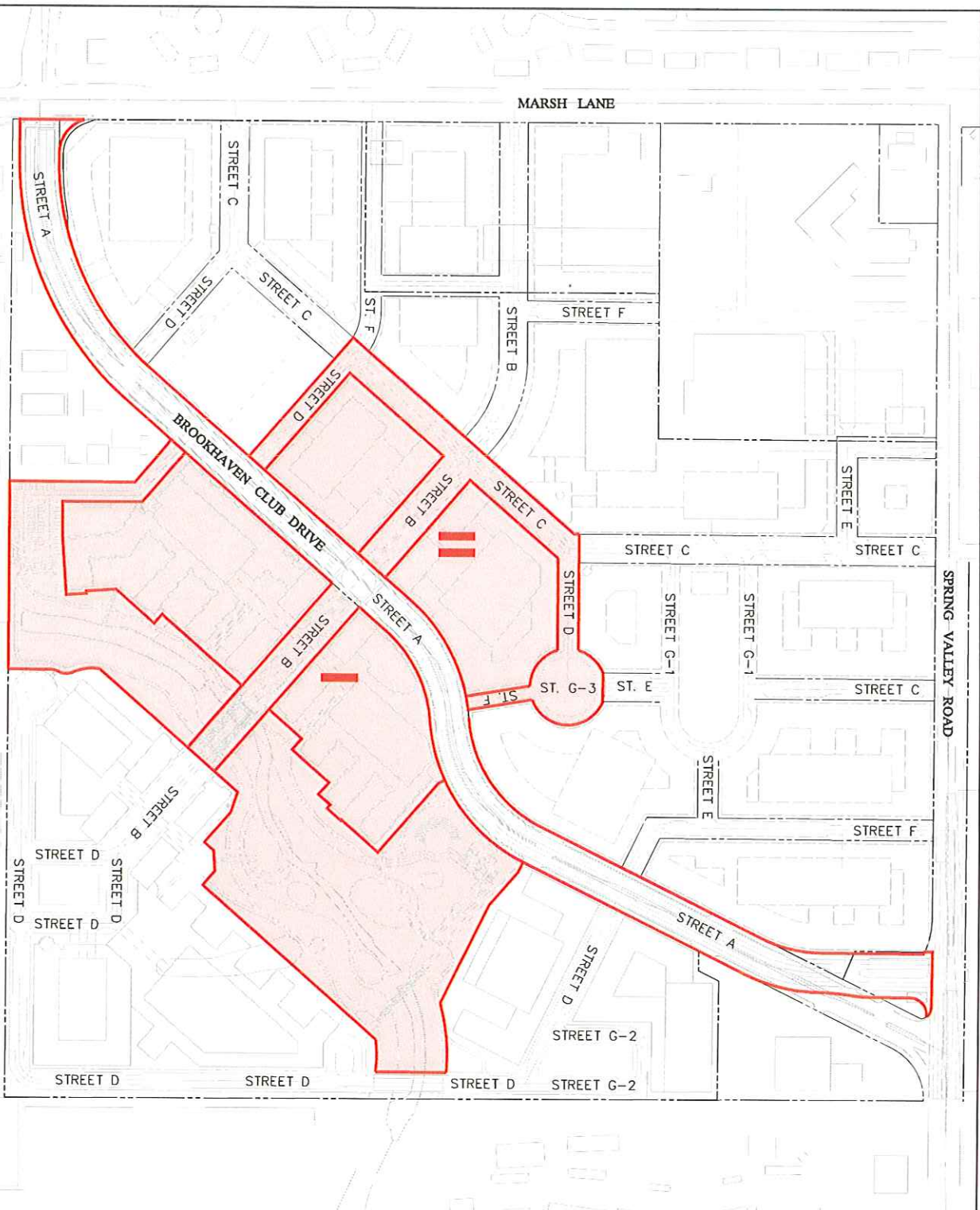
	North Texas Contracting, Inc.	Tri Dal, LTD.	Texas-Sterling Construction Co.	JRJ Paving, LP	Tiseo Paving, Co.
Base Bid (A)	\$5,873,253.00	\$6,151,413.91	\$6,801,758.71	\$6,641,099.99	\$7,097,954.32
Additive Alternate 1	\$46,033.00	\$32,293.92	\$25,495.20	\$26,769.96	\$56,656.00
Additive Alternate 4	\$35,454.00	\$26,945.04	\$24,226.90	\$27,181.40	\$50,226.50
Time Bid (B) Days Bid x \$2,500	\$912,500.00	\$1,050,000.00	\$900,000.00	\$1,350,000.00	\$1,525,000.00
Total	\$6,867,240.00	\$7,260,652.87	\$7,751,480.81	\$8,045,051.35	\$8,729,836.82

REFERENCES:

North Texas Contracting, Inc. has been in business for over eighteen years. Fifteen years ago they performed some smaller utility contracts for the Town of Addison. More recently they have performed work of a comparable scale in Southlake, Mesquite, McKinney, TxDOT and are in the process of completing a \$10 million project for Dallas County. Public Works has contacted the project managers of these entities and each stated that they would use North Texas Contracting, Inc. in the future.

RECOMMENDATION:

It is recommended that the Council authorize the City Manager to execute a Construction contract with North Texas Contracting, Inc. in the amount of \$5,954,740.00 with contract duration of 365 calendar days for the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Phase 1B).




Icon Consulting Engineers, Inc.
 Civil Engineers - Designers - Planners
 250 W. Southlake Blvd., Suite 117
 Southlake, TX 76092
 Phone: (817) 552-8210
 Fax: (817) 552-3128

SCALE: 1"=250'

Phase I Infrastructure

Brookhaven Club Dr.	\$ 6,196,050
Street "B"	\$ 4,736,945
Water	\$ 675,000
Wastewater	\$ 321,125
Drainage	\$ 814,125
Creek Area Park	\$ 6,121,979
Subtotal Phase I	\$ 18,865,224

Phase II Infrastructure

Street "B"	\$ 929,010
Street "C"	\$ 1,427,616
Street "D"	\$ 844,743
Street "F"	\$ 145,628
Street "G-3"	\$ 568,823
Water	\$ 153,126
Wastewater	\$ 128,750
Drainage	\$ 185,500
Inner Circle Park	\$ 41,587
Subtotal Phase II	\$ 4,424,783

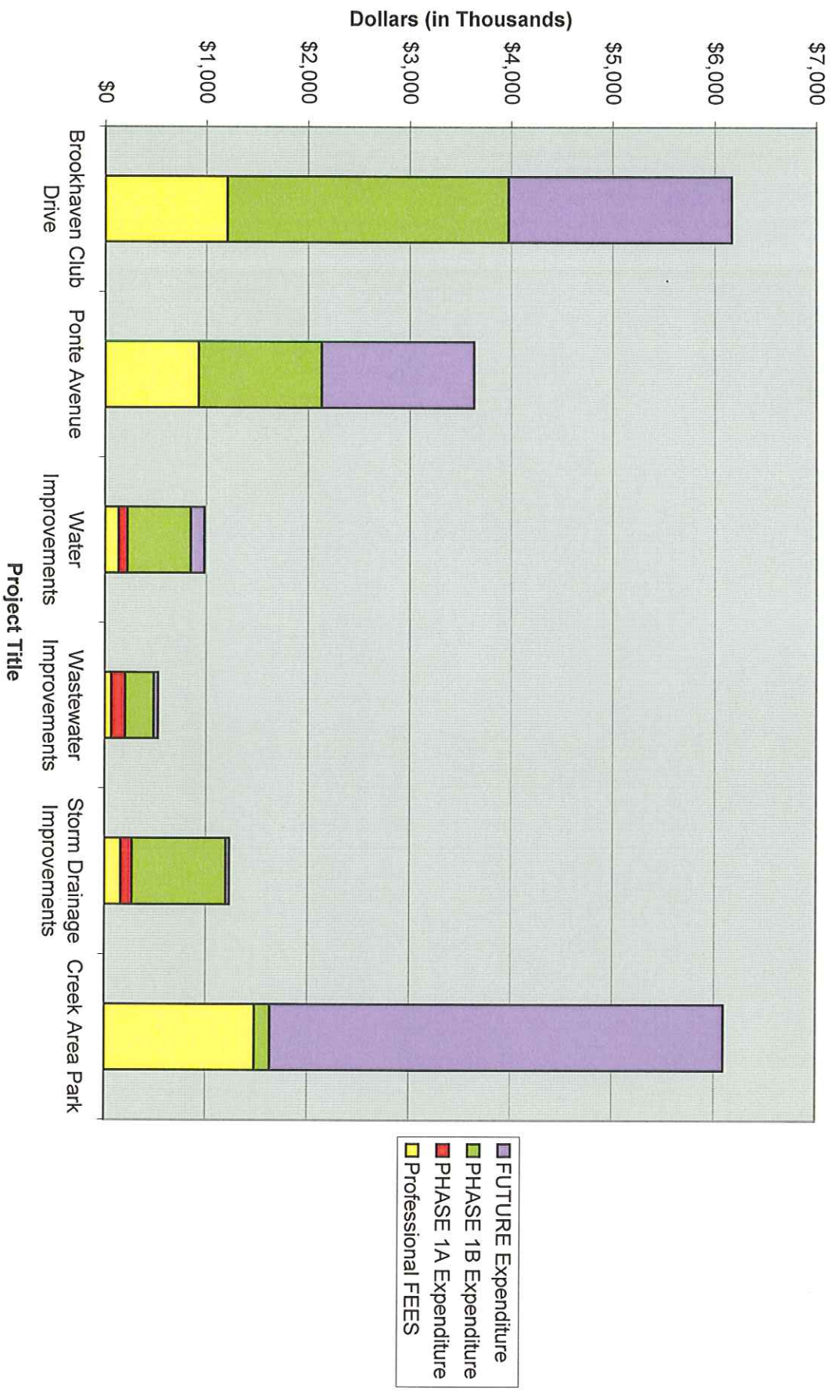
TOTAL FUNDING NO. 1 \$23,290,007

EXHIBIT "C-1"
FUNDING NO. 1

02/07/08

DESCRIPTION	BUDGET Allocation	Professional FEES	PHASE IA Expenditure	PHASE IB Expenditure	FUTURE Expenditure	TOTAL Expenditure	BALANCE
Brookhaven Club Drive	\$6,196,050	\$1,205,751	\$0	\$2,765,230	\$2,194,412	\$6,165,393	\$30,657
Ponte Avenue	\$4,736,945	\$921,809	\$0	\$1,209,504	\$1,500,000	\$3,631,313	\$1,105,632
Water Improvements	\$675,000	\$131,355	\$88,542	\$623,454	\$136,550	\$979,901	(\$304,901)
Wastewater Improvements	\$321,125	\$62,491	\$138,440	\$281,206	\$42,873	\$525,010	(\$203,885)
Storm Drainage Improvements	\$814,125	\$158,429	\$109,935	\$925,345	\$37,160	\$1,230,869	(\$416,744)
Creek Area Park	\$6,121,979	\$1,480,948	\$0	\$150,000	\$4,461,169	\$6,092,117	\$29,862
Totals	\$18,865,224	\$3,960,783	\$336,917	\$5,954,739	\$8,372,164	\$18,624,603	\$240,621

Cost Analysis



VITRUVIAN EXPENDITURES TO DATE

Phase I Infrastructure	FUND 49-2008 CAPITAL PROJECT	Contract Design Fees			Contract Inspection and Testing Fees (4%)			Construction Management Fees (8%)			Contingencies (Bond Interest)			Construction Fees		
		MAX allowable	Amount left to date	Amount Paid	MAX allowable	Amount left to date	Amount Paid	MAX allowable	Amount left to date	Amount Spent	MAX allowable	Amount left to date	Amount Spent	MAX allowable	Amount left to date	Amount Paid
Brookhaven Club Dr.	\$ 6,196,050	\$ 650,204			\$ 247,842			\$ 495,684			\$ 61,961			\$ 4,740,360		
Street "B"	\$ 4,736,945	\$ 490,207			\$ 189,478			\$ 378,956			\$ 47,369			\$ 3,630,935		
Drainage	\$ 814,125	\$ 84,250			\$ 32,565			\$ 65,130			\$ 8,141			\$ 624,039		
Creek Area Park	\$ 6,121,979	\$ 799,589			\$ 244,879			\$ 489,758			\$ 61,220			\$ 4,526,533		
TOTAL	\$ 17,869,099	\$ 2,024,250	\$ 987,460	\$ 1,036,790	\$ 714,764	\$ 710,231	\$ 4,533	\$ 1,429,528	\$ 1,421,557	\$ 7,971	\$ 178,691	\$ 161,163	\$ 17,528	\$ 13,521,866	\$ 13,411,931	\$ 109,935
FUND 61-(716) Utility Operations Capital Purchases																
Water	\$ 675,000	\$ 82,000			\$ 27,000			\$ 54,000			\$ 6,750			\$ 505,250		
Wastewater	\$ 321,125	\$ 66,000			\$ 12,845			\$ 25,690			\$ 3,211			\$ 213,379		
TOTAL	\$ 996,125	\$ 148,000	\$ -	\$ 148,000	\$ 39,845	\$ 29,850	\$ 9,995	\$ 79,690	\$ 63,347	\$ 16,343	\$ 9,961	\$ 9,961	\$ -	\$ 718,629	\$ 491,646	\$ 226,982
Phase I GRAND TOTAL	\$ 18,865,224	\$ 2,172,250	\$ 987,460	\$ 1,184,790	\$ 754,609	\$ 740,081	\$ 14,528	\$ 1,509,218	\$ 1,484,904	\$ 24,314	\$ 188,652	\$ 171,124	\$ 17,528	\$ 14,240,495	\$ 13,903,578	\$ 336,917

Council Approved					
	Phases	Date Awarded	Amount Authorized	Amount Paid	Difference
Contract Design Fees	IA, IB, IC-ICON	4/8/2008	\$ 1,997,200.00		
	IA, IB, IC, ID, IE-ICON	2/24/2009	\$ 58,500.00		
	IA, IB, IC, ID, IE-ICON	3/24/2009	\$ 107,550.00		
	IA-Lee Engineering (Not Council Approved)		\$ 9,000.00		
TOTAL			\$ 2,172,250.00	\$ 1,184,790	\$ 987,459.82
Contract Inspection and Testing	IA, IB, IC-KLEINFELDER	10/28/2008	\$ 754,608.96		
TOTAL			\$ 754,608.96	\$ 14,528	\$ 740,081.46
Construction Management Fees	IA-UDR	11/11/2008	\$ 29,593.36		
	IB				
	IC				
TOTAL			\$ 29,593.36	\$ 24,314	\$ 5,279.34
Construction Fees	IA-Tri Dal	10/14/2008	\$ 369,917.00		
	IB				
	IC				
TOTAL			\$ 369,917.00	\$ 336,917	\$ 33,000.00

Council Agenda Item #:R7

SUMMARY:

Staff requests Council authorize the approval of an Assignment and Construction Services Agreement between the Town of Addison and UDR, Inc. in the amount of \$476,379.20 for and regarding the management of the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Phase IB).

FINANCIAL IMPACT:

Project Management Contract Amount: \$476,379.20

Source of Funds: Phase 1 of the Master Facilities Agreement for Vitruvian Park included \$18,865,224 from Certificates of Obligation. From this amount, 8% of the Construction Cost was established for Construction Management Services.

PROJECT MANAGER:

Clay Barnett, P.E.

BACKGROUND:

Included in the Master Facilities Agreement with UDR, Inc., which was approved by Council on October 9, 2007, was a provision to assign the construction management of the Vitruvian Park Infrastructure to UDR, Inc. This provision was added to insure proper coordination between the contractor for the public infrastructure and the private infrastructure, thus both parties will be responsible to UDR, Inc. for construction coordination. The objective was to insure that there are no delays to either party due to a lack of coordination and to insure that there is a single point of contact for all construction related activities.

RECOMMENDATION:

It is recommended that the Council authorize the approval of an Assignment and Construction Services Agreement between the Town of Addison and UDR, Inc. in the amount of \$476,379.20 for and regarding the management of the construction of certain public infrastructure (including streets, water and sanitary sewer lines, and other public infrastructure improvements) within that area of the Town generally known as Vitruvian Park (Vitruvian Park Public Infrastructure Phase IB) subject to the approval of the City Manager and City Attorney.

Council Agenda Item: #R8

SUMMARY:

Consideration of authorizing the City Manager to enter into a Construction And Utility Adjustment Agreement between the Town of Addison and Southwestern Bell Telephone Company, d/b/a AT&T Texas to implement the construction of the duct bank and the relocation of AT&T Facilities for the Vitruvian Park Public Infrastructure – Phase IB project.

FINANCIAL IMPACT:

Amount of Phase 1B Contract for Installation of AT&T Facilities: \$494,182

Source of Funds: General Obligation Bonds for Vitruvian Park

PROJECT MANAGER:

Clay Barnett, P.E.

BACKGROUND:

During the development of the Master Facilities Agreement with UDR, Inc., which was approved by Council on October 9, 2007, UDR, Inc. expressed a desire to insure that AT&T provided the development with an advanced telecommunication system. With this objective, costs were added to the cost estimates used to develop the Master Facilities Agreement that provided for the construction of a duct bank system for the project.

Since that time, the Town of Addison has worked with AT&T to insure that the duct bank system is designed in accordance with their specifications. AT&T was also asked to supply the materials that would be installed, which they have agreed to. This provision is included in the agreement. Additionally, the Town Staff requested that AT&T have their facilities relocated prior to reconstruction of Brookhaven Club Drive (proposed Vitruvian Way), which they have agreed to. This provision is also included in the agreement. It is anticipated that by working with AT&T to install their facilities at no cost to them that they in turn would not delay the project with construction or relocations.

RECOMMENDATION:

Staff recommends the Council authorize the City Manager to enter into a Construction And Utility Adjustment Agreement between the Town of Addison and Southwestern Bell Telephone Company, d/b/a AT&T Texas to implement the construction of the duct bank and the relocation of AT&T Facilities for the Vitruvian Park Public Infrastructure – Phase IB project subject to the approval of the City Manager and City Attorney.

Council Agenda Item: #R9

SUMMARY:

This item is to award a contract to Jim Bowman Construction Co. LP. for Miscellaneous Pavement Improvements to various streets.

FINANCIAL IMPACT:

Budgeted Amount: \$275,000

Contract Amount: \$224,646

This project is funded for 2008-09 in the Street Operations Budget.

Project Manager: Robin Jones

BACKGROUND:

On an annual basis the Street Division contracts the removal and replacement of failed concrete pavement on various Town streets. This project is designed to repair 44 pavement failures on Midway Road, 20 on Quorum Drive and one each on Beltwood Parkway and Les Lacs Avenue.

On April 7, 2008 bids were opened for Miscellaneous Pavement Improvements; Bid # 09-11. The Town received five bids. The low bid (\$172,833.60) was from Reliable Paving, Inc. The second low bid (\$202,280) was from Vendigm Construction, LLC. Neither of these contractors could successfully demonstrate prior related experience and have been disqualified per the specifications.

The third low bid, and lowest responsible bid, was submitted by Jim Bowman Construction Co. LP. Jim Bowman Construction has a lengthy history of successfully completing similar projects for the Town of Addison.

RECOMMENDATION:

Staff recommends awarding this contract in the amount of \$224,646 for Miscellaneous Pavement Improvements to Jim Bowman Construction Co. LP.

Misc. Pavement Improvements

BID NO 09-11

DUE: April 7, 2009

11:00 AM

BIDDER	Signed	Bid Bond	Bid Total
Jim Bowman Construction Co. LP	Y	Y	\$ 224,646.00
Vendigm Construction, LLC	Y	Y	\$ 202,280.00
Reliable Paving, Inc	Y	Y	\$ 172,833.60
Northstar Construction	Y	Y	\$ 299,556.00
Ed A. Wilson, Inc.	Y	Y	\$ 726,120.00

Matthew E. McCombs

Matt McCombs, Management Analyst

Robin Jones

Witness

Council Agenda Item: #R10

SUMMARY:

This item is to enter into a Project Supplemental Agreement (PSA) with Dallas County as an addition to the existing Master Agreement to contract the implementation of Traffic Signal Upgrade- MCIP Project 10301.

FINANCIAL IMPACT:

Budgeted Amount:	NCTCOG Project	Federal Participation	\$465,129
		RTR Funds	\$324,000
		Local Participation	\$155,043
	Dallas County Project (upgrade signals on Midway Road Only)		
		Dallas County Participation	\$196,000
		Local Participation	<u>\$196,000</u>
			\$392,000
	Total Signalization Project		<u>\$1,336,180</u>

The Town's local share of \$351,050 is available in the Street Capital Project Fund.

Project Manager: Nancy Cline

BACKGROUND:

This project began in 2002 with the Town's request for funding from Dallas County, the Federal Government through TXDOT, and DART LAP funds. Dallas County would contribute \$196,000 with a \$196,000 match of Town funds, the Federal Government, through TXDOT, would contribute \$465,129 with a Town match of \$155,043. The Town's \$196,000 match was to come from a transfer of funds from the Town's Railroad Quiet Zone project and the \$155,043 match was to come from then existing DART LAP funds. The total project cost was to be \$1,012,172. Since then, the Town was successful in acquiring \$324,000 in Regional Toll Revenue funds that bring the new total to \$1,336,172.

This PSA agreement secures the \$196,000 contribution from Dallas County.

RECOMMENDATION:

Staff recommends entering into a Project Supplemental Agreement with Dallas County for the implementation of Traffic Signal Upgrade – MCIP Project 10301.

STATE OF TEXAS §
COUNTY OF DALLAS §

DALLAS COUNTY CAPITAL IMPROVEMENT PROGRAM
PROJECT SUPPLEMENTAL AGREEMENT
TO THE MASTER AGREEMENT GOVERNING
MAJOR CAPITAL TRANSPORTATION IMPROVEMENT PROJECTS

The Town of Addison, Texas, hereinafter called "CITY", and the County of Dallas, Texas, hereinafter called "COUNTY", desire to enter into a PROJECT SUPPLEMENTAL AGREEMENT, hereinafter called "PSA", in order to contract for the implementation of the Major Capital Improvement Project authorized by Commissioners Court Order 2001-1035 dated May 29,2001, which approved specified projects including Midway –Spring Valley to Dooley –Traffic Signal Upgrade - MCIP Project 10301, hereinafter called "PROJECT".

WHEREAS, the CITY has requested that it be designated as the LEAD AGENCY for the project and will provide the Project Manager; and

WHEREAS, CHAPTER 791 OF THE TEXAS GOVERNMENT CODE and TEXAS TRANSPORTATION CODE ARTICLE 251 provides authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects.

NOW THEREFORE THIS PSA is made by and entered into by the CITY, and the COUNTY, for the mutual consideration stated herein.

W I T N E S S E T H

ARTICLE I.
PROJECT SUPPLEMENTAL AGREEMENT

This PSA is to specifically identify the PROJECT, changes in the rights and responsibilities of each of the parties as set forth in the MASTER AGREEMENT and additions thereto as incorporated herein. This PSA will be an addition to the MASTER AGREEMENT and incorporate each of its terms and conditions. All terms of the MASTER AGREEMENT remain in full force and effect except as modified herein. In the event of any conflict between the MASTER AGREEMENT and this PSA, this PSA shall control.

ARTICLE II
INCORPORATED DOCUMENTS

This PSA incorporates, as if fully reproduced herein word for word and number for number, the following items:

1. MASTER AGREEMENT authorized by County Commissioners Court Order 2002-1375 dated

July 30, 2002, and additions thereto as incorporated herein.

2. Project Scoping Sheet, as shown in ATTACHMENT "A".
3. CURRENT COST ESTIMATES AND FUNDING SOURCES, as shown in ATTACHMENT "B".

ARTICLE III TERM OF AGREEMENT

This PSA becomes effective when signed by the last party who's signing makes the respective agreement fully executed (The "Effective Date") and shall terminate upon the completion and acceptance of the Project by Dallas County Commissioners Court or upon the terms and conditions in the MASTER AGREEMENT, Article IV. Section 1, Termination.

ARTICLE IV PROJECT DESCRIPTION

This PSA is entered into by the parties for public transportation improvements to the traffic signal in Midway Road from Spring valley to Dooley (34 signalized intersections) and as more specifically described in ATTACHMENT "A", Project Scoping Sheets. This project will facilitate the movement of public transportation to benefit both the CITY and COUNTY. The CITY has and hereby does give its approval for expenditure of COUNTY funds for the construction, improvement, maintenance, or repair or a street located within the municipality.

Article V FISCAL FUNDING

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of COUNTY funding for each item and obligation contained herein. CITY shall have no right of action against the County of Dallas as regards this PSA, specifically including any funding by COUNTY of the Project in the event that the COUNTY is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the COUNTY, at its sole discretion, may provide funds from a separate source or terminate this PSA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of CITY funding for each item and obligation contained herein. COUNTY shall have no right of action against the CITY as regards this PSA, specifically including any funding by CITY of the PROJECT in the event that the CITY is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the CITY, as its sole discretion, may provide funds from a separate source or terminate this PSA. In the

event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

ARTICLE VI
AGREEMENTS
COUNTY AND CITY DO COVENANT AND AGREE AS FOLLOWS

1. CITY and COUNTY mutually agree that the PROJECT limits are as shown in the Project Map, ATTACHMENT "A1".
2. The agreed upon STANDARD BASIC PROJECT DESIGN for the project is as defined in the Project Scoping Sheets, ATTACHMENT "A". Such design shall be the STANDARD BASIC PROJECT DESIGN for the PROJECT and specifically does not include PAVING AND DRAINAGE AMENITIES or UTILITY BETTERMENTS as defined in the MASTER AGREEMENT.
3. The PROJECT will require the acquisition of road right-of-way within specific right-of-way alignment which is specifically all real property needed or convenient for roadway purposes as shown in the PROJECT design or right-of-way plans and specifically includes all real property outside of the designed right-of-way needed or convenient to the construction, drainage, interface with adjoining streets or alleys, driveways or other access ways or other PROJECT permanent or temporary easements which is approved by CITY and COUNTY. Such right-of-way acquisition shall be the responsibility of the CITY, and shall be funded as part of PROJECT costs.

ARTICLE VII
CITY COVENANTS AND AGREES AS FOLLOWS

1. To execute the necessary agreements for the implementation of design and construction of the PROJECT mutually agreed upon and incorporated herein by this PSA.
2. This PSA is CITY approval of the preferred alignment, proposed estimated budget and funding as shown in the CURRENT COST ESTIMATES AND FUNDING SOURCES, ATTACHMENT "B", and commitment to meet PROJECT funding for each milestone.
3. If the CITY requests COUNTY to add relocation or adjustment of CITY UTILITIES or UTILITY BETTERMENTS, as defined in the MASTER AGREEMENT, CITY covenants and agrees that it will pay 100% of the costs of these additions.

ARTICLE VIII.
COUNTY COVENANTS AGREES AS FOLLOWS

COUNTY agrees to participate in the CITY-led project as a funding participant. COUNTY will retain right to review plans, change orders and amendments during construction.

ARTICLE IX.
FUNDING

COUNTY AND CITY mutually agree to proportionately fund the DIRECT PROJECT and PROGRAM costs as follows.

1. The CITY will be responsible for **Three Hundred fifty One Thousands and Fifty Dollars and 00/100 dollars (\$351,050)**. If the total project costs should exceed this amount, the CITY agrees to amend the project's scope to remain within the current estimated **not to exceed amount** or be responsible for all additional project costs.
2. The County will be responsible for the current estimated project delivery costs for the PROJECT as indicated in ATTACHMENT "B" which is currently estimated at **One Hundred ninety six Thousand and 00/100 dollars (\$196,000.00)**.
3. CITY agrees to encumber an amount adequate for total estimated project costs as determined prior to the commencement of each PROJECT milestone within 30 days of notification.
4. COUNTY agrees to provide funding for the PROJECT costs in a not to exceed amount of **One Hundred ninety six Thousand and 00/100 dollars (\$196,000.00)**, reduced by all COUNTY in-house delivery costs of the total project cost. Project costs may include all COUNTY project delivery costs including but not limited to preliminary scoping and research, preliminary design services, special services, primary design services, inspection, laboratory services and construction.
5. CITY covenants and agrees that it has included PAVING and DRAINAGE AMENITIES, BETTERMENTS as defined in the MASTER AGREEMENT, and relocation or adjustment of CITY UTILITIES in the PROJECT. CITY and COUNTY agree that CITY, in addition to the above listed PROJECT costs, shall pay 100% of each item and all additional COUNTY PROJECT COST for the inclusion of such items in the PROJECT or any other items not currently listed within the scope.

ARTICLE X
MISCELLANEOUS

- A. **No Third Party Beneficiaries**, The terms and provisions of this PSA are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of CITY and COUNTY that any entity other than CITY or COUNTY receiving services or benefits under this PSA shall be deemed an incidental beneficiary only. This PSA is intended only to set forth the contractual right and responsibilities of the parties hereto.
- B. **Applicable Law**. This PSA is and shall be expressly subject to the Sovereign Immunity of COUNTY and Governmental Immunity of CITY, Title 5 of the Texas Civil Practice and Remedies Code, as amended, and all applicable Federal and State Law. This PSA shall be governed by and construed in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this PSA filed by either CITY or COUNTY shall be in Dallas County, Texas.
- C. **Notice**. Any notice provided for in this Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or two (2) business days after being deposited in the United States Mail, postage prepaid, certified, returned receipt requested, or registered addressed as follows:

To County: County of Dallas
Mr. Donald Holzwarth, P.E.

Director of Public Works
Dallas County Administration Building
411 Elm Street, Fourth Floor
Dallas County, Texas 75202-3389

To City: Town of Addison
Mrs. Nancy Straub Cline, P.E.
Director of Public Works
16801 Westgrove Drive
Addison, Texas 75001

Either party may change its address for notice by giving the other party notice thereof.

- D. **Assignment.** This PSA may not be assigned or transferred by either party without the prior written consent of the other party.
- E. **Binding Agreement; Parties Bound.** This PSA has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties, their successors and permitted assigns.
- F. **Amendment.** This PSA may not be amended except in a written instrument specifically referring to this PSA and signed by the parties hereto.
- G. **Number and Gender.** Words of any gender used in this PSA shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.
- H. **Effective Date.** This PSA shall commence on the Effective Date. The Effective Date of this PSA shall be the date it is executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.
- I. **Counterparts.** This PSA 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.
- J. **Severability.** If one or more of the provisions in this PSA shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this PSA to be invalid, illegal or unenforceable, but this PSA shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this PSA, which shall remain in full force and effect.
- K. **Entire Agreement.** This PSA embodies the complete agreement of the parties, supersedes all oral or written previous and contemporary agreements between the parties and relating to matters in the PSA.

The Town of Addison, State of Texas, has executed the Agreement pursuant to duly

authorized City Council Resolution _____, Minutes _____ Dated the ____ day of _____, 200__.

The County of Dallas, State of Texas, has executed this agreement pursuant to

Commissioners Court Order Number _____ and passed on the ____ day of _____, 200__.

COUNTY OF DALLAS

TOWN OF ADDISON

BY _____
JIM FOSTER, COUNTY JUDGE

BY _____
CITY MANAGER - RON WHITEHEAD

ATTEST:

BY _____
CITY SECRETARY - LEA DUNN

APPROVED AS TO FORM*:

APPROVED AS TO FORM:



BOB SCHELL

BY _____
CITY ATTORNEY - JOHN HILL

CHIEF CIVIL SECTION
*DISTRICT ATTORNEY'S OFFICE

DATE 3-25-09

DATE: _____

*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).

ATTACHMENT A
Project Supplemental Agreement to Master Agreement
Governing
Transportation Major Capital Improvement Projects
PROJECT SCOPING
Project Name: MIDWAY- SPRING VALLEY TO DOOLEY
MCIP Project 10301

City Council approves of the Financing, Construction or Improvement on Midway-Spring valley to Dooley Traffic Signal Improvements, including 34 intersection (See Attachment A1) as part of this project, or as more fully described in the City/NCTCOG Thoroughfare/ Transportation Plan .

<u>LEAD AGENCY:</u>	<u>Town of Addison</u>
<u>LEAD AGENCY'S PROJECT MANAGER:</u>	<u>Nancy Cline</u>
<u>CONTACT INFORMATION:</u>	<u>(972) 450-2878</u>
<u>PROJECT LIMITS:</u>	<u>(See attachment A1)</u>
<u>PROJECT LENGTH:</u>	<u>(See attachment A1)</u>

Project Scope

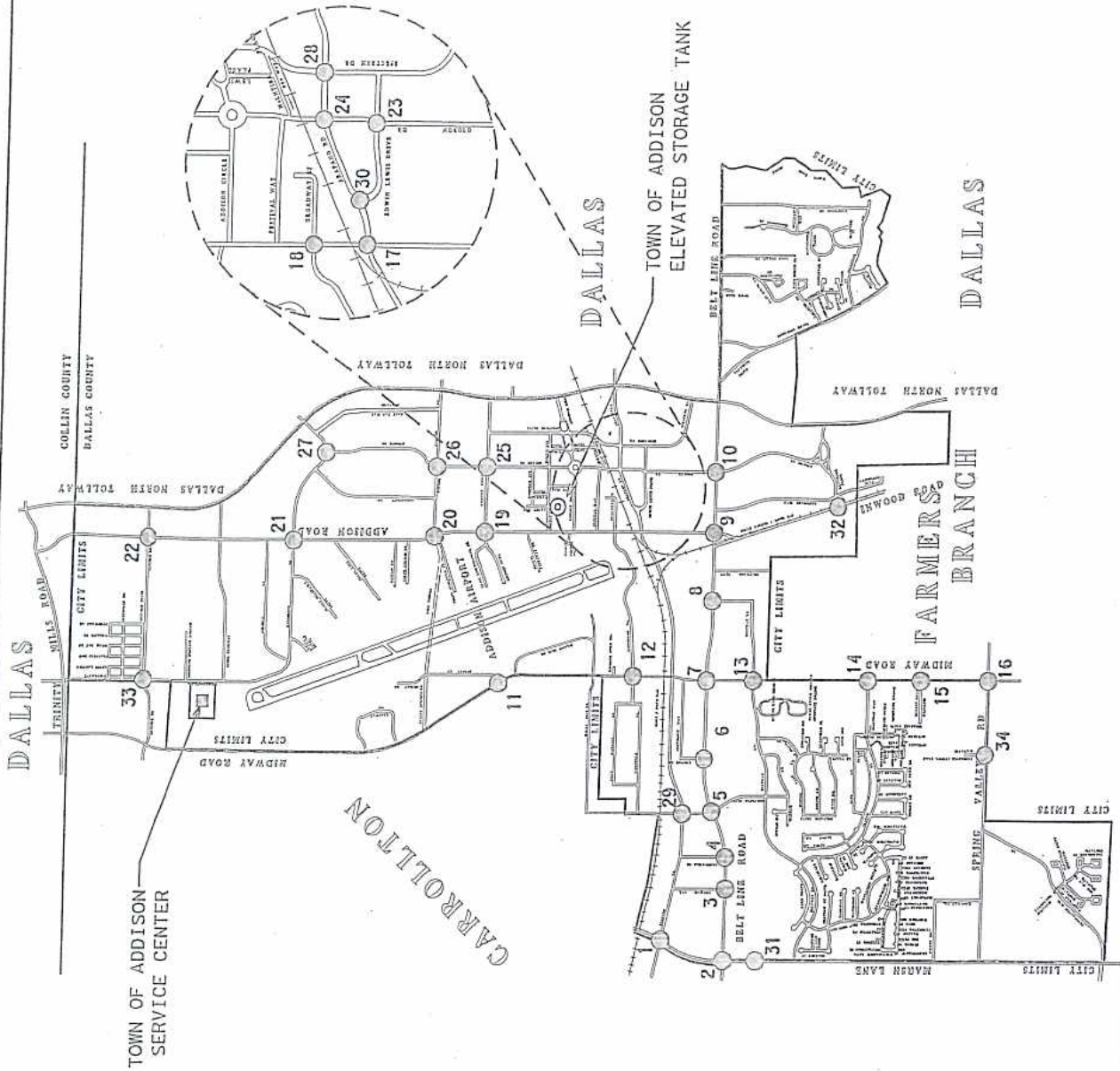
The town of Addison is procuring the equipment and services necessary to construct an Advanced Traffic Management System (ATMS) that will be used to monitor and control 34 intersections see "Attachment A1" for project location. The project also includes Vehicle Imaging and Vehicle Detection System (VIVDS) cameras existing and proposed to be installed as part of this project. Some equipment will be procured under a proprietary purchase agreement and installed by a licensed contractor, while other equipment will be furnished and installed by the same or separate contractor. Work packages have been identified for the purposes of establishing clear areas of responsibilities of the different parties.

LEGEND

- PROJECT INTERSECTIONS
- ⊙ ELEVATED STORAGE TANK
- XX INTERSECTION IDENTIFICATION



ATTACHMENT A1
PROJECT LOCATION MAP
34 INTERSECTIONS



ATTACHMENT B

Encumber

MIDWAY- SPRING VALLEY TO DOOLEY TRAFFIC SIGNAL
IMPROVEMENTS

MCIP# 10301

CURRENT ESTIMATES AND FUNDING SOURCES

NCTCOG PARTICIPATION (FEDRAL)	\$465,130
NCTCOG PARTICIPATION (RTR FUNDS)	\$324,000
DALLAS COUNTY PARTICIPATION	\$196,000
TOWN OF ADDISON PARTICIPATION	\$351,050
TOTAL AVAILABLE FUNDING	\$ 1,336,180

Council Agenda Item: #R11

SUMMARY:

This item is for presentation, discussion and consideration of approval of a water conservation ordinance.

FINANCIAL IMPACT:

None

BACKGROUND:

In 2005, the State of Texas passed House Bill 2660. House Bill 2660 required municipalities to pass water conservation plans that had the following components:

- an evaluation of the current water usage by the town,
- quantified five (5) and ten (10) year target goals for water savings in gallons per capita per day,
- a schedule for implementing goals,
- a method for tracking and implementing the plan,
- a meter testing program for periodic replacement,
- measures to control water loss,
- a water rate structure which is “non-promotional”,
- adoption of a water conservation ordinance,
- and notification of adopted ordinance sent to regional water planning group.

The water conservation plan, with ordinance (if adopted by Council) will be turned into the Texas Development Water Board.

RECOMMENDATION:

Staff recommends approval of the water conservation ordinance.

ATTACHMENTS:

Water Conservation Ordinance
Water Conservation Plan

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING CHAPTER 82, UTILITIES, TO ADD A NEW SECTION 82-98 REGARDING THE CONSERVATION OF WATER AND PROTECTION OF WATER SUPPLIES; PROVIDING FOR EVALUATION OF THE CURRENT WATER USAGE OF THE TOWN; SETTING WATER SAVINGS GOALS FOR FIVE AND TEN YEARS; PROVIDING FOR THE SCHEDULING OF IMPLEMENTATION OF GOALS; PROVIDING FOR A METER TESTING PROGRAM; PROVIDING FOR THE ESTABLISHMENT OF MEASURES TO CONTROL WATER LOSS; ESTABLISHING A WATER RATE STRUCTURE WHICH IS “NON-PROMOTIONAL”; PROVIDING A SAVINGS AND REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY, UPON CONVICTION, FOR ANY VIOLATION, NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council finds that conservation of water and protection of water supplies are in the best interest of its citizens.

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

Section 1. Amendment. The Code of Ordinances of the Town of Addison, Texas (the “City”) is hereby amended in the following particulars, and all other chapters, articles, sections, subsections, sentences, phrases and words of the said Code of Ordinances are not amended hereby:

A. Chapter 82, Utilities, of the Code of Ordinances is hereby amended by adding thereto a new Section 82-98 to read as follows:

Section 82-98. Water Conservation Plan.

The Town hereby adopts a water conservation plan for the purpose of setting water conservation goals and best management practices, all as contained in Exhibit “A” attached to the ordinance of the Town adopting this Section 82-98 (the same being Ordinance No. _____) and incorporated as if fully set forth herein.

The water conservation plan proposes a goal of reducing water consumption to a level of 290 gallons per capita per day by 2015 and 275 gallons per capita per day by 2020.

Section 2. Water Conservation Plan. There is attached as Exhibit "A" to this Ordinance and incorporated herein for all purposes the water conservation plan described in the amendment to the Code of Ordinances set forth in Section 1, above.

Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances shall not affect any right, property or claim which was or is vested in the Town of Addison, Texas, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes effect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 4. Severability. The provisions of this Ordinance are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

Section 5. Penalty. It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount of not more than Two Thousand and No/100 Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation or failure occurs or continues. In addition to and cumulative of all other penalties, the Town of Addison shall have the right to seek injunctive relief (and any other available actions or relief) for any and all violations of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law (including, without limitation, the City Charter, and the ordinances of the City).

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this _____ day of _____, 2009.

Joe Chow, Mayor

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Exhibit "A"

Water Conservation Plan

I. Utility Profile

A. Population and Service Area Data

1. A copy of Addison's Certificate of Convenience and Necessity (CCN) is attached in this plan
2. Service area size (square miles): 4.5 square miles
3. Current population of service area: 13,409
4. Current population served by utility: a: water: 13,409
b: wastewater: 13,409

5. Population served by water utility for the previous five years:
6. Projected population for service area in the following decades:

Year	Population	Year	Population
<u>2008</u>	<u>15,300</u>	2010	<u>17,100</u>
<u>2007</u>	<u>15,250</u>	2020	<u>19,300</u>
<u>2006</u>	<u>14,900</u>	2030	<u>22,400</u>
<u>2005</u>	<u>14,450</u>	2040	<u>26,800</u>
<u>2004</u>	<u>14,100</u>	2050	<u>29,000</u>

7. List source(s)/method(s) for the calculation of current and projected population: Current and previous population was calculated based on previous budget documents. Future population was based upon NCTCOG projections, consultant studies and schedule of future economic development projects.

B. Active Connections

1. Current number of active connections by user type. If not a separate classification, check whether multi-family service is counted as Residential X or Commercial _____

<u>Treated water users:</u>	<u>Metered</u>	<u>Not-metered</u>	<u>Total</u>
Residential-Single-Family	<u>1670</u>	<u>0</u>	<u>1670</u>

Residential-Multi-Family	<u>165</u>	<u>0</u>	<u>165</u>
Commercial	<u>1016</u>	<u>0</u>	
<u>1016</u>			
Industrial	<u>10</u>	<u>0</u>	
<u>10</u>			
Public	<u>41</u>	<u>0</u>	<u>41</u>
Other	<u>609</u>	<u>0</u>	
<u>609</u>			

2. List the net number of new connections per year for most recent three years:

Year	<u>2008</u>	<u>2007</u>	<u>2006</u>
Residential –Single-Family	<u>6</u>	<u>10</u>	<u>1</u>
Residential-Multi-Family	<u>20</u>	<u>2</u>	<u>8</u>
Commercial	<u>21</u>	<u>8</u>	<u>17</u>
Industrial	<u>0</u>	<u>0</u>	<u>0</u>
Public	<u>0</u>	<u>0</u>	<u>0</u>
Other	<u>11</u>	<u>12</u>	<u>16</u>

C. High Volume Customers

List annual water use for the five highest volume retail and wholesale customers (Please indicate if treated or raw water delivery.)

	<u>Customer</u>	<u>Use (1,000gal./yr.)</u>	<u>indicate Treated OR Raw</u>
(1)	<u>Hotel Inter-Continental</u>	<u>42,800</u>	<u>Treated by DWU</u>
(2)	<u>Post Apartment Homes</u>	<u>37,000</u>	<u>Treated by DWU</u>
(3)	<u>Greenhill School</u>	<u>33,800</u>	<u>Treated by DWU</u>
(4)	<u>Mary Kay Inc.</u>	<u>30,100</u>	<u>Treated by DWU</u>
(5)	<u>AZ Crowne, LP</u>	<u>27,800</u>	<u>Treated by DWU</u>

II. WATER USE DATA FOR SERVICE AREA

A. Water Accounting Data

1. Amount of water use for previous five years (in 1,000 gal.):

Please indicate: Diverted Water _____
 Treated Water X

Year	2004	2005	2006	2007	2008
January	<u>122,296</u>	<u>117,795</u>	<u>155,494</u>	<u>110,085</u>	<u>109,840</u>
February	<u>111,985</u>	<u>102,311</u>	<u>118,168</u>	<u>105,461</u>	<u>101,313</u>
March	<u>130,053</u>	<u>127,052</u>	<u>132,650</u>	<u>136,855</u>	<u>110,085</u>
April	<u>152,340</u>	<u>146,570</u>	<u>161,428</u>	<u>127,043</u>	<u>114,567</u>
May	<u>176,376</u>	<u>165,052</u>	<u>185,473</u>	<u>136,049</u>	<u>135,670</u>
June	<u>163,281</u>	<u>193,352</u>	<u>232,129</u>	<u>140,331</u>	<u>178,042</u>
July	<u>199,186</u>	<u>231,670</u>	<u>251,469</u>	<u>149,410</u>	<u>226,249</u>
August	<u>218,511</u>	<u>230,254</u>	<u>259,001</u>	<u>192,594</u>	<u>208,093</u>
September	<u>200,716</u>	<u>225,642</u>	<u>210,389</u>	<u>171,485</u>	<u>171,402</u>
October	<u>172,282</u>	<u>218,486</u>	<u>190,974</u>	<u>167,599</u>	<u>165,534</u>
November	<u>122,439</u>	<u>176,072</u>	<u>150,288</u>	<u>143,550</u>	<u>123,289</u>
December	<u>115,195</u>	<u>140,492</u>	<u>119,367</u>	<u>109,840</u>	<u>98,498</u>
Total	<u>1,884,660</u>	<u>2,074,748</u>	<u>2,166,830</u>	<u>1,690,302</u>	<u>1,742,582</u>

Please indicate how the above figures were determined (e.g., from a master meter located at the point of a diversion from a stream or located at a point where raw water enters the treatment plant, or from water sales).

Master meter located at entry point from Dallas Water Utilities

2. Amount of water (in 1,000 gallons) delivered (sold) as recorded by the following account types for the past five years.

Year	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Wholesale</u>	<u>Other</u>	<u>Total Sold</u>
2004	<u>638,381</u>	<u>569,175</u>	<u>5,258</u>	<u>0</u>	<u>527,602</u>	<u>1,742,420</u>
2005	<u>351,375</u>	<u>574,738</u>	<u>4,328</u>	<u>0</u>	<u>631,076</u>	<u>1,863,522</u>
2006	<u>720,990</u>	<u>604,075</u>	<u>3,916</u>	<u>0</u>	<u>756,759</u>	<u>2,087,746</u>
2007	<u>601,201</u>	<u>566,501</u>	<u>2,997</u>	<u>0</u>	<u>454,208</u>	<u>1,626,914</u>
2008	<u>514,023</u>	<u>529,299</u>	<u>3,104</u>	<u>0</u>	<u>601,167</u>	<u>1,649,601</u>

3. List previous five years records for water loss ratio

4. List previous five years records for annual peak-to-average daily use

<u>Year</u>	<u>Amount (gal.)</u>
<u>2004</u>	<u>124,340,343</u>
<u>2005</u>	<u>146,267,636</u>
<u>2006</u>	<u>80,845,070</u>
<u>2007</u>	<u>72,344,160</u>
<u>2008</u>	<u>66,000,000</u>

<u>Year</u>	<u>Average MGD</u>	<u>Peak MGD</u>	<u>Ratio</u>
<u>2004</u>	<u>5,163,452</u>	<u>8,845,000</u>	<u>1.71</u>
<u>2005</u>	<u>5,684,241</u>	<u>8,918,000</u>	<u>1.57</u>
<u>2006</u>	<u>5,936,521</u>	<u>9,901,000</u>	<u>1.67</u>
<u>2007</u>	<u>4,630,964</u>	<u>8,437,000</u>	<u>1.82</u>
<u>2008</u>	<u>4,774,197</u>	<u>8,421,000</u>	<u>1.76</u>

5. Total per capita water use for previous five years:

<u>Capita</u>	<u>Year</u>	<u>Population</u>	<u>Total Diverted (or Treated Less Wholesale Sales (1,000 gal.))</u>	<u>Per (gpcd)</u>
	<u>2004</u>	<u>14,100</u>	<u>1,884,660</u>	<u>366.2</u>
	<u>2005</u>	<u>14,450</u>	<u>2,074,748</u>	<u>393.4</u>
	<u>2006</u>	<u>14,900</u>	<u>2,166,830</u>	<u>398.4</u>
	<u>2007</u>	<u>15,250</u>	<u>1,690,302</u>	<u>303.7</u>
	<u>2008</u>	<u>15,300</u>	<u>1,742,582</u>	<u>312.0</u>

6. Seasonal water use for the previous five years (in gallons per person per day):

<u>Year</u>	<u>Population</u>	<u>Base Per Capita Use</u>	<u>Summer Per Capita Use</u>
<u>2004</u>	<u>14,100</u>	<u>275.4</u>	<u>457.8</u>
<u>2005</u>	<u>14,450</u>	<u>277.3</u>	<u>503.9</u>
<u>2006</u>	<u>14,900</u>	<u>293.1</u>	<u>553.8</u>
<u>2007</u>	<u>15,250</u>	<u>237.1</u>	<u>351.4</u>
<u>2008</u>	<u>15,300</u>	<u>224.9</u>	<u>444.7</u>

B. Projected Water Demands

Project water supply requirements for at least the next ten years using population trends, historical water use, and economic growth, etc. Indicate sources of data and how projected water demands were determined.

Projected water use was determined by averaging the number of individuals anticipated to move to Addison in an individual year. After the projected population in a year was determined we multiplied the average per capita water use per individual. We then multiplied that number by 365 days a year and then added it to our current usage for the year 2008.

Year	Projected Water Use
2009	1,784,717,600
2010	1,826,853,200
2011	1,868,988,800
2012	1,911,124,400
2013	1,953,260,000
2014	1,995,395,600
2015	2,037,531,200
2016	2,079,666,800
2017	2,121,802,400
2018	2,163,938,000
2019	2,206,073,600

II. WATER SUPPLY SYSTEM

A. Water Supply Sources

List all current water supply sources and the amounts available with each:

	<u>Source</u>	<u>Amount Available</u>
Surface Water:	_____	_____MGD
Groundwater:	_____	_____MGD
Contracts:	<u>Dallas Water Utilities</u> _____	<u>11</u> _____MGD
Other:	_____	_____MGD

B. Treatment and Distribution System

- Design daily capacity of system: 26.8 _____ MGD
- Storage Capacity: Elevated 1.0 MGD, Ground 8.0 MGD
- If surface water, do you recycle filter backwash to the head of the plant?
Yes _____ No X _____.
- Sketch of system layout is attached.

IV. WASTEWATER UTILITY SYSTEM

A. Wastewater System Data

1. Design capacity of wastewater treatment plant(s): NO TREATMENT PLANT MGD
2. Is treated effluent used for irrigation on-site N/A, off-site N/A, plant washdown N/A, or chlorination/dechlorination N/A?
If yes, approximately N/A gallons per month. Could this be substituted for potable water now being used in these areas N/A?
3. Briefly describe the wastewater system(s) of the area serviced by the water utility. Describe how treated wastewater is disposed of. Where applicable, identify treatment plant(s) with the TCEQ name and number, the operator, owner, and, if wastewater is discharged, the receiving stream. Please provide a sketch or map which locates the plant(s) and discharge points or disposal sites. N/A

B. Wastewater Data for Service Area

1. Percent of water service area served by wastewater system: N/A%
2. Monthly volume treated for previous three years (in 1,000 gallons):

Year	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
January	<u> </u>	<u> </u>	<u> </u>
February	<u> </u>	<u> </u>	<u> </u>
March	<u> </u>	<u> </u>	<u> </u>
April	<u> </u>	<u> </u>	<u> </u>
May	<u> </u>	<u> </u>	<u> </u>
June	<u> </u>	<u> </u>	<u> </u>
July	<u> </u>	<u> </u>	<u> </u>
August	<u> </u>	<u> </u>	<u> </u>
September	<u> </u>	<u> </u>	<u> </u>
October	<u> </u>	<u> </u>	<u> </u>
November	<u> </u>	<u> </u>	<u> </u>
December	<u> </u>	<u> </u>	<u> </u>
Total	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

V. Water Conservation Goals, Targets, Tracking and Cost Based Rate Structure

A. Water Conservation Goals

The Water conservation goals for the plan are consistent with regional goals and were developed assuming a year of average rainfall. Per capita goals of 290 gpcd and 270 gpcd are the targets for 2015 and 2020 respectively. The Best Management Practices (BMPs) already in place and proposed for future years are outlined in the next section of the plan.

B. Schedule for Implementing Water Conservation Plan to Achieve Targets and Goals

The Town of Addison will adhere to the following schedule; to achieve the targets and goals for water conservation:

- Calibrations of meters for all treated water deliveries are conducted annually
- The Town of Addison meter replacement program is as follows:
 - Meters will continue to be monitored for accuracy annually and replaced on a fifteen-year cycle
- 500 water audits are conducted annually
 - Real water losses are identified and corrected
 - Real water losses are minimized by replacement of deteriorating water mains and appurtenances, as is conducted by Town of Addison staff on an on-going basis
- The Town of Addison will mail out material developed by the staff, materials obtained from the Texas Water Development Board, Texas Commission on Environmental Quality or other sources semi-annually (once in the spring and once in the summer) to all customers
- The leak detection program described in the plan is currently in use by the Town of Addison, which reduces real water losses when unaccounted for water is above 6%
 - Inspections and soundings of all water main fittings and connections are conducted annually when water losses are above 6%
 - Intermittent night-flow measurements are conducted annually when water losses are above 6%
 - Pressure is controlled to just above the standard-of-service level by use of SCADA system
 - Pressure zones are operated based on the topography
 - Surges in pressure are limited by control valves
 - Nighttime pressure is reduced by control valves when feasible
- The Town of Addison adopted the 2006 International Plumbing Code, and all new construction or renovations in the city use water conserving fixtures

C. Tracking Targets and Goals

The staff shall track targets and goals by utilizing the following procedures:

- Logs shall be maintained for meter calibration, meter testing, and meter replacement programs
- Annual water audits shall be documented and kept in the Utility Department files
- Staff shall keep a record of the number of mail-outs distributed semi-annually
- Rates are tracked by means of ordinances adopted
- Logs shall be maintained for the utility's Leak Detection Program, including but not limited to the following:
 - Annual inspections and soundings of water main fittings and connections
 - Annual intermittent night-flow measurement

D. Water Rate Structure

Currently the Town has a water rate structure that is cost-based and which does not encourage the excessive use of water. Below is a copy of the current ordinance rate structure.

Sec. 82-77. Water rates. The customer classifications, minimum bills, and consumption charges shall be as follows:

(1) *Water minimum bills.* Minimum monthly bills shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification:	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$9.10	2,000
Multifamily Residential	35.75	15,000
Municipal/Schools	46.00	20,000
Commercial Large (meter size greater than or equal to two inches)	80.85	37,000
Commercial Small (meter size less than two inches)	11.15	3,000
Industrial Large (meter size greater than or equal to two inches)	169.00	80,000
Industrial Small (meter size less than two inches)	11.15	3,000
Hotel/Motel	169.00	80,000
Sprinkler Large (meter size greater than or equal to two inches)	115.70	27,000
Sprinkler Small (meter size less than two inches)	25.50	5,000
Fire Meters	21.40	8,000

(2) *Water volume rate.* All volume exceeds the amount allowed in the minimum bill shall be charged at a rate of \$2.05 per 1,000 gallons of water consumed for all customer classifications, with the exceptions as noted in subsection (3) below.

(3) *Water conservation volume rate.* Single-family residential customers shall be charged a rate of \$4.10 per 1,000 gallons of water for all water consumed in excess of 15,000 gallons. Sprinkler (large and small) customers shall be charged for all volume, which exceeds the amount allowed in the minimum bill, at a rate of \$4.10 per 1,000 gallons of water consumed.

Public Utility Commission of Texas

By These Presents Be It Known To All That

CITY OF ADDISON

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity

numbered 10062 , to provide water utility service to that service area or those service areas designated by final Order or Orders duly entered by this Commission, which Order or Orders are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these

presents do evidence the authority and the duty of this Grantee to provide such utility service in accordance with the laws of this State and the Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

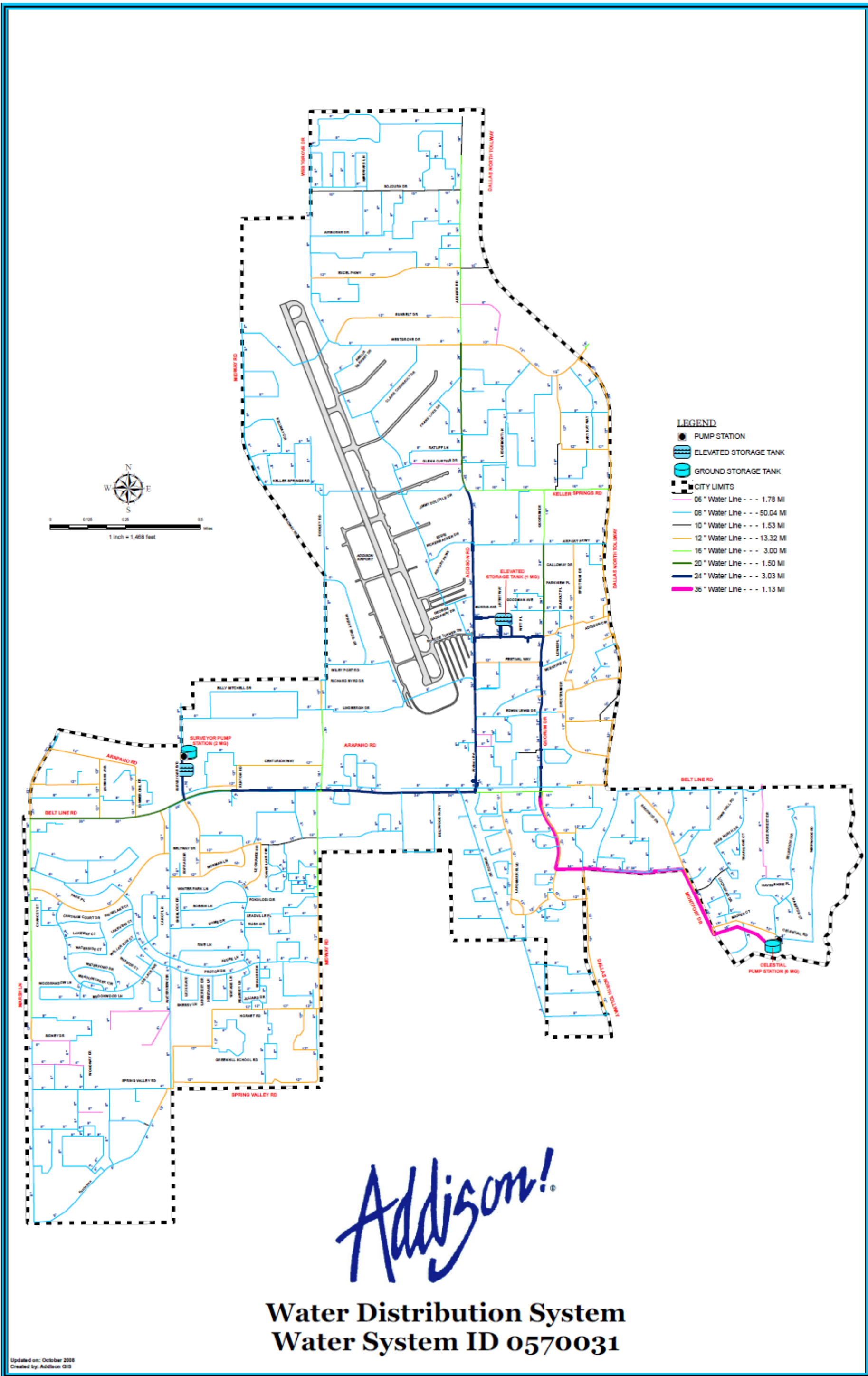
Issued at Austin, Texas, this 1st day of November, 1979.



Philip F. Ricketts

Philip F. Ricketts
SECRETARY OF THE COMMISSION





Council Agenda Item: #R12

SUMMARY:

This item is for the approval of the Cross-Connection Control Ordinance Update and Revisions to meet state laws.

FINANCIAL IMPACT:

Minimal funds will be generated by a modest registration fee to the testing companies who register to test devices in Addison. Staff also evaluated including fees to customers to register annual testing and determined to not pass that cost on.

BACKGROUND:

Under the provisions of the Safe Drinking Water Act of 1974, the United States Environmental Protection Agency (USEPA) established national standards for safe drinking water. As specified in the Code of Federal Regulations (Volume 40, Paragraph 141.2, Section (c)), maximum contaminant level means the maximum permissible level of a contaminant in which water is delivered to the free flowing outlet of the ultimate user of a public water system. The individual states are responsible for the enforcement of these standards, as well as the supervision of public water supply systems and the sources of drinking water. This means that each state is required to enforce the various regulations of the Safe Drinking Water Act and interpret how the regulations relate to the state's laws.

The USEPA has indicated the following program implementation guidelines under recommended best management practices for cross-connection control program development, as found in the USEPA Manual for Cross-connection Control (EPA 816-R-03-002 February 2003). The guidelines include:

Establish a cross-connection control ordinance at the local level and have it approved by the water commissioners, town manager, etc., and insure that it is adopted by the town or private water authority as a legally-enforceable document.

RECOMMENDATION:

Staff recommends approval of the Cross-Connection Control Ordinance Update and Revisions.

Attachments: Existing Ordinance
Draft Ordinance

TOWN OF ADDISON CODE OF ORDINANCE

Sec. 82-94. Installation of check valves.

“An approved check valve shall be placed on the property side of the water connection to prevent contamination of the water system. In the event a check valve was not installed at the time service was obtained from the Town, after due notice in writing, the consumer shall have installed a check valve of the approved type or the water service will be terminated. (Code 1982, § 18-94; Ordinance No. 084-064, § 10, 8-28-84)

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING CHAPTER 82, UTILITIES, TO ADD A NEW SECTION 82-97 REGARDING CROSS-CONNECTION CONTROL OF WATER CONNECTIONS; PROVIDING DEFINITIONS; PROVIDING FOR BACKFLOW PREVENTION ASSEMBLY REQUIREMENTS; PROVIDING PROVISIONS REGARDING FIRE PROTECTION SYSTEMS, FIRE HYDRANT PROTECTION, MOBILE SYSTEMS, PLUMBING CODE, THERMAL EXPANSION, PRESSURE LOSS, COMPLIANCE FOR LANDSCAPE IRRIGATION, RAINWATER HARVESTING, RESIDENTIAL SERVICE CONNECTIONS, INTERCONNECTIONS, MULTIPLE CONNECTIONS, CUSTOMER SERVICE INSPECTIONS, CERTIFICATION OF CUSTOMER SERVICE INSPECTORS, CERTIFICATION OF BACKFLOW PREVENTION ASSEMBLY TESTERS, LICENSED BACKFLOW PREVENTION ASSEMBLY TESTER RESPONSIBILITIES, FEES, TESTING AND MAINTENANCE OF BACKFLOW ASSEMBLIES, INSTALLATION GUIDELINES AND REQUIREMENTS FOR BACKFLOW PREVENTION ASSEMBLIES, RIGHT-OF-WAY ENCROACHMENT BY BACKFLOW PREVENTION ASSEMBLIES, EMERGENCY SUSPENSION OF UTILITY SERVICE, NON-EMERGENCY TERMINATION OF WATER SUPPLY, ACCESS TO PREMISES TO CONDUCT INSPECTIONS, ENFORCEMENT AND PENALTY PROVISIONS; PROVIDING A SAVINGS AND REPEALER CLAUSE (AND REPEALING SECTION 82-94 OF THE CODE OF ORDINANCES REGARDING INSTALLATION OF CHECK VALVES); PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY, UPON CONVICTION, FOR ANY VIOLATION, NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amendment. The Code of Ordinances of the Town of Addison, Texas (the “City”) is hereby amended in the following particulars, and all other chapters, articles, sections, subsections, sentences, phrases and words of the said Code of Ordinances are not amended hereby:

A. Chapter 82, Utilities, of the Code of Ordinances is hereby amended by adding thereto a new Section 82-97 to read as follows:

Section 82-97. Cross Connection Control.

(a) *Cross-connection control purpose.* No water connection from any public drinking water supply system shall be connected to any condensing, cooling, or industrial process or any other system of nonpotable usage over which the public water supply system officials do not have sanitary control. The purpose of a cross-connection control program is to promote the public health, safety, and welfare by regulations designed to:

- (1) Protect the public potable water supply of the Town of Addison from the possibility of contamination or pollution by isolating within a customer's internal distribution systems or a customer's private water systems contaminants or pollutants that could backflow into the public water system;
- (2) Promote the elimination or control of existing cross-connections, whether actual or potential, between a customer's in plant potable water system(s) and nonpotable water system(s), plumbing fixtures, and industrial piping system(s);
- (3) Provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the Town's potable water system; and
- (4) Comply with Title 30 Texas Administrative Code (30 TAC) Chapter 290, Subchapter D: Rules and Regulations for Public Water Systems.

(b) *Definitions.* For purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this Section is not contained in the following list, its definition, or other technical terms used, shall have the meanings or definitions listed in the most recent edition of the Manual of Cross-Connection Control published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

Air gap means a physical separation between the free flowing discharge end of a potable water supply piping and/or appurtenance and an open or non-pressure receiving vessel, plumbing fixture or other device. An "approved air-gap separation" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device in no case less than one inch.

Approved backflow prevention assembly or backflow assembly or assembly means an assembly to prevent backpressures or prevent backsiphonage and which is listed as an approved assembly by the University of Southern California (USC) Foundation for Cross-Connection Control and Hydraulic Research or similar rating or standards organization recognized by the Managing Director.

Approved Fire Sprinkler Contractor means a person or entity holding a certificate of registration as such issued by the Texas State Fire Marshal's Office.

Atmospheric vacuum breaker backflow prevention device or atmospheric vacuum breaker or AVB means a device used to prevent backsiphonage in non-health hazard conditions. This device cannot be tested and cannot prevent backpressure backflow.

Auxiliary supply means any water source or system other than the public water system, that may be available in the building or on the property, including ground water or surface waters used for industrial, irrigation or any other purpose.

Backflow means a flow in a direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the public water system.

Backflow Assembly Tester or General Tester or Tester means a tester who is qualified to test backflow prevention assemblies on any domestic, commercial, industrial or irrigation service except firelines. Recognized backflow prevention assembly testers shall have completed a TCEQ Executive Director approved course on cross-connection control and backflow prevention assembly testing, pass an examination administered by the TCEQ Executive Director, and hold a current license as a backflow prevention assembly tester.

Backflow prevention assembly or assembly means an assembly to counteract back pressure or prevent backsiphonage.

Backpressure means any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures or substances from any source other than the intended source.

Backsiphonage means the flow of water or other liquids, mixture or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by a sudden reduction of pressure in the potable water supply system.

Boresight or boresight to daylight means providing adequate drainage for backflow prevention assemblies installed in vaults through the use of an unobstructed drain pipe.

Commercial establishment means property or location which is used primarily for manufacture, production, storage, wholesaling or retailing of services which is or may be placed in the flow of commerce or any property or location which is used primarily for the provision of any service.

Contamination or contaminate means the entry into or presence in a public water supply system of any substance which may be harmful to health or to the quality of the water.

Cross-connection means any physical arrangement where a potable water supply is connected, directly or indirectly (actually or potentially), to or with any non-potable water system or source, used water system or auxiliary water supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, air conditioner units, fire protection system, or any other assembly which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross-connections.

Cross-connection control device means any nationally approved or recognized device placed upon any connection, physical or otherwise, between a potable water supply system and any plumbing fixture or any tank receptacle, equipment or device, which is designed to prevent nonpotable, used, unclean, polluted and contaminated water, or other substances, from entering into any part of such potable water system under any condition or set of conditions.

Customer Service Inspection means an examination of the private water distribution facilities for the purpose of providing or denying water service. The inspection is limited to the identification and prevention of cross-connection potential contamination hazards, and illegal lead materials.

Degree of hazard means the hazard classification (health or non-health) assigned to an actual or potential cross-connection.

Double check detector backflow prevention assembly or double check detector or DCDA means an assembly composed of a line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.

Double check valve backflow prevention assembly or double check assembly or double check means an assembly which consists of two independently operating check valves which are spring-loaded or weighted, a gate valve on each side of the checks, and test cocks to test the checks for tightness.

Fireline Tester means a tester who is employed by a state approved fireline contractor and is qualified to test backflow prevention assemblies on firelines.

Health hazard means an actual or potential threat of contamination of a physical, chemical, biological or toxic nature to the public water system or a consumer's potable water system that would present a danger to health.

Inspector means a person who is recognized by the Town of Addison as a licensed inspector under the provisions of this Ordinance.

Irrigator means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30 Texas Administrative Code (30 TAC) Chapter 344.1 Landscape Irrigation.

Managing Director means the Town Manager or the Town Manager's designee who is vested with the authority and responsibility for the implementation of an effective Cross-Connection Control Program and for the enforcement of the provisions of this Ordinance.

Mobile unit means any operation, which may have the potential to introduce contaminants into a potable water system from a mobile source. These include, but are not limited to, carpet-cleaning vehicles, water-hauling vehicles, street-cleaning vehicles, liquid-waste vehicles, power-wash operations and pest control vehicles.

Non-health hazard means an actual or potential threat to the physical properties of the water system or the potability of the public or consumer's potable water system or the consumer's potable water system but which would not constitute a health hazard as defined. Maximum degree of intensity of pollution which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances.

Non-residential use means water used by any person other than a residential customer of the water supply and include all uses not specifically included in "residential uses" as defined in the Town of Addison Comprehensive Zoning Ordinance.

Point-of-use isolation means the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross-connection exists.

Potable water means any water supply intended or used for human consumption or other domestic use.

Premises means any real property to which water is provided, including all improvements, buildings, mobile and other structures located on it.

Premises containment means backflow prevention at the service connection between the public water system and the water user.

Premises isolation means backflow prevention at the point of use internally on the customer's premise.

Pressure vacuum breaker backflow prevention assembly or *pressure vacuum breaker* or *PVB* means an assembly which provides protection against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream resilient seated shutoff valves. In addition, the assembly has suction and discharge gate valves and resilient seated test cocks which allows the full testing of the assembly.

Private water supply means any water supply including a well on or available to the premises other than the Town water supply. These auxiliary waters may include water from another purveyor's public water supply or any natural source such as a well, spring, river, ponds, etc.

Public water system or *system* means any public or privately owned water system which supplies water for public domestic use including all service lines, reservoirs, facilities, and any equipment used in the process of producing, treating, storing or conveying water for public consumption.

Reduced pressure principle backflow prevention assembly or *reduced pressure principle assembly* or *RP assembly* or *RP* means an assembly containing two independently acting approved check valves, a hydraulically-operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve, and including properly located test cocks and tightly closing shut-off valves at each end of the assembly.

Reduced pressure principle detector backflow prevention assembly or *reduced pressure detector* or *RPDA* means an assembly composed of a line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.

Residential use means water used by any residential customer of the water supply and include single family dwellings, duplexes, multiplex, housing and apartments where the individual units are each on a separate meter; or, in cases where two or more units are served by one meter, the units are full-time dwellings.

Service connection means the point of delivery at which the public water system connects to the private supply line or lateral of a water user.

Spill-resistant pressure vacuum breaker or *SVB* means an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located resilient seated test cock and tightly closing resilient seated shutoff valves attached at each end of the assembly.

System hazard means any actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

TCEQ means the Texas Commission on Environmental Quality.

Thermal expansion means heated water that does not have the space to expand.

Town means the Town of Addison, Dallas County, Texas.

Used water means water supplied by a public water system to a water user's system after it has passed through the service connection.

Water Use Survey means a survey conducted or caused to be conducted by the local authority designed to identify any possible source's of contamination to the potable water supply.

(c) *Backflow prevention assembly requirements.*

(1) The backflow prevention assembly protection which is required under this Section shall be any of the duly nationally recognized and authorized backflow prevention assemblies listed in a State of Texas approved Plumbing Code or as determined by the Town. Each backflow prevention assembly must have been approved by the Town prior to installation. Failure to obtain such approval prior to installation of the backflow prevention assembly may result in the backflow prevention assembly failing to meet the final approval by the Town. The Town shall determine the type and location of backflow assembly to be installed within the area serviced by the Town.

(2) With the approval of the Managing Director, a licensed backflow assembly tester employed by or under contract or with the Town shall determine the type and location of any backflow assembly to be installed within the Town's water service area. The assembly shall be required in each of the following circumstances, but the tester is in no way limited to the following circumstances:

(i) When the nature and extent of any activity at a premises, or the materials or equipment used in connection with any activity at a premises, or materials stored at a premises, could present a health hazard upon entry into the public water system.

- (ii) When a premises has one or more cross-connections.
- (iii) When internal cross-connections are present that are not correctable.
- (iv) When intricate plumbing arrangements are present that make it impractical to ascertain whether cross-connections exist.
- (v) When a premises has a repeated history of cross-connections being established or re-established.
- (vi) When entry to a premises is restricted so that inspections for cross-connections cannot be made with sufficient thoroughness or frequency to assure that cross-connections do not exist.
- (vii) When materials are being used such that, if backflow should occur, a health hazard could result.
- (viii) When installation of an approved backflow prevention assembly is determined by an inspector to be necessary to accomplish the purpose of these regulations.
- (ix) When an appropriate Customer Service Inspection (CSI) has not been filed with the Managing Director.
- (x) On all multi-story buildings or any building with a booster pump or elevated storage tank.
- (xi) For any used water return system that has received approval from the Managing Director.

(3) In all new non-residential construction the Managing Director has the authority to require an approved backflow assembly at the service connection. The type of the assembly will correspond to the degree of hazard as determined by the Managing Director. At any residence or establishment where an actual or potential contamination hazard exists and an adequate internal cross-connection control program is in effect, backflow protection at the water service entrance or meter may be required.

(4) When a building is constructed on commercial premises, and the end use of such building is not determined or could change, a reduced pressure principle backflow prevention assembly shall be installed at the service connection to provide protection of the public water supply in the event of the most hazardous use of the building. The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not

negate the use of backflow protection on internal hazards as outlined and enforced by local plumbing codes.

(5) If a point-of-use assembly has not been tested or repaired as required by this Section, the installation of a reduced pressure principle assembly will be required at the service connection.

(6) If an inspector determines that additions or rearrangements have been made to the plumbing system of a premises without the proper permits as required by the Plumbing Code, premises containment shall be required.

(7) Retrofitting shall be required on all point-of-use health hazard connections and wherever else the Managing Director determines that retrofitting is necessary due to circumstances that indicate that cross-connection is likely to occur unless a back-flow prevention assembly is installed.

(8) All backflow prevention assemblies installed after the effective date of the Town ordinance which adopted this Section shall be installed in a manner designed to facilitate ease of inspection by the Town. Any currently installed backflow prevention assemblies which, are located in inaccessible locations, or where the tester is subject to physical danger, shall be relocated to approved locations following installation guidelines of this Section.

(9) An approved double detector check valve assembly shall be the minimum protection on all new fire sprinkler systems. An RP assembly shall be installed if any solution other than potable water can be introduced into the sprinkler system. Retrofitting shall be required on all health hazard systems, where improper maintenance has occurred, and wherever an inspector determines that such measures are necessary under the conditions found by the inspector.

(d) *Fire protection systems.* All new and existing fire protection systems which utilize the Town's potable water supply shall have installed an approved backflow prevention device according to the degree of hazard.

An approved double check detector backflow prevention assembly (DCDA) or reduced pressure detector assemblies (RPDA) shall be the minimum protection for the fire sprinkler systems. A (RPDA) must be installed if any solution other than potable water can be introduced into the sprinkler system.

(1) It is the responsibility of all property owners and persons in charge of any premises to abide by the conditions of this Section. In the event of any changes to the plumbing system, it is the responsibility of the property owners to notify the Town. In the event changes to the plumbing system are not reported to the Town, the Town is not responsible for any damages incurred. All costs associated with this Section and the purchase, installation, testing and repair of a (DCDA) or (RPDA) device is the responsibility of the property owner and persons in charge of any premises.

(2) Backflow prevention assembly testers may test and repair assemblies on firelines only if they are permanently employed by an Approved Fire Sprinkler Contractor. The State of Texas Fire Marshal's Office requires that any person performing maintenance on firelines must be employed by an Approved Fire Sprinkler Contractor.

(3) A Town test report must be completed by a recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the Managing Director for record keeping purposes.

(4) Retrofitting shall be required when the water supply in a certain area has been contaminated and the fire protection system has contributed to the contamination and when an authority having jurisdiction to protect the potable water supply mandates a fail-safe system.

(e) *Fire hydrant protection.* A double check shall be the minimum protection for fire hydrant water meters which are being used for a temporary water supply during any construction or other uses which would pose a potential hazard to the public water supply.

(1) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to abide by the conditions of this Section. All fire hydrant water meter rentals shall meet the current requirements as provided for by the Town.

(2) Only Town fire hydrant water meters with approved backflow prevention assemblies are allowed to be used within the Town limits.

(3) A refundable deposit (see subsection (s) of this Section) is required to insure the return of all water meters and backflow assemblies to the Town. Failure to return the assemblies can result in the forfeiture of deposit and enforcement action being taken against the responsible party, as allowed for in the enforcement section in this Ordinance.

(4) All non-approved fire hydrant meters which are found to be in use in the Town will be removed by the Town and enforcement action taken against the responsible party.

(5) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to ensure that the device is returned for annual testing as required by subsection 82-97(s) of this Section.

(6) A Town test report must be completed by a recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the Managing Director for record keeping purposes.

(7) Failure to submit an annual test report may result in enforcement action being taken against the responsible party, as allowed for in the enforcement subsection of this Section.

(f) *Mobile units.* The connection of a mobile unit to any potable water system is prohibited unless such connection is protected by an air gap or an approved backflow prevention assembly. Prior approval and annual device testing of any backflow prevention assembly must be received from the Town before connecting to any potable water system.

(g) *Plumbing code.* As a condition of water service, a customer shall install, maintain, and operate the customer's piping and plumbing systems in accordance with the plumbing code provisions adopted by the Town of Addison (the "Plumbing Code"). In the event of a conflict between this Section and the Plumbing Code, the more restrictive provision shall apply.

(h) *Thermal expansion.* It shall be the responsibility of the premises owner to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow assembly.

(i) *Pressure loss.* Any water pressure drop caused by the installation of a backflow assembly shall be the responsibility of the premises owner and not the Town.

(j) *Compliance for landscape irrigation.*

(1) A permit from the Town is required for all landscape irrigation system installations. Such permit shall be issued by the Town's Building Inspection Department. Installation requirements must comply with the current Town Plumbing Code or guidelines for appropriate device found in this Section.

(2) Any irrigation system that is connected to a public or private potable water supply must be connected through a TCEQ approved backflow prevention method. The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(3) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter. Before any chemical is added to an irrigation system connected to any potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

(4) Connection of more than one water source to an irrigation system presents the potential for contamination of the potable water supply if backflow occurs. Therefore, connection of any additional water source to an irrigation system that is connected to the potable water supply may only be done if the irrigation system is connected to the potable water supply through a reduced pressure principle backflow prevention assembly or an air gap.

(5) If an irrigation system is connected to a potable water supply and requires major maintenance, alteration, repair, or service, the system shall be connected to the potable water supply through an approved, properly installed backflow prevention method as defined in this Section before any major maintenance, alteration, repair, or service is performed.

(6) An irrigator shall ensure the backflow prevention device is tested prior to being placed in service and the test results provided to the Managing Director and the irrigation system's owner or owner's representative within ten (10) business days following testing of the backflow prevention device.

(k) *Rainwater harvesting.* An approved backflow prevention assembly must be installed to prevent nonpotable water from entering the potable system. All piping that contains nonpotable water must be labeled "UNTREATED RAINWATER – DO NOT DRINK" and an air gap or reduced pressure principle backflow assembly be installed to protect the water system.

(l) *Residential service connections.* A residential premise that has been determined to have an actual or potential cross-connection shall be equipped with an approved backflow prevention assembly installed in accordance with this Section. This device can be required to be installed either at the customer meter or at the point of use at the expense of the owner/occupant and shall conform to the device testing requirements as provided in this Section.

(m) *Interconnections.* No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the Managing Director.

(n) *Multiple connections.* Any premises requiring multiple service connections for adequacy of supply and/or fire protection shall have a backflow assembly on each service connection. The assembly shall be commensurate with the degree of potential hazard that could occur in the event of an interconnect between any of the buildings on the premises.

(o) *Customer service inspection.* A Customer Service Inspection (CSI) is an examination of the private water distribution facilities for the purpose of providing or denying water service.

Permanent water service to a new facility shall not be granted until the requirements of the Customer Service Inspection (CSI) have been met.

Before the Town provides continuous or permanent water service to a premise, a Customer Service Inspection for cross-connection control shall be completed and, pursuant to 30 Texas Administrative Code Rule §290.46(j) (and as the same may be amended or superseded). A customer service inspection certification form shall be completed and filed with the Managing Director under each of the following circumstances:

- (1) New construction.
- (2) Material improvement, correction, or addition to the private water distribution system (defined as plumbing work that requires a permit and involves a major modification to the private water distribution system). The *private water* system refers to the facilities on the owner's side of the meter.
- (3) When the water Managing Director believes that a cross-connection or other potential contamination hazards exist. In such a case, the Managing Director shall notify the customer to provide justification to the customer for requiring an inspection by specifically identifying the threat that is believed to exist prior to discontinuation of water service.

(p) *Certification of customer service inspectors.* A person who performs Customer Service Inspections or who prepares Customer Service Inspection certification forms shall be registered as a licensed customer service inspector with the Town and shall meet all the requirements of 30 Texas Administrative Code Rule §290.46(j)(1) (and as the same may be amended or superseded) for accreditation as a customer service inspector. The Town's Building Inspection Department conducts all Customer Service Inspections for the Town, but the Town may outsource these inspections.

In order to perform the Customer Service Inspections, the Town of Addison may:

- (1) Provide a list of certified inspectors to the customer. The customer then selects and hires an inspector;
- (2) Provide qualified employees to perform the inspections at a cost to the customer in order to validate the inspection; or
- (3) Hire independent, qualified contractors to perform the inspections.

(q) *Certification of backflow prevention assembly testers.*

- (1) All backflow assembly testers operating within the Town shall be licensed in accordance with all applicable regulations of the TCEQ. No person shall operate as a backflow prevention assembly tester within the Town without being annually registered with the Managing Director of the Town.

(2) Persons licensed as backflow prevention assembly testers shall meet the following requirements obtain and maintain TCEQ approved certification as a backflow prevention assembly tester and confined-space entry training certification.

(r) *Licensed backflow prevention assembly tester responsibilities.* Only approved TCEQ licensed backflow prevention assembly testers can test backflow prevention assemblies in the Town.

(1) An annual licensed backflow assembly tester registration shall remain in effect so long as the tester maintains eligibility for registration and certification as provided in this Section, including continued certification by the TCEQ and timely payment of the annual registration fee.

(2) Upon recertifying, a tester shall renew the tester's registration with the Managing Director.

(3) An applicant for registration shall:

(i) Demonstrate to the Managing Director that the applicant has available the necessary tools and equipment to properly test backflow prevention assemblies;

(ii) Provide evidence to the Managing Director that the applicant has successfully completed "Permit Confined-Space Entry Training" as specified by the United States Occupational Safety and Health Administration (and as set forth in 29 Code of Federal Regulations Part 1910.146 (and as the same may be amended or superseded));

(iii) Identify all test gauges the applicant will use in testing backflow prevention assemblies. Gauges used in the testing of backflow prevention assemblies shall be tested for accuracy annually in accordance with the University of Southern California's Manual of Cross-Connection Control or the American Water Works Association Recommended Practice for Backflow Prevention and Cross-connection Control (Manual M14). The Town shall require testers to include test gauge serial numbers on "Test and Maintenance" report forms and ensure testers have gauges tested for accuracy; and

(iv) Testers must register annually with the Town, provide proof of TCEQ licensing, and pay an annual, non-refundable tester registration fee. (see subsection (s) of this Section)

(4) A registered backflow prevention assembly tester shall:

(i) File the serial number of each of the tester's test kits with the Managing Director;

(ii) Annually have each recorded test kit tested for accuracy and calibrated to maintain a plus or minus 2% accuracy factor;

(iii) Perform competent and accurate certifications of each backflow prevention assembly tested and submit complete reports thereof to the Managing Director;

(iv) Complete a Town test report for each assembly tested. The signed and dated original must be submitted to the Managing Director for record keeping purposes; and

(v) List registered serial numbers of test gauges on tests and maintenance reports prior to submitting the reports to the Managing Director.

(5) A registered backflow prevention assembly tester shall not change the design or operating characteristics of a backflow prevention assembly.

(6) After notice and hearing, the Managing Director may revoke a registration if the Managing Director determines that the tester:

(i) Has made false, incomplete, or inaccurate assembly testing reports;

(ii) Has used inaccurate gauges;

(iii) Has used improper testing procedures;

(iv) Is not in compliance with safety regulations;

(v) Has failed to register the serial numbers of the tester's test kits or has failed to calibrate gauges annually;

(vi) Has violated any other provision of this Section; or

(vii) Upon the discretion of the Managing Director upon notice that inappropriate testing activities have taken place.

(s) *Fees.*

(1) There shall be a testing fee for each separate backflow assembly on which a test is performed by the Town. This fee applies to but is not limited to all newly installed backflow devices, which the Town may choose to randomly test. If upon inspection or testing of a newly installed backflow prevention assembly, it is deemed not to be working properly, it is the responsibility of the property owners or persons in charge of any premises to make necessary repairs. A retest fee will be assessed for each retest.

(2) The following fees shall be applicable in connection with this Section:

(i) *Town of Addison Testing Fee*

The fee for a backflow prevention assembly test is two hundred dollars (\$200.00) for each separate test.

The fee for a backflow prevention assembly retest is one hundred dollars (\$100.00) for each retest performed.

(ii) *Licensed Backflow Prevention Assembly Tester Registration Fee*

Annual registration fee for approved testers shall be a non-refundable fee of seventy-five dollars (\$75.00).

(iii) *Testing Form Booklet Fees.*

The fee for a testing form booklet of thirty test forms shall be twenty-five dollars (\$25.00) each.

(iv) *Deposit Fee for Fire Hydrant Water Meter With Backflow Prevention Device.*

There shall be a refundable; rental deposit fee for fire hydrant water meters with backflow prevention devices on one thousand two hundred dollars (\$1,200.00). The deposit will be refunded when the meter is returned and damage has been assessed.

(v) *Private Contractors Testing Fees.*

There shall be no additional charges by the Town for testing conducted by private contractors.

(t) *Testing of assemblies.*

(1) All required backflow assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.

(2) All health hazard backflow prevention assemblies shall be inspected and tested or caused to be inspected and tested by the Town in each of the following circumstances:

- (i) immediately after installation;
 - (ii) a minimum of once a year or as required by the Managing Director;
 - (iii) immediately after repair;
 - (iv) premises that have been vacated and unoccupied for one year, prior to re-occupancy;
 - (v) whenever the assembly is moved.
- (3) All assembly testing shall be performed by a state licensed backflow prevention assembly tester, approved by the Town.
- (4) Duly authorized employees of the Town bearing proper credentials and identification are entitled, in accordance with law, to enter any public or private property for the purpose of enforcing this Section. Subject to applicable law, persons and occupants of the property which are provided water service by the Town, either directly or indirectly, shall allow the Town or its representatives ready access at all reasonable times to all parts of the property for the purpose of inspection, testing, records examination, or in the performance of their duties. When persons or occupants of the property have security measures in force which would require proper identification and clearance before entry into the property, the persons and occupants of the property shall make necessary arrangements with their security personnel so that upon presentation of suitable identification, personnel from the Town will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (5) The Town shall not be liable for damage to an assembly that occurs during testing.
- (6) A water use survey may be conducted at any establishment located in the Town which is served by a public water supply or which provides water to the public. Upon determination that the establishment falls under the provisions of this Section and requires a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly shall be issued.
- (7) It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with this Section. Assemblies may be required to be tested more frequently if the Town deems necessary.
- (8) All results from assembly testing by a licensed backflow prevention assembly tester shall be placed on a form designated by the Town. Testing forms may be obtained from the Town of Addison by the tester upon payment of the established fee as set forth in see subsection (s) of this Section.

(u) *Maintenance of assemblies.* A person who owns, operates, or manages a premises in which a required backflow prevention assembly is installed shall maintain such assemblies in proper working order at all times, including such repairs as may be necessary to keep the assembly in proper working order. The maintenance and repair of all assemblies shall be done in accordance with the applicable regulations of the TCEQ and this Section. A backflow prevention assembly shall be maintained in a manner that allows the assembly to be tested by a method that has been approved by TCEQ.

(v) *Installation guidelines and requirements for backflow prevention assemblies.* A backflow prevention assembly shall be installed in accordance with the following requirements in order to ensure the proper operation of and accessibility to the assembly:

(1) General – to ensure proper operation and accessibility of all backflow prevention assemblies, the following national guideline requirements shall apply to the installation of these assemblies.

(i) A backflow prevention assembly shall be installed in accordance with the current TCEQ rules and this Section. The assembly installer shall obtain the required plumbing permits prior to installation and shall have the assembly inspected by the Town.

(ii) At facilities which require a backflow prevention assembly to be installed at the point of delivery of the water supply, such installation of the assembly must be before any branch in the line, and on private property located just inside the boundary between the Town's right-of-way and the landowner's property. The Managing Director may authorize other areas for installation of the assembly. Assemblies that must be installed or are located on Town rights-of-way are the responsibility of the business or entity that the water line is serving.

(iii) The assembly shall be protected from freezing and other severe weather conditions.

(iv) All backflow prevention assemblies shall be of a type and model approved by the Managing Director.

(v) All vertical installations of backflow prevention assemblies shall be approved in writing by the Managing Director prior to installation.

(vi) All assemblies installed more than four (4) feet above floor level must have a suitable platform for use by testing or maintenance personnel.

(vii) Upon completion of the installation, the Town shall be notified and all assemblies must be inspected and tested. The premises owner shall register all backflow assemblies with the Managing Director by providing

the date of installation, the manufacturer, model and serial number of the backflow prevention assembly, and the initial test report for the assembly.

(viii) The premises owner assumes all responsibility for any damages resulting from installation, operation, and maintenance of a backflow assembly. The owner shall also ensure that any vault in which a backflow prevention assembly is contained is kept free of silt and debris that may interfere with the proper operation, inspection or testing of the assembly.

(ix) Lines shall be thoroughly flushed prior to installation. A strainer with blowout tapping may be required ahead of the assembly.

(x) Bypass lines are prohibited. Pipefittings which could be used for connecting a bypass line are not allowed.

(xi) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. They should be sized in such a manner that either assembly will provide the maximum flow required.

(xii) All facilities that require continuous, uninterrupted water service and are required to have a backflow assembly must make provisions for the parallel installation of assemblies of the same type so that testing, repair and maintenance can be performed.

(xiii) All backflow prevention assemblies must be tested in accordance with this Ordinance. Tests are the responsibility of the assembly owner. The owner must notify the Town of Addison upon installation of any backflow prevention assembly.

(2) Reduced pressure principle backflow prevention assemblies - RPs may be utilized at any premises where a substance is handled that could be hazardous to the public health if introduced into the potable water system. The RP is normally used in locations where an air gap is impractical. The RP shall be effective against both backsiphonage and backpressure.

(i) RPs must be sized to provide an adequate supply of water and pressure for the premises being served.

(ii) No part of a reduced pressure principle backflow prevention assembly shall be submerged in water or installed in a location subject to flooding.

(iii) RPs are typically installed above grade in well drained areas, but may be installed below grade (ground level) if a boresight drain to daylight is provided. The drain shall be of adequate capacity to carry the full rated flow of the assembly and shall be screened on both ends.

(iv) The assembly must be readily accessible for testing and maintenance and shall be located in an area where water damage to buildings or furnishings will not occur from relief valve discharge. The property owner assumes all responsibility for any damage caused by water discharge from an RP assembly. An approved air gap shall be located at the relief valve orifice of RP assemblies. The air gap shall be at least twice the inside diameter of the incoming supply line as measured vertically above the top rim of the drain and in no case less than one (1) inch.

(v) All RP assemblies larger than two (2) inches shall have a minimum of twelve (12) inches clearance on the back side, twenty-four (24) inches clearance on the test cock side, and the relief valve opening shall be at least twelve (12) inches plus nominal size of assembly above the floor or highest possible water level. Headroom of six (6) feet is required in vaults without a fully removable top. A minimum access opening of twenty-four (24) inches square is required on all vault lids. All RP assemblies two (2) inches and smaller shall have at least a six (6) inch clearance on all sides.

(vi) Enclosures shall be designed for ready access and sized to allow for the minimum clearances established above. Removable protective enclosures are typically installed on the smaller assemblies. Daylight drain ports must be provided to accommodate full pressure discharge from the assembly.

(vii) All RPs must be tested in accordance with this Section. Tests are the responsibility of the assembly owner. The owner must notify the Town upon installation of any backflow prevention assembly.

(viii) Variances from these specifications will be evaluated on a case-by-case basis. No deviations from this section shall be permitted without prior written approval of the Managing Director.

(3) Reduced pressure principle detector backflow prevention assemblies – RPDAs may be utilized in all installations requiring a reduced pressure principle backflow prevention assembly and detector metering.

(i) RPDAs shall comply with the installation requirements applicable for reduced pressure principle backflow assemblies (RP).

(ii) The line-size RP assembly and the bypass RP assembly must each be tested. A separate test report for each assembly must be completed by the certified tester.

(4) Double check valve backflow prevention assemblies – DC’s may be utilized at premises where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system.

(i) DCs must be sized to provide an adequate supply of water and pressure for the premises being served.

(ii) If a double check valve assembly is installed in a vault, brass plugs shall be maintained in the test ports at all times and adequate drainage shall be provided.

(iii) On premises where non-interruption of water supply is critical two assemblies of the same type installed in parallel shall be provided. The assemblies shall be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum flow required.

(iv) Bypass lines are prohibited. Pipe fittings that could be used for connecting a bypass line shall not be installed.

(v) The assembly shall be readily accessible with adequate room for testing and maintenance. DCs may be installed below grade provided all test cocks are fitted with brass pipe plugs. All vaults containing a DC shall be well drained, constructed of suitable materials, and sized to allow for the minimum clearances established below.

(vi) DC assemblies two (2) inches and smaller shall have at least a three (3) - inch clearance below and on both sides of the assembly, and if located in a vault, the bottom of the assembly shall be not more than twenty-four (24) inches below grade. All DC assemblies larger than two (2) inches shall have a minimum clearance of twelve (12) inches on the back side, twenty-four (24) inches on the test cock side, and twelve (12) inches below the assembly. Headroom of six (6) feet is required in vaults without a fully removable top. A minimum access opening of twenty-four (24) inches square is required on all vault lids.

(vii) Vertical installations are allowed on sizes up to and including four (4) inches that meet the following requirements:

(A) The DC assembly shall contain internally spring-loaded check valves;

(B) flow is upward through assembly;

(C) the assembly manufacturer specifies that the assembly can be used in a vertical position; and

(D) the Managing Director authorizes the vertical installation of the DC assembly.

(viii) All DCs must be tested in accordance with this Section. Tests are the responsibility of the assembly owner. The owner must notify the Town upon installation of any backflow prevention assembly.

(ix) Variances from these specifications will be evaluated on a case-by-case basis. No deviations shall be permitted without prior written approval of the Managing Director.

(5) Double detector check valve assembly – DCDAs may be utilized in any installation that requires a double check valve assembly and detector metering.

(i) DCDAs shall comply with the installation requirements applicable for double check valve assemblies (DCs).

(ii) The line-size DC assembly and the bypass DC assembly must each be tested. A separate test report for each assembly must be completed by the licensed tester.

(6) Pressure vacuum breaker assembly – PVBs may be utilized at point-of-use protection only and only if a substance is handled at the premises where the assembly is installed that could be objectionable but not hazardous to health if the substance introduced into the potable water system. PVBs protect against backsiphonage only and shall not be installed where there is potential for backpressure.

(i) The assembly shall be installed a minimum of twelve (12) inches above the highest use outlet or overflow level downstream from the assembly.

(ii) A PVB shall not be installed in an area subject to flooding or where damage could occur from water discharge.

(iii) The assembly shall be readily accessible for testing and maintenance, with a minimum clearance of twelve (12) inches all around the assembly. PVBs shall be located between twelve (12) inches and sixty (60) inches above ground level.

(iv) All PVBs must be tested in accordance with this Ordinance. Tests are the responsibility of the assembly owner. The owner must notify the Town upon installation of any backflow prevention assembly.

(v) Variances from these specifications will be evaluated on a case-by-case basis. No deviations shall be permitted without prior written approval of the Managing Director.

(7) Atmospheric vacuum breaker – AVBs provide minimal protection and are approved for very non-health hazard application only. AVBs protect against backsiphonage only and are prohibited where there is potential for backpressure.

(i) The AVB assembly shall be installed a minimum of six (6) inches above the highest use outlet or overflow level downstream from the assembly.

(ii) Shutoff valves downstream from the assembly are prohibited.

(iii) An AVB shall be not be used on any application where there is more than twelve (12) hours per day continuous use.

(iv) An AVB shall not be installed in an area subject to flooding or where damage may occur from water discharge.

(v) AVBs shall be allowed for point-of-use protection only, in accordance with the Plumbing Code.

(8) Air gap separation – an air gap separation provides maximum protection from backflow hazards and should be utilized at all locations where “high” hazardous substances are at risk of entering the potable water system when applicable.

(i) An air gap separation shall be at least twice the diameter of the supply pipeline measured vertically above the top rim of the receiving vessel and in no case less than one (1) inch. If splashing may occur, tubular screens may be attached or the supply line may be cut at a 45° angle. The air gap distance shall be measured from the bottom of the angle. Hoses shall not be allowed.

(ii) Air gap separations shall not be altered in any way without prior approval from the Managing Director and must be available for inspection at all reasonable times.

(iii) The effective opening shall be the minimum cross-sectional area at the seat of the control valve or the supply pipe or tubing which feeds the assembly or outlet. If two or more lines supply one outlet, the effective opening shall be the sum of the cross-connectional areas of the individual supply lines or the area of the single outlet, which is smaller.

(w) *Right-of-way encroachment.*

(1) No person shall install or maintain a backflow prevention assembly upon or within any Town right-of-way except as allowed by this subsection of this Section.

(2) The Managing Director, with the concurrence of the Director of Public Works, may grant in writing a license (in form and content as determined by the Town) to install a backflow prevention assembly required by this Section upon or within a Town right-of-way only if the owner proves to the Town that there is no other feasible location for installing the assembly, and that installing it in the right-of-way will not interfere with traffic, utilities or any other public use of the right-of-way (and obtains a permit from the Town). The Town has the right to approve the location, height, depth, enclosure and other requisites of the assembly prior to its installation.

(3) All permits and inspections required by the Town's Code of Ordinance to perform work in the right-of-way shall be obtained.

(4) The assembly shall be installed below or flush with the surrounding grade except when it is not practical to install it in this manner. Any backflow prevention assembly or portion of an assembly which extends aboveground shall be located no closer than eighteen (18) inches to the face of the curb.

(5) The owner of a backflow prevention assembly that has been installed upon or within a Town right-of-way as provided by this section shall, at the request of the Town and at the owner's sole expense, immediately relocate the assembly when such relocation is deemed necessary or appropriate by the Town.

(6) The Town shall not be liable for any damage done to or caused by an assembly installed in the Town right-of-way.

(7) A person commits an offense if the person fails to relocate a backflow prevention assembly located in or upon any Town right-of-way after receiving a written notice from the Managing Director.

(x) *Emergency suspension of utility service.*

(1) The customer to whom water service is provided at a premises within the Town shall be responsible for the installation, testing, maintenance and repair of all backflow prevention assemblies serving that customer. The Managing Director may, without prior notice, suspend water service to any premises when such suspension is necessary to prevent or stop an actual or threatened backflow which:

(i) presents or may present imminent and substantial danger to the environment or to the health or welfare of any person; or

(ii) presents or may present imminent and substantial danger to the Town's public water supply.

(2) As soon as is practicable after the suspension of service, the Managing Director shall notify the customer of the suspension in person or by certified mail, return receipt requested, and shall order such person to correct the cross-connection that allowed the backflow to occur.

(3) The Managing Director shall not reinstate suspended water service until:

(i) The customer presents proof, satisfactory to the Managing Director, that the cross-connection has been eliminated and its cause determined and corrected;

(ii) The customer pays the Town for all costs the Town incurred in responding to the backflow or threatened backflow; and

(iii) The customer pays the Town for all costs the Town will incur in reinstating service.

(4) Failure on the part of a customer to discontinue the use of a cross-connection and to physically separate a cross-connection is sufficient cause for the immediate discontinuance of public water service to the premises.

(5) A customer whose service has been suspended may appeal such suspension to the Managing Director, in writing, within ten working days of notice of the suspension.

(6) A person commits an offense if the person, without the prior written approval of the Managing Director, reinstates water service to a premises for which water service has been suspended pursuant to this section.

(y) *Non-emergency termination of water supply.*

(1) The Managing Director may terminate, after written notice and opportunity for a hearing, the water service of any customer who:

(i) Fails or refuses to install a reduced pressure principle assembly when required by this Ordinance;

(ii) Fails or refuses to install and maintain backflow prevention assemblies in compliance with this Ordinance; or

(iii) Fails or refuses to install, maintain, and operate the customer's piping and plumbing systems in accordance with the Plumbing Code.

(2) The Managing Director shall notify the customer of the proposed termination of water service at least ten working (business) days before the proposed termination. The customer may request a hearing on the proposed termination by filing a written request for a hearing with the Managing Director

not more than ten calendar days after receipt of notice of the proposed termination.

(3) If water service is terminated, the Managing Director shall not reinstate water service until:

(i) The customer presents proof, satisfactory to the Managing Director, that the backflow condition has been eliminated and its cause determined and corrected; and

(ii) The person customer pays the Town for all costs the Town will incur in reinstating service.

(z) *Access to premises.*

(1) A commercial water service customer may, in lieu of the mandatory installation of a backflow prevention assembly, provide the Town access during reasonable business hours to the customer's premises for the purpose of determining compliance with the provisions of this Section. Such access shall be unobstructed and safely accessible.

(2) A commercial water service customer who fails or refuses to provide the optional access shall install and maintain a reduced pressure principle assembly at the water service connection to the premises.

(aa) *Enforcement.*

(1) This Section shall be enforced by the Managing Director or the manager's designated representatives or employees.

(2) The Town may inspect and initially test, or cause to be tested, all backflow prevention assemblies installed pursuant to the requirements of this Section. For new facilities, permanent water service shall not be provided until all backflow prevention assemblies have been tested and are operational. Except in cases where the testing of backflow prevention assemblies must be delayed until the installation of internal production or auxiliary equipment, the Town shall not approve a certificate of occupancy until all backflow prevention assemblies have been tested and are operational and all assembly test reports have been turned in to the Managing Director. The Town shall not be liable for damage caused to any backflow prevention assembly as a result of the inspection or testing.

(3) Violations.

(i) A person commits an offense if there is failure to maintain backflow prevention assemblies in compliance with this Section.

(ii) A person commits an offense if there is failure to comply with a repair order issued by the Town.

(iii) A person commits an offense if backflow from premises owned, operated or managed by the person enters the public water supply system.

(iv) A person commits an offense if there is a failure to pay any fees required by this Section.

(v) A person commits an offense by violating any section of this Ordinance.

(vi) A person commits an offense if discontinued or disconnected water service to premises under this Section is reinstated except as directed by the Town.

(vii) A person in charge of any facility commits an offense by allowing an unregistered tester to perform testing work at their establishment.

(viii) A person commits an offense by testing backflow prevention assembly within the Town without being registered with the Town.

(ix) A person commits an offense by testing backflow prevention assembly within the Town without being licensed by the TCEQ.

(x) A person commits an offense by using non-approved fire hydrant meters.

(xi) A person commits an offense by testing Fireline backflow devices without the proper license as stated in the Texas Insurance Code Ordinance 5.43-3 Fire Protection Sprinkler Systems and 28 Texas Administrative Code, Part I, Chapter 34, Subchapter G (entitled "Fire Sprinkler Rules").

(4) Penalties.

(i) A person who violates any provision of this Section is guilty of a misdemeanor and shall be fined, upon conviction, as set forth in Section 1-7 of the Town's Code of Ordinances., for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted.

(ii) In addition to proceeding under the authority of this subsection, the Town is entitled to pursue all other criminal charges and civil rights and remedies to which it is or may be entitled under authority of any law, statute, constitution, or of any other ordinances of the Town, against a

person committing any violation of this Section, including, without limitation, injunction and civil penalties.

(5) A licensed tester's registration may be reviewed and revoked by the Town if it is determined that the tester:

- (i) Has falsely, incompletely, or inaccurately reported assembly reports;
- (ii) Has used inaccurate gauges;
- (iii) Has used improper testing procedures; or
- (iv) Has created a threat to public health or the environment.

Section 2. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance (and without limiting the foregoing, Section 82-94 of the Code of Ordinances of the Town is hereby repealed). Provided, however, that the repeal of such ordinances or parts of such ordinances shall not affect any right, property or claim which was or is vested in the Town of Addison, Texas, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes effect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Notwithstanding the foregoing, Section 18-368.1 (Inspection and testing of backflow prevention assemblies) of the Code of Ordinances of the Town shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 3. Severability. The provisions of this Ordinance are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

Section 4. Penalty. It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon

conviction, in an amount of not more than Two Thousand and No/100 Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation or failure occurs or continues. In addition to and cumulative of all other penalties, the Town of Addison shall have the right to seek injunctive relief (and any other available actions or relief) for any and all violations of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law (including, without limitation, the City Charter, and the ordinances of the City).

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this _____ day of _____, 2009.

Joe Chow, Mayor

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Council Agenda Item: #R13

SUMMARY:

Consideration and approval for the Addison Fire Department to submit a grant application to the U.S. Department of Homeland Security, Assistance to Firefighters Grant Program.

FINANCIAL IMPACT:

The Town of Addison will be required to honor a local match equating to 5% of Total Grant Request. The estimate of the Town's commitment is \$9,500.00.

BACKGROUND:

The Addison Fire Department is in the process of preparing a grant application for the Assistance to Firefighters Grant Program. This program is managed by the U.S. Department of Homeland Security. Congress has appropriated a total of \$565 million for this years grant. However, no more than \$228.5 million may be awarded to career fire departments. This is a highly competitive grant process from which eligible career and volunteer fire departments may solicit funds. These grants contain a local matching fund requirement from 5 to 20 percent. Town of Addison match will be 5 percent.

The Fire Department will request funds to replace 28 self contained breathing apparatus (SCBA). This will include the SCBA's, spare air bottles, face-mask pieces, emergency breathing connections, personal alert safety systems and other safety devices. Estimated costs are \$190,000.00. Town of Addison match will be approximately \$9,500.00.

The U.S. Department of Homeland Security will announce successful grant applications beginning sometime in July and continue through early fall.

Council Agenda Item: #R14

SUMMARY:

This item is to request the Council's approval of a contract with BlueLine Services for the purchase and replacement of the Town Local Area Network Servers ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$140,859.54

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

- a) **Performance** - The current Network Infrastructure is an aging system that was redesigned and upgraded in April 2003. Since then the Town has expanded its services and has purchased and implemented several new systems. These systems are all using the same network infrastructure, which was redesigned in 2003;
- b) **Warranty** - The warranty and the extended warranty for every piece of equipment purchased in 2003 has expired.
- c) **Microsoft License Life-Cycle Policy** - We're reaching end of the Microsoft Support Life-Cycle for the existing Microsoft Windows Server 2000 Operating System and Windows Office 2002 Products...
- d) **Third Party Vendors' requirements** - In order for the Town to receive update and support from the Town's line of business system providers (e.g. Computer Aided Dispatch, Enterprise Financial System, etc.) the Town is contractually obligated to be in compliance with their suggested version of Operating Systems and Database structures.

We are estimating to configure and install these devices in 3-4 months including 6-8 weekends. Implementation will depend on the success of migration and the nature of the problems we might encounter during the process. This is a very complex and time

consuming implementation. Our goal is to configure these devices during weekdays and install them on weekends or after hours.

According to the Town's Technology Infrastructure Replacement Plan we will be replacing this equipment every six (6) years. To stay with the current plan and to have adequate warranty protection we are purchasing the extended 4th and 5th year warranty only for the **mission critical servers...**

With the proposed network infrastructure upgrade we're totally revamping our network architecture by introducing advanced technologies such as Virtualization and SAN storage solutions...

With the Virtualization, we can see immediate, quantifiable cost savings, while ensuring true business agility—the ability to rapidly respond to the changing market environment. The Virtualization allows us to reduce CapEx through consolidation, Improve OpEx through automation, have a reliable DR (Disaster Recovery) solution in conjunction with SAN technology, and minimize lost revenue due to energy usage - by reducing the energy demands of our datacenter.

It should be noted that due to an internal decision no project management and installation services were requested in the RFP. We didn't believe it was necessary to pay the selected vendor/s to install the equipment on weekends as we are required to be on site during the installation process. As a result, I am pleased to report that we were financially in a better position to specify high end equipment that should handle both current and future programs that the Town is and will be offering to its employees and community for the next 6 years.

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with BlueLine Services in the amount of \$140,859.54 subject to the City attorney's final approval.

ROUTERS - BACKUP HARDWARE - BACKUP SOFTWARE - VIRTUALIZATION SOFTWARE - CITRIX REMOTE ACCESS

Winning Bid																				
Company Name	Equipment Description	Diversion From RFP (Y or N)	Meets Min Requirements (Y or N)	Trade-In Unit Offering	Trade-In Quantities	Proposed Unit Cost	Proposed Quantities	Hardware Maintenance 5-yr NBD	Hardware Maintenance 5yr NBD 8x5	Hardware Maintenance 5yr 4-hr 13x5	Hardware Maintenance 5yr 4-hr 24x7	Total Cost Before Trade-In	Total Cost After Trade In	Vendor Award (30%)	Cost Award (60%)	Responsive-ness Award (10%)	Rating	In Business	Notes	
ROUTERS																				
CDWG 1, 2, 3, 4	Cisco	N	Y			\$14,765.00	1		Included			\$14,765.00	\$14,765.00	30%	30%	10%	70%			
CompuCom	Cisco	N	Y	\$1,000.00	1	\$14,224.86	1		Included			\$14,224.86	\$13,224.86	30%	40%	10%	80%			
Flair Data Systems	Cisco	N	Y			\$12,580.80	1		Included			\$12,580.80	\$12,580.80	30%	50%	10%	90%			
Peak Resources 1, 2	Cisco	N	Y			\$15,024.00	1		Included			\$15,024.00	\$15,024.00	30%	20%	10%	60%			
Red River Solutions	Cisco	N	Y			\$16,220.49	1		Included			\$16,220.49	\$16,220.49	30%	10%	10%	50%			
TFE	Cisco	N	Y			\$12,259.30	1		Included			\$12,259.30	\$12,259.30	30%	60%	10%	100%			
BACKUP HARDWARE																				
CDWG 1, 3	Spectralogic	N	Y			\$24,498.02	1		Included			\$24,498.02	\$24,498.02	30%	50%	10%	90%			
CDWG 2, 4	Tandberg	Y	N			\$13,097.00	1		Included			\$13,097.00	\$13,097.00	30%	0%	10%	40%		No tapes quoted - No encryption- 6 years support	
CompuCom	Spectralogic	N	Y	\$1,000.00	7	\$30,192.00	1		Included			\$30,192.00	\$23,192.00	30%	60%	10%	100%			
	HP	Y	Y			\$25,840.00	1		N/A			\$25,840.00	\$25,840.00	30%	40%	10%	80%		No support quote	
Peak Resources 1	HP	Y	Y			\$32,181.00	1		Included			\$32,181.00	\$32,181.00	30%	30%	10%	70%		6 years support	
	IBM	Y	N			\$7,758.00	1		Included			\$7,758.00	\$7,758.00	30%	0%	10%	40%		Not a library	
TFE	Quantum	Y	N			\$14,824.97	1		Included			\$14,824.97	\$14,824.97	30%	20%	10%	60%		Only 1 drive	
BACKUP SOFTWARE																				
CDWG 1, 2, 3	Symantec	N	Y			\$29,371.00	1					\$29,371.00	\$29,371.00	30%	50%	10%	90%			
CompuCom	Symantec	N	Y			\$27,635.94	1					\$27,635.94	\$27,635.94	30%	60%	10%	100%			
TFE	EMC Networker	Y	Y			\$66,765.14	1					\$66,765.14	\$66,765.14	30%	10%	10%	50%			
Peak Resources 1	Symantec	N	Y			\$30,823.00	1					\$30,823.00	\$30,823.00	30%	40%	10%	80%			
SERVER VIRTUALIZATION																				
VMWare option 1																				
CDWG 1, 2, 3		N	Y			\$142,951.00	1					\$142,951.00	\$142,951.00	30%	20%	10%	60%			
CIMA		N	Y			\$127,708.17	1		Included			\$127,708.17	\$127,708.17	30%	50%	10%	90%			
CompuCom		N	Y			\$118,774.00	1		Included			\$118,774.00	\$118,774.00	30%	60%	10%	100%			
Flair Data Systems		N	Y			\$135,561.62	1		Included			\$135,561.62	\$135,561.62	30%	40%	10%	80%			
Peak Resources 1		N	Y			\$143,192.66	1		Included			\$143,192.66	\$143,192.66	30%	10%	10%	50%			
SHI - DIR		N	Y			\$140,339.90	1		Included			\$140,339.90	\$140,339.90	30%	30%	10%	70%			
VMWare option 2																				
CDWG 1, 2, 3		N	Y			\$170,791.00	1					\$170,791.00	\$170,791.00				0%			
CIMA		N	Y			\$138,131.12	1		Included			\$138,131.12	\$138,131.12				0%			
CompuCom		N	Y			\$140,390.00	1		Included			\$140,390.00	\$140,390.00				0%			
Flair Data Systems		N	Y			\$161,205.50	1		Included			\$161,205.50	\$161,205.50				0%			
Peak Resources 1		N	Y			\$169,590.53	1		Included			\$169,590.53	\$169,590.53				0%			
SHI - DIR		N	Y			\$156,917.90	1		Included			\$156,917.90	\$156,917.90				0%			
VMWare original RFP																				
CIMA		N	N			\$83,877.65	1		Included			\$83,877.65	\$83,877.65				0%		3 year only support	
Flair Data Systems		N	Y			\$128,526.12	1		Included			\$128,526.12	\$128,526.12				0%			
Peak Resources 1		N	Y			\$136,117.00	1		Included			\$136,117.00	\$136,117.00				0%			
CompuCom	VMWare option 2 original bid	N	Y			\$146,434.00	1		Included			\$146,434.00	\$146,434.00				0%		Quoted Platinum support for SRM	
CompuCom	VMWare Bundled Acceleration Kits	Y	Y			\$142,991.99	1		Included			\$142,991.99	\$142,991.99				0%			
CDWG 4	Virtual Iron	Y	N			\$29,826.00	1		Included			\$29,826.00	\$29,826.00				0%			
CITRIX ACCESS GATEWAY																				
CDWG 1, 2, 3, 4	Citrix	N	Y			\$2,879.00	1					\$2,879.00	\$2,879.00	30%	60%	10%	100%		Renew yearly with software	
CompuCom	Citrix	N	Y			\$3,183.89	1					\$3,183.89	\$3,183.89	30%	50%	10%	90%		Renew yearly with software	

KVM - UPS

Company Name	Equipment Description	Diversion From RFP (Y or N)	Meet Minimum Requirements (Y or N)	Trade-In Unit Offering	Trade-In Quantities	Proposed Unit Cost	Proposed Quantities	Hardware Maintenance 5-yr next business day	Hardware Maintenance 5-yr 4-hr 13x5	Hardware Maintenance 5-yr 4-hr 24x7	Total Cost Before Trade-In	Total Cost After Trade-In	Vendor Award (30%)	Cost Award (60%)	Responsiveness Award (10%)	Rating	Disqualified (Y/N)	Notes	
	KVM																		
CDW-G	Raritan	N	Y			\$6,592.00	1				\$6,592.00	\$6,592.00	30%	40%	10%	80%	N		
COMPUCOM	Raritan	N	Y			\$6,396.00	1				\$6,396.00	\$6,396.00	30%	60%	10%	100%	N		
REAL/PEAK	Raritan	N	Y			\$6,525.00	1				\$6,525.00	\$6,525.00	30%	50%	10%	90%	N		
											\$0.00	\$0.00				0%			
	UPS																		
CDW-G	APC	N	Y			\$29,351.00	1				\$29,351.00	\$29,351.00	30%	60%	10%	100%		COMPLETE	
ADMIRAL	APC	N	N			\$36,383.67	1				\$36,383.67	\$36,383.67	20%	35%	10%	65%		HAD TO MODIFY QUANTITY;INCORRECT	
FLAIR	APC	N	N			\$29,984.43	1				\$29,984.43	\$29,984.43	25%	50%	10%	85%		HAD TO MODIFY QUANTITY;INCORRECT	
PEAK/REAL NETWORK	APC	N	N			\$30,381.50	1				\$30,381.50	\$30,381.50	25%	40%	10%	75%		HAD TO MODIFY QUANTITY;INCORRECT	
COMPUCOM	APC	N	Y			\$29,733.00	1				\$29,733.00	\$29,733.00	30%	45%	10%	85%		COMPLETE	
SOLID IT NETWORKS	APC	N	Y			\$29,553.00	1				\$29,553.00	\$29,553.00	30%	55%	10%	95%		COMPLETE	
TFE CONNECT	APC	N	N			INCOMPLETE	1				\$0.00	\$0.00	0%	0%	0%	0%		INCOMPLETE QUOTE; MISSING ITEMS; NO RESPONSE	
											\$0.00	\$0.00				0%			
											\$0.00	\$0.00				0%			

WINNING BID

FIREWALL - SWITCHES - WIRELESS DEVICES - STORAGE - EMAIL SECURITY - STORAGE RESOURCES AND MANAGEMENT SOFTWARE - DISASTER RECOVERY SOFTWARE - SERVERS

Company Name	Equipment Description	Diversion From RFP (Y or N)	Meet Minimum Requirements (Y or N)	Trade-In Unit Offering	Trade-In Quantities	Proposed Unit Cost	Proposed Quantities	Hardware Maintenance 5-yr next business day	Hardware Maintenance 5-yr 4-hr 13x5	Hardware Maintenance 5-yr 4-hr 24x7	Total Cost Before Trade-In	Total Cost After Trade-In	Vendor Award (30%)	Cost Award (60%)	Responsiveness Award (10%)	Rating	Disqualified (Y/N)	Notes	
FIREWALL																			
COMPUCOM	Checkpoint Firewall	N	Y	\$0.00	0	\$45,631.00	1				\$45,631.00	\$45,631.00	30%	40%	10%	80%		3 yrs-4hr-24x7	
CDWG	Checkpoint Firewall	N	Y	\$0.00	0	\$37,641.00	1				\$37,641.00	\$37,641.00	30%	50%	10%	90%		(missing support cost)	
Peak Resource 2	Checkpoint Firewall	N	Y	\$0.00	0	\$40,765.00	1				\$40,765.00	\$40,765.00	30%	60%	10%	100%		3 yrs-4hr-24x7	
Flair Data System	Cisco Firewall	Y	N	\$0.00	0	\$67,892.00	1				\$67,892.00	\$67,892.00	30%	30%	10%	70%		3 yrs-4hr-24x7 with 2 appliance (Tipping Point IPS)	
Morse Comm	Fortinet Firewall	Y	N	\$0.00	0	\$33,065.10	1				\$33,065.10	\$33,065.10	30%	55%	10%	95%		This is Fortinet, become Alcatel customer, not Fortinet	
SWITCH																			
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$86,886.52	1				\$86,886.52	\$86,886.52	30%	60%	10%	100%		1yr-brz&gold (brz=soft update only)	
CDWG	Foundry	N	Y	\$0.00	0	\$87,729.92	1				\$87,729.92	\$87,729.92	30%	55%	10%	95%		1yr-brz&gold (brz=soft update only)	
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$89,373.97	1				\$89,373.97	\$89,373.97	30%	60%	10%	100%		HD NBD; 1 yr gold 24x7x365 live telp/email/web	
CDWG	Foundry	N	Y	\$0.00	0	\$90,241.62	1				\$90,241.62	\$90,241.62	30%	55%	10%	95%		HD NBD; 1 yr gold 24x7x365 live telp/email/web	
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$123,707.99	1	included			\$123,707.99	\$123,707.99	30%	60%	10%	100%		HD NBD; 5 yr gold 24x7x365 live telp/email/web	
CDWG	Foundry	N	Y	\$0.00	0	\$124,908.00	1	included			\$124,908.00	\$124,908.00	30%	55%	10%	95%		HD NBD; 5 yr gold 24x7x365 live telp/email/web	
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$111,270.74	1	included			\$111,270.74	\$111,270.74	30%	60%	10%	100%		HD NBD; 5 yr gold 24x7x365 live telp/email/web + brz	
CDWG	Foundry	N	Y	\$0.00	0	\$112,352.80	1	included			\$112,352.80	\$112,352.80	30%	55%	10%	95%		HD NBD; 5 yr gold 24x7x365 live telp/email/web + brz	
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$111,445.00	1	included			\$111,445.00	\$111,445.00	30%	60%	10%	100%		HD NBD; 5 yr gold 24x7x365 live telp/email/web (spc)	
CDWG	Foundry	N	Y	\$0.00	0	\$112,780.20	1	included			\$112,780.20	\$112,780.20	30%	55%	10%	95%		HD NBD; 5 yr gold 24x7x365 live telp/email/web (spc)	
SOLID IT Network	Foundry	N	Y	\$0.00	0	\$102,562.00	1	included			\$102,562.00	\$102,562.00	30%	60%	10%	100%		HD NBD; 5 yr gold 24x7x365 live telp/email/web + brz (spc)	
CDWG	Foundry	N	Y	\$0.00	0	\$103,557.20	1	included			\$103,557.20	\$103,557.20	30%	55%	10%	95%		HD NBD; 5 yr gold 24x7x365 live telp/email/web + brz (spc)	
Flair Data System	Cisco	Y	N	\$0.00	0	\$144,654.40	1				\$144,654.40	\$144,654.40	30%	40%	10%	80%		1yr-24x7-4hr	
TFE Connect	Cisco	Y	N	\$0.00	0	\$120,903.35	1				\$120,903.35	\$120,903.35	30%	45%	10%	85%		1yr-24x7-4hr	
Morse Comm	Omniswitch (alcatel)	Y	N	\$0.00	0	\$90,841.45	1				\$90,841.45	\$90,841.45	30%	50%	10%	90%		1 yr (24x7) phone	
WIRELESS																			
SOLID IT Network	aruba	N	Y	\$0.00	0	\$37,669.00	1				\$37,669.00	\$37,669.00	30%	60%	10%	100%		1 yr NBD	
CDWG1/3/4	aruba	N	Y	\$0.00	0	\$42,752.02	1				\$42,752.02	\$42,752.02	30%	50%	10%	90%		1 yr NBD	
SOLID IT Network	aruba	N	Y	\$0.00	0	\$44,221.00	1	included			\$44,221.00	\$44,221.00	30%	60%	10%	100%			
CDWG1/3/4	aruba	N	Y	\$0.00	0	\$51,840.02	1	included			\$51,840.02	\$51,840.02	30%	50%	10%	90%			
Morse Comm	OEM aruba	N	Y	\$0.00	0	\$39,360.60	1				\$39,360.60	\$39,360.60	30%	55%	10%	95%		1 yr NBD	
Flair Data System	Cisco wireless	Y	N	\$0.00	0	\$32,871.68	1				\$32,871.68	\$32,871.68	30%	55%	10%	95%		1 yr NBD; missing the software appliance cost (about 4K)	
TFE connect	Cisco wireless	Y	N	\$0.00	0	\$43,599.09	1				\$43,599.09	\$43,599.09	30%	45%	10%	85%		1 yr NBD	
CDWG 2	Foundry wireless (Meru network)	Y	n	\$0.00	0	\$51,200.00	1				\$51,200.00	\$51,200.00	30%	40%	10%	80%		1 yr NBD	
STORAGE																			
Compucom	LeftHand Network	Y	Y	\$0.00	0	\$106,296.00	1				\$106,296.00	\$106,296.00	30%	45%	10%	85%		3yr-24x7-4hr	
Flair Data System	LeftHand Network	Y	Y	\$0.00	0	\$141,734.00	1				\$141,734.00	\$141,734.00	30%	30%	10%	70%		3yr-24x7-4hr	
CDWG 2, 3, 4	LeftHand Network	Y	Y	\$0.00	0	\$118,098.00	1	included			\$118,098.00	\$118,098.00	30%	50%	10%	90%			
Peak Resource 1&2	NetApp	Y	Y	\$0.00	0	\$111,788.36	1	included			\$111,788.36	\$111,788.36	30%	55%	10%	95%		(inc CIFS&NFS)	
TFE Connect	EMC	Y	Y	\$0.00	0	\$104,289.03	1	included			\$104,289.03	\$104,289.03	30%	60%	10%	100%		(inc CIFS&NFS)	
CDWG 1	falconstor	Y	Y	\$0.00	0	\$129,328.00	1				\$129,328.00	\$129,328.00	30%	40%	10%	80%		3yr-24x7-4hr	
Storage Resource Management																			
Compucom	Northern Storage Suite	N	Y	\$0.00	0	\$12,602.00	1				\$12,602.00	\$12,602.00	30%	60%	10%	100%		1 year premium support	
Peak Resource	Northern Storage Suite	N	Y	\$0.00	0	\$13,204.00	1				\$13,204.00	\$13,204.00	30%	55%	10%	95%		1 year premium support	
Disaster recovery Software for remote servers																			
Compucom	Acronis True Imageincl. AAP	N	Y	\$0.00	0	\$14,278.86	1				\$8,568.90	\$8,568.90	30%	55%	10%	95%			
CDWG 1, 2, 3, 4	Acronis True Imageincl. AAP	N	Y	\$0.00	0	\$14,004.00	1				\$8,388.00	\$8,388.00	30%	60%	10%	100%			
Servers																			
Blueline Services	HP Blades and servers	N	Y	\$0.00	0	\$140,859.54	1	Included		N/A	\$140,859.54	\$140,859.54	30%	60%	10%	100%		24x7x4hr for blade chassis; NBD for blade servers	
CDWG 1, 2, 4	HP Blades and servers	N	Y	\$0.00	0	\$190,763.00	1	Included		\$205,610.51	\$190,763.00	\$190,763.00	30%	40%	10%	80%		No DL 180's, no onboard administrator, dvd drive + rail on chassis	
CompuCom	HP Blades and servers	N	Y	\$1,000.00	1	\$169,583.90	1	Included		\$186,891.90	\$169,583.90	\$168,583.90	30%	50%	10%	90%		missing insight control environment at PD	
Flair Data Systems	HP Blades and servers	N	Y	\$0.00	0	\$217,666.77	1	Included		N/A	\$217,666.77	\$217,666.77	30%	30%	10%	70%		Only 2 fan kits instead of 6 per chassis - no 24x7 4hr support option	
Peak Resources 1	HP Blades and servers	N	Y	\$0.00	0	\$161,099.00	1	Included		N/A	\$161,099.00	\$161,099.00	30%	55%	10%	95%		Only 2 fan kits instead of 6 per chassis - no 24x7 4hr support option	
TFE	HP Blades and servers	N	Y	\$0.00	0	\$182,354.00	1	Included		N/A	\$182,354.00	\$182,354.00	30%	45%	10%	85%		No 24x7 4hr support option	
CDWG 3	IBM Blades and servers	Y	Y	\$0.00	0	\$213,149.00	1		Included		\$213,149.00	\$213,149.00	30%	30%	10%	70%		24x7 4hr support	
Cima	IBM Blades and servers	Y	Y	\$0.00	0	\$183,093.48	1		Included		\$183,093.48	\$183,093.48	30%	45%	10%	85%		24x7 4hr support	
Peak Resources 2	IBM Blades and servers	Y	Y	\$0.00	0	\$188,863.00	1	N/A	N/A	N/A	\$188,863.00	\$188,863.00	30%	40%	10%	80%		Only 3 year support	

WINNING BID



INVITATION TO BID

The Town of Addison is accepting bids from all interested parties for

Bid No: 09-07

Bid Name: Technology Infrastructure Replacement

Pre-Bid Meeting: (Non-Mandatory) Friday, March 13, 2009, 9:00 AM
Town of Addison Service Center
16801 Westgrove
Addison, TX 75001

Bid Opening: Friday, March 20, 2009, 10:00 AM
Purchasing Division
Town of Addison Finance Building
5350 Belt Line
Addison, Texas 75240

Since DemandStar.com maintains the vendor files for the Town of Addison, bidders do not need to notify the Town if they do not intend to bid on this project. For vendors that would like to be removed from the bidder's list, please notify the Town of Addison in writing.

If you are not a member of Demandstar and wish to obtain a free copy of the bid specifications, you may pick up one at the Town of Addison, Purchasing Division, 5350 Belt Line Road, Addison, TX 75240

Please pay particular attention to Receipt and Preparation of the bid.

For questions concerning the bidding process, contact Matt McCombs, Management Analyst, at 972-450-7090 or e-mail at mmccombs@addisontx.gov. For questions concerning the scope of the work contact Hamid Khaleghipour 972-450-2868 or email at hkhaleghipour@addisontx.gov.

**TOWN OF ADDISON
INSTRUCTIONS TO BIDDERS**

1.0 RECEIPT AND PREPARATION OF THE BID

- 1.1 Bids will be received by the Purchasing Coordinator of the Town of Addison until time specified in the Invitation to Bid, at which time bids will be publicly opened and read aloud, in the Finance Building of the Town of Addison located at 5350 Belt Line Rd., Addison, TX 75254. Bids must be received by the specified time in order to be considered, and bids submitted after this closing time will not be considered and will be returned unopened.
- 1.2 Each bid shall be enclosed in a sealed envelope, addressed to the Purchasing Coordinator, Town of Addison, P.O. Box 9010, Addison, Texas, 75254. Bids must be labeled in the lower left-hand corner with the bid name and number. Bidders must also include their company name and address on the outside of the envelope.
- 1.3 Bidders are responsible for making certain bids are delivered to the purchasing division. Mailing of a bid does not insure that the bid will be delivered on time or delivered at all. If bidder does not hand deliver bid, it is suggested that he/she use some sort of delivery service that provides a receipt.
- 1.4 Bids may be withdrawn prior to the above scheduled time set for closing of the bids. Any bid received after the time and date specified will not be considered.
- 1.5 The Town of Addison reserves the right to postpone the date and time for opening bids through an addendum.

2.0 ADDENDA AND EXPLANATIONS

- 2.1 Bidders having any questions regarding the true meaning of the specifications or terms and conditions shall submit these questions to the Purchasing Coordinator. Any and all interpretations or supplemental instructions, which, if issued, will be sent to all prospective bidders. A copy of all addenda issued must be signed and returned with your bid.

3.0 TAXES

All bids are required to be submitted without State Sales tax. The Town of Addison is exempt from payment of such taxes and a Tax Exemption Certificate will be executed for the successful bidder.

4.0 SCOPE OF WORK

The work under this contract shall consist of the items or services contained in the bid, including all materials, equipment, labor and all other items necessary to complete said work in accordance with the contract documents.

5.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITES

- 5.1 Before submitting a bid, each bidder must thoroughly examine the contract documents and project site to ensure that the services you are proposing meets the intent of these specifications.
- 5.2 The Town of Addison is not responsible for incomplete bid packets.
- 5.3 Bidders are instructed to return all pages of the bid packet that contain written responses.

6.0 BIDDING

- 6.1 Bidders are instructed to consider the following factors in preparation of your bid:
 - a. Bids shall remain firm for a period of 45 calendar days after the scheduled bid opening.
 - b. Exceptions to any specifications, or part thereof, must be clearly stated and included with your Bid Proposal Form.
 - c. Bidders are instructed to include all necessary charges, related to this contract.

7.0 AWARD OF CONTRACT

- 7.1 The Town of Addison reserves the right to reject any or all bids, reject any particular item on a bid, and to waive immaterial formalities. The contract will be awarded to the lowest responsible bidder whose bid is most advantageous to the city, price and other factors considered. Award may be by line item or in total, at the sole discretion of the Town of Addison.
- 7.2 Award will be based upon an analysis of the following criteria: Bidders ability to produce the goods or services requested, performance on similar contracts, and an evaluation of the bidder's understanding of the purchaser's needs. To demonstrate bidder's qualifications to perform the work, each bidder must submit with their bid, five (5) customer references for similar_projects, including name of customer, telephone number and individual to contact.
- 7.3 The anticipated start date is as soon as practical after the bid is awarded. The Contractor will have thirty (30) calendar days to finish the project, from start date to completion of the project. (The owner feels this project can easily be completed in thirty days or less)
- 7.4 One contract shall be awarded to the lowest responsive bidder based on the total of improvements on all three street segments combined.

8.0 CERTIFICATES OF INSURANCE REQUIRED

- 8.1 The Contractor shall agree to furnish and maintain, during the period of this agreement, insurance coverage meeting the following requirements:
 - a. Commercial General Liability Insurance at minimum combined single limits of \$500,000 per occurrence and \$1,000,000 general aggregate for Bodily Injury and Property Damage, which coverage shall include Products/Completed Operations,

(\$1,000,000 Products/Completed Operations Aggregate) and XCU (explosion, collapse & underground) Hazards. Coverage for Products/ Completed Operations must be maintained for at least two (2) years after the work is completed. Coverage must be written on an Occurrence Form. Contractual Liability must be maintained with respect to the contractor's obligations contained in the contract.

- b. Workers Compensation insurance at statutory limits, including employers liability coverage at minimum limits of \$100,000 per occurrence - each accident, \$100,000 per occurrence - disease, and \$500,000 aggregate - disease.
- c. Commercial automobile liability insurance at minimum combined single limits of \$500,000. per occurrence for owned, non-owned and hired coverage.

8.2 Contractor shall provide the following endorsements:

- a. Named insured wording which includes the Contractor and the Town of Addison with respect to general liability, automobile liability.
- b. All liability policies shall contain cross liability and severability of interest clauses.
- c. A waiver of subrogation in favor of the Town of Addison with respect to the worker's compensation insurance and all other insurance policies.
- d. The policy shall be endorsed to require the insured to immediately notify the Town of Addison of any material changes in the insurance coverage.

8.3 All insurance shall be purchased from an insurance company, which meets the following requirement:

- a. Must be issued by a carrier, which is rated "A-1" or better by A.M. Best's Key Rating Guide.
- b. Licensed and admitted to do business in the State of Texas and is a subscriber to the Texas Guaranty Fund.

8.4 All insurance must be written on forms filed with and approved by the Texas State Board of Insurance. Certificates of insurance shall be prepared and executed by the insurance company or it's authorized agent and shall contain provisions representing and warranting the following:

- a. The company is licensed and admitted to do business in the state of Texas.
- b. The Texas State Board of Insurance has approved the company's forms.
- c. Sets forth all endorsements as required above.
- d. The Town of Addison will receive at least thirty (30) days notice prior to cancellation or termination of insurance.

9.0 BONDS REQUIRED

Bonds must be executed prior to beginning work on the project and must be executed by a corporate surety authorized and admitted to do business in the State of Texas and licensed by the State to issue surety bonds. The Surety must be listed in the most recent U.S. Treasury Department's "List of Acceptable Sureties", issued annually on July 1.

- 9.1 The **Bid Bond** shall be made payable to the Town of Addison in the amount of five per cent (5%) of the Bidders total bid price. Security shall be in the form of a certified bank check or a Bid Bond issued by a corporate surety authorized and admitted to do business in the State of Texas and licensed by the State to issue surety bonds. The surety shall also appear as a qualified surety on the list from the U.S. Treasury Department

All bonds shall be signed by Contractor as principal and by an established bonding company approved by Owner, as surety.

Bonds shall be accompanied by appropriate power-of-attorney clearly establishing extent and limitations of authority of each signer to so sign, and where the work is performed and to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship.

All bonds shall be made on forms complying with requirements of laws of the State of Texas.

10.0 RESOLUTION OF DISPUTES

The parties hereby covenant and agree that in the event of any controversy, dispute, or claim of whatever nature arising out of, in connection with or in relation to the interpretation, performance or breach of this agreement, including but not limited to any claims based on contract, tort or statute before filing a lawsuit the parties agree to submit the matter to Alternative Dispute Resolution pursuant to the laws of the State of Texas. The parties shall select a third party arbitrator or mediator from the current list of neutrals on file with the Alternative Dispute Resolution Administrator of the Dallas County District Courts. All forms of Alternative Dispute Resolution may be used except binding arbitration. The proceedings shall be conducted in accordance with the laws of the State of Texas.

11.0 NON DISCRIMINATION POLICY

It is the policy of the Town of Addison to afford all people an equal opportunity to bid on any contract being let by the Town.

The Town of Addison has a policy that prohibits discrimination against any person because of race, color, sex, or national origin, in the award or performance of any contract.

The Town of Addison will require its employees, agents, and contractors to adhere to this policy.

BID FORM
Technology Infrastructure Replacement
BID 09-07

PRINT

Company Name: _____

Full Mailing Address: _____

Phone Number: (____) _____ Fax (____) _____

I have received, read, and will abide by all pages of these specifications. I am a legal agent of the above named company and am fully authorized to sign this bid. Affiant further states that Bidder has not paid, given, or donated or agreed to pay, give or donate to any officer or employee of the Town of Addison any money or other thing of value, either directly or indirectly, in award of the Bid.

Authorized Signature	Print Name/Title	Date
----------------------	------------------	------

TOTAL MATERIALS AND SERVICES \$ _____

Calendar days from Notice to Proceed to Completion of Work _____ days

QUALIFICATION OF BIDDER STATEMENT

BIDDER: _____

PROJECT: _____

Authorized Signature

Print Name/Title

Date

COMPANY INFORMATION:

Number of years in your business? _____

Number of years at current location? _____

Do you maintain a permanent commercial business office? _____

Have you or any present partners or officers failed to complete a contract: _____ If yes, give name of owner and/or surety?

Can you be reached 24 hours a day (in an emergency)? _____

By what means? Pager# _____ Cell Phone# _____

Answer Svc# _____ Other# _____

INSURANCE:

Do you meet all insurance requirements as stipulated in the specifications? _____

Does your company engage in building or construction as its primary business? ___ Yes ___ No

If yes, please include information on your Workers Compensation policy along with this bid. State law requires that contractors engaging in building and construction must have Workers Compensation insurance coverage.

BANKING REFERENCE:

Name of Bank _____ Officer's Name _____

Telephone Number _____ Years business with Bank _____

CUSTOMER REFERENCES

Users you have provided with this product or service. Please use comparable projects and government entities, if any.

COMPANY NAME PROJECT CONTACT NAME PHONE NUMBER

BIDDER CHECKLIST

Y or N to the following questions

___ Qualification of Bidder statement completed?

___ Bid signed?

___ Bid meets or exceeds all specifications?

___ Bid bond included?

___ I have visited the site and performed a close-up visual inspection of the site conditions

Exceptions/Comments: (separate sheet if necessary)

**Technology Infrastructure Replacement
Bid 09-07
INSURANCE REQUIREMENT AFFIDAVIT
(SUPPLEMENTAL INFORMATION)**

To be completed by appropriate insurance agent

I, the undersigned agent, certify that the insurance requirements contained in this bid document have been reviewed by me with the below identified vendor. If the below identified vendor is awarded this contract by the Town of Addison, I will be able, within ten (10) days after being notified of such potential award, to furnish a valid insurance certificate to the Town meeting all of the requirements contained in this bid.

Agent's Signature

Agent's Name Printed

Name of Insurance Carrier

Phone Number of Agent

Address of Agency

City, State, Zip

Vendor's Name

SUBSCRIBED AND SWORN to before me by the above named _____

on this _____ day of _____, 2008.

Notary Public

Note to Bidder:

This form cannot be submitted with your bid as it must be completed by your insurance agent. Fax this form to your insurance agent and have them fax it to the Town of Addison at 972-450-7065. This form must be received by Purchasing before or within 48 hours of the bid closing date.

Note to Agent:

If this time requirement is not met, The Town of Addison has the right to declare this vendor non-responsive and award the contract to the next lowest responsible bidder meeting the specifications. If you have any questions concerning these requirements, please contact a Strategic Services representative at 972-450-7090.

Request For Proposal

Replacement of the Town's Technology Infrastructure

Addison!®

A Request for Proposal

A Partnership for Replacement of the Town's
Technology Infrastructure

Date Issued: Friday, February 13, 2009

Date Due: Friday, March 20, 2009



Request for Proposal

Replacement of the Town's Technology Infrastructure

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Request for Proposal

Replacement of the Town's Technology Infrastructure

1.0 INTRODUCTION

An brief synopsis and Invitation to submit proposals

1.1 THE TOWN OF ADDISON

The Town of Addison is located in the Dallas North Parkway area, which has been referred to as the "golden corridor" of the Dallas metroplex. Aside from the Town of Addison, the area encompasses the Dallas suburbs of Carrollton, Farmers Branch, and Plano. The area, which developed rapidly during the late 1970's and early 1980's is home to affluent residential neighborhoods, over 1,200 million-dollar companies, and scores of quality restaurants. The area commands a central location in reference to Downtown Dallas, DFW airport, and the Plano Corporate Campus area.

Epitomizing the best features of the area is the Town of Addison. The Town places a special emphasis on quality of life, which demands all development meet the most rigorous building requirements. The result of this philosophy has made Addison a cosmopolitan "downtown-uptown" distinguished from almost any other urban area in the nation.

Although it has only 14,166 residents, the Town serves an estimated 55,000 businesspersons, shoppers and visitors every day. The Town's blend of residential, retail, and office uses creates an open environment, which avoids the claustrophobic effect usually associated with densely developed areas.

1.2 INTENT OF THE RFP

This Request for Proposal (RFP) is intended to solicit responses from qualified Vendors and Implementers for the purchase, and replacement of the Town's existing Technology Infrastructure.

1.3 EVENTS & DATES

The following sequences of events and tentative schedule dates have been established.

Request for Proposal Distributed – Friday, February 13, 2009

Copies of this proposal can be obtained through the following media.



Request for Proposal

Replacement of the Town's Technology Infrastructure

Hardcopy/Electronic: Matt McCombs
Office of the Purchasing Coordinator
Addison Finance Building
5350 Belt Line Rd
Addison, TX 75240
Phone: 972-450-7091

Optional Pre-Bid Meeting – Friday March 13, 2009 at 9:00 a.m.

Addison Service Center
16801 Westgrove DR.
Addison, TX 75001

Vendor Sealed Proposals Due – Friday, March 20, 2009 at 10:00 a.m.

Proposals shall be enclosed in a sealed envelope or carton and will be received until Friday, March 20, 2009 at 10:00 a.m., CST. No late proposals will be accepted.

Vendor must clearly mark on outside of proposal envelope/package the following.

Company name, address, and bid name:

RFP 09-07 Replacement of the Town's Technology Infrastructure

Submit to: Office of the Purchasing Coordinator
Addison Finance Building
5350 Belt Line Rd
Addison, Texas 75240

1.4 CONTACT INFORMATION

Please direct all procurement and administrative questions to **Matt McCombs, the Town's Purchasing Coordinator at 972-450-7091 or mmccombs@addisontx.gov**

All other questions related to this procurement can be directed to **Hamid Khaleghipour, Information Technology Director at 972-450-2868 or hkhaleghipour@addisontx.gov**



Request for Proposal

Replacement of the Town's Technology Infrastructure

2.0 WORK DEFINITION

2.1 PRODUCTION SUPPORT

The solution must contain sufficient vendor resources **to purchase the entire order**, described in this RFP, and **store it at their facility tentatively for period of 4 months** in order to be delivered on a demand basis to the Town throughout the installation process.

2.2 CURRENT PHYSICAL INVENTORY

For purposes of this proposal the Town wishes to trade-in the following device counts. (**Optional NOT Required**).

[Existing -Network-Gear.xls](#)

[Existing-Server-Inventory.doc](#)

3.0 PROPOSAL FORMAT

The Vendor will define the capabilities of its organization to supply and maintain the hardware and software and provide the services as outlined within this RFP.

The response should be prepared in a simple and straightforward manner. **The Vendor will provide two (2) original, in hard copy format, and one (1) in electronic format (Floppy Disk/CD)** to the location specified within this RFP on or before the closing date and time for receipt of proposals.

The Vendor will segment their proposal into the following sections.

3.1) EXECUTIVE SUMMARY

The Vendor will provide an Executive Summary, which presents in brief, concise terms, a summary level description of the contents of the Proposal.

The Vendor will detail all exceptions to the exact requirements imposed by this RFP.



Request for Proposal

Replacement of the Town's Technology Infrastructure

The Vendor will indicate the proposal is firm for one hundred and eighty (180) days after the due date for receipt of proposals or receipt of the last best and final offer submitted.

3.2) VENDOR PROFILE

The Vendor will indicate the primary company assuming overall responsibility for successful completion of the project. In addition, the Vendor will indicate all other companies who will be providing products or services through a subcontracting arrangement with the Vendor or through a separate contract to be negotiated with the Town.

It is important to recognize the Town is looking for a single Vendor to assume primary responsibility for the successful implementation of the proposed solution from contract signing through formal acceptance by the Town.

Vendor profile information will include such items as: the year established, business organization, office locations, financial history, nature of business, strategic direction, industry specialties, software products, hardware products, number of employees, number of client installations, outstanding litigation, and authorized negotiator(s).

3.3) VENDOR QUALIFICATIONS

The Vendor must demonstrate a proven track record in providing reliable technology solutions across a series of successful installation efforts.

The Vendor's record will reflect experience within a similar environment and of a similar nature and magnitude to that being proposed to the Town. Relevant experience must be associated with projects completed not more than three (3) years prior to the date of this RFP. The Vendor will provide a customer reference listing and related contact information for a minimum of five (5) customers for which the Vendor has completed a similar effort.

The Vendor is asked to provide a comprehensive list of customers for review by the Town.

3.4) THE SOLUTION

The Town recognizes that the implementation of an extensive technology infrastructure is a complex effort and that not all possible variables are provided for within this RFP document. Therefore, it is acknowledged that the Vendor may be required to make assumptions regarding the Town's environment or specific requirements. Any assumptions made by the Vendor in regard to this RFP should be documented in-line with the response.



Request for Proposal

Replacement of the Town's Technology Infrastructure

Additional detailed review and design activities will take place with the Vendor finalist to refine elements of the proposal, prior to contract negotiation and approval.

3.4.1) THE PROJECT APPROACH

The vendor will present its methodology and approach to completing this project. Each major activity will be identified, discussed and project deliverables identified.

3.4.2) THE TECHNOLOGY COMPONENTS

The Vendor will segment their solution into the components described below.

[Audio Visual.doc](#)

[Checkpoint-Firewall.doc](#)

[Disaster Recovery Solution.doc](#)

[Storage Resource Management Solution.doc](#)

[Email-archiving-description.doc](#)

[Email-security-appliance-spam-description.doc](#)

[Equallogic iSCSI SAN .doc.docx](#)

[KVM description.doc](#)

[Network-Infrastructure.doc](#)

[Server Configuration License Requirements.doc](#)

[Servers-description.doc](#)

[Switch-description.doc](#)

[Wireless Devices.doc](#)

[UPS description.doc](#)



Request for Proposal

Replacement of the Town's Technology Infrastructure

3.4.3) SOLUTION COSTING

The Vendor will provide a detailed breakdown of all costs required for a successful installation of the proposed solution. The Town encourages the Vendor to fully identify costs. To minimize or hedge on costs will only serve to place the Town and the Vendor at a disadvantage.

The Town is requesting the Vendor provide specific cost information for each described component and sub-total per item.

3.5) OTHER VENDOR INFORMATION

This section will include additional detail, which will allow the Town to gain a greater appreciation for the proposed solution. Any information, which is considered proprietary, should be clearly marked as such. The Town will assume no obligation or liability in the event proprietary information is disclosed.

4.0 TERMS AND CONDITIONS

The terms and conditions under which the Proposal will be made are detailed within this section. The Town views this RFP as the framework to be used by the Vendor in preparing and submitting the proposal.

It is important for the Vendor to become familiar with the paragraph items within this section, as they will prevail in the event of any discrepancies or differences between project related or contractual documents.

4.1 BASIS FOR PROPOSAL

Only information supplied by the Town in writing through the Purchasing Office should be used in the preparation of Vendor Proposals.

Only replies by formal addenda shall be binding. Oral and other interpretations or clarifications shall not be binding. Vendors must acknowledge all addenda by signing and including such documents in the Proposal.

4.2 VENDOR TERMS AND CONDITIONS

The Vendor must submit a complete set of any additional terms and conditions that they propose to have included in a contract negotiated with the Town.

4.3 DISCLOSURE OF PROPOSAL CONTENTS

Proposals shall be opened in a manner that avoids disclosure of the contents to competing Vendors and keeps the proposals secret during negotiations. All



Request for Proposal

Replacement of the Town's Technology Infrastructure

proposals are open for public inspection after the contract award, but trade secrets and confidential information in the proposals may not be open for public inspection. Such data must be stamped "**proprietary**" or "**confidential**" on each page on which they appear, must be readily separable from the proposal and may be subject to review by the Attorney General of Texas in accordance with the Texas Open Records Act.

Vendors are advised that the confidentiality of their proposals will be protected by the Town to the extent permitted by law. Vendors are advised to consider the implications of the Texas Open Records Act, particularly after the proposal process has ceased, and a contract has been awarded. While there is provision to protect proprietary information under the Act, where the vendor can meet certain evidentiary standards, please note that a ruling on whether these standards have been met will not be determined by the Purchasing Office of the Town of Addison but by the office of the Attorney General of Texas.

4.4 LATE PROPOSALS

Proposals must be returned in sufficient time so as to be received and date/time stamped at the specified location on or before the published proposal date and time specified. Any proposal received after the time and date set for receipt of proposals is late and cannot be considered.

4.5 SIGNING OF PROPOSALS

The submission and signature of a Proposal shall indicate the intention of the Vendor to adhere to the provisions described in this RFP.

4.6 COST OF PROPOSAL

This Request for Proposal does not commit the Town to pay any costs incurred by any Vendor in preparation and/or submission of a Proposal, or for procuring or contracting for the items to be furnished under the RFP. All costs directly or indirectly related to responding to this RFP (including all costs incurred in supplementary documentation) will be borne by the Vendor.

Each Vendor will be responsible for all costs incurred in preparing or responding to this RFP. The Vendor agrees to bear all risks for loss, injury, or destruction of goods and materials (ordered or supplied as the result of the eventual contract), which might occur prior to delivery to the Town; and such loss, injury, or destruction, shall not release the Vendor from any obligations under this RFP or any resulting contract.



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4.7 CONFLICT OF INTEREST, NON COLLUSION AND ANTI LOBBYING

The Vendor promises that it's officers, employees or agents will not attempt to lobby or influence a vote or recommendation related to the firm's proposal response; directly or indirectly, through any contact with Town Council members or other Town officials between the proposed submission date and award by the Town Council and that there will be non-collusion and non-conflict of interest.

4.8 OWNERSHIP OF PROPOSALS

All documents submitted in response to this Request for Proposal shall become the property of the Town of Addison.

4.9 DISQUALIFICATION OR REJECTION OF PROPOSALS

Vendors may be disqualified for any of the following reasons:

- v There is reason to believe that collusion exists among the Vendors;
- v The Vendor is in arrears on an existing contract or has defaulted on a previous contract with the Town;
- v The Vendor lacks financial stability;
- v The Vendor has failed to perform under previous or present contracts with the Town;
- v The Vendor has failed to use the Town's required forms;
- v The Vendor has failed to adhere to one or more of the provisions established in this RFP;
- v The Vendor has failed to submit ""Itemized Cost Sheet/s"" for all the items including but not limited to, hardware, software, Services, etc., stated in this RFP.
- v The Vendor has failed to submit its Proposal in the format specified herein;
- v The Vendor has failed to submit its Proposal on or before the deadline established herein;
- v The Vendor has failed to adhere to generally accepted ethical and professional principles during the Proposal process;

Proposals may be rejected if they show any alteration of words or figures, additions not called for, conditional or uncalled-for alternate proposals, incomplete proposals, erasures, or irregularities of any kind, or contain any unbalanced values.



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4.10 RIGHT TO WAIVE IRREGULARITIES

Proposals shall be considered as being "irregular" if they show any omissions, alterations of form, additions, or conditions not called for, unauthorized alternate proposals, or irregularities of any kind.

The Town reserves the right to waive minor irregularities and mandatory requirements provided that all responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Town of Addison.

4.11 WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn by written or telegraphic notice received by the Purchasing Office prior to the exact hour and date specified for receipt of bids. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact hour and date set for the receipt of bids.

4.12 AMENDING OF PROPOSALS

A Vendor must submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements of a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Town will not merge, collate, or assemble proposal materials.

4.13 PROPOSAL OFFER FIRM

Responses to this RFP, including cost, will be considered firm for one hundred and eighty (180) days after the due date for receipt of proposals or receipt of the last best and final offer submitted. All Proposals must include a statement to that effect.

4.14 EXCEPTIONS TO RFP SPECIFICATIONS

Although the specifications stated in the RFP represent the Town's anticipated needs, there may be instances in which it is in the Town's interest to permit exceptions to specifications and accept alternatives.

It is extremely important that the Vendor make very clear where exceptions are taken to the specifications and how the Vendor will provide alternatives. Therefore, exceptions, conditions, or qualifications to the provisions of the



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Town's specifications must be clearly identified as such together with reasons for taking exception, and inserted into the Proposal. If the Vendor does not make clear that an exception is being taken, the Town will assume the Proposal is responding to and will meet the specification as written.

Where the Vendor does not agree with the Town's terms and conditions, we require the proposal to enumerate the specific clauses, which the Vendor wishes to amend or delete and suggest alternative wording. Any minimum terms to which the Town will have to agree to in order to enter into a contract with the Vendor and which the Vendor considers to be a "deal breaker" **MUST BE SUBMITTED WITH THE PROPOSAL.**

4.15 CONSIDERATION OF PROPOSALS

Discussions may be conducted with responsible Vendors capable of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Vendors.

Until award of the contract is made by the Town, the right will be reserved to reject any or all proposals and waive technicalities, to re-advertise for new proposals, or to proceed with the work in any manner as may be considered in the best interest of the Town.

4.16 TERMINATION

The Town reserves the right, by and through its City Manager and in the City Manager's sole and unqualified discretion, to cancel this RFP at any time and for any reason. The Town reserves the right to reject any or all proposals submitted in response to this RFP. In addition, the Town reserves the right, in its sole and unqualified discretion, to accept, in whole or in part, a vendor's proposal submitted in response to this RFP.

4.17 GOVERNING LAW

The Contract will be governed by the laws of the State of Texas. All duties of both parties shall be performed in Dallas County, Texas. The applicable law for any legal dispute arising out of the Contract shall be the law of the State of Texas.

4.18 NO OBLIGATION

This procurement in no manner obligates the Town or any of its agencies to the eventual rental, lease, or purchase of any software, hardware, or services offered until confirmed by an executed written contract.



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4.19 AWARD OF CONTRACT

The Town reserves the right to withhold final action on Proposals for a reasonable time, not to exceed one hundred eighty (180) days after the date of opening proposals, and in no event will an award be made until further investigations have been made as to the responsibility of the proposed Vendor.

The award of the contract, if an award is made, will be to the most responsible and responsive Vendor whose Proposal meets the requirements and criteria set forth in the Request for Proposal and whose Proposal is determined to be the most advantageous to the Town considering the requirements and criteria set forth herein. The Town reserves the right, in its sole discretion, to abandon, without obligation to the Vendor, any part of the project or the entire project, at any time before the Vendor begins any work authorized by the issuance of a Notice to Proceed by the Town.

The award of the contract shall not become effective until the contract has been executed by the Vendor and the Town.

4.20 EXECUTION OF CONTRACT

The Town Council shall authorize award of a contract to the successful Vendor and shall designate the successful Vendor as the Town's Vendor. The Town will require the Vendor to sign the necessary documents entering into the required Contract with the Town and to provide the necessary evidence of insurance as required under the contract documents.

No contract for this project may be signed by the Town without the authorization of the Addison Town Council. No Contract shall be binding on the Town until it has been approved as to form by the Town Attorney, and executed by the Town's City Manager.

4.21 PROPOSAL EVALUATION PROCESS

The contract may be awarded to the Vendor whose Proposal is determined to be the most advantageous to the Town. In rendering this decision, the following evaluation criteria may be utilized.

Item	Evaluation Category	Award
1	Vendor Award	30%



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2	Cost Award	60%
3	Responsiveness Award	10%
	Total Award	100%

Vendor Award

Points may be awarded based upon proposals, which minimize the risks associated with a project of this nature. The Town will consider factors such as: number of years in business, experience level, client references, resource availability, technical platforms, project approach, staffing levels, and support levels.

Cost Award

Points may be awarded based upon the reasonableness of the Vendors cost proposal, and the completeness, accuracy and level of cost detail provided.

Responsiveness Award

Points may be awarded based upon the Vendor's proposal completeness, level of detail, and conformance to Town instructions.

5.0 COST SHEETS

The Vendor is required to complete and return an **Itemized Cost, in Excel Spread Sheet Format**, with sub-total and Grand-total figures, for described equipments in this RFP as part of their proposal.

Existing Network Gear

<u>Asset Name</u>	<u>Manuf</u>	<u>Model</u>	<u>Details</u>
13153	D-Link	DES-1228P	AF2 Viceo Camera Project 9/2007
13157	D-Link	DSS-16P	AF2 Video Camera Project 9/2007
13606	D-Link	DES-1228P	AF2 Video Camera Project 9/2007
13608	D-Link	DES-1228P	AF2 Video Camera Project 9/2007
11461 Hub	HP	12TXM	NULL
AF2 SWT1	Cisco	WS-C2950SC-24	
AF2 SWT2	Cisco	WS-C2950SX-24	
AF2 SWT3	Cisco	WS-C2950SX-24	
CP Hub	D-Link	DSS-16+	
CT SWT1	Cisco	WS-2950SX-24	
CT SWT2	Cisco	Ws-C2950SX-24	
DMZ SWT	Cisco	WS-C2950-12	
FIN SWT1	Cisco	WS-C2950SX-24	
FIN SWT2	Cisco	WS-C2950SX-24	
Hub Lab1	HP	12TXM	
Hub Lab2	HP	12TXM	
Hub Web-Block	HP	ProCurve 10/100	
IP SWT	Cisco	WS-C2950-12	
PF SWT1	Cisco	WS-C3550-12T	
PF SWT1-1	Cisco	WS-C2950SX-24	
PF SWT1-2	Cisco	WS-C2950SX-24	
PF SWT1-3	Cisco	WS-2950SX-24	
PF SWT1-4	Cisco	WS-C2950SX-24	
PF SWT1-5	Cisco	WS-C2950SX-24	
PF SWT1-6	Cisco	WS-C2950SX-24	

Existing Network Gear

PF SWT1-7	Cisco	WS-C2950S-24	
PF SWT2	HP	ProCurve 1600M	
PS SWT1	HP	ProCurve 1600M	
PS SWT2	HP	ProCurve 1600M	
PS SWT3	HP	ProCurve 1600M	
PS SWT4	HP	ProCurve 1600M	
PS SWT5	HP	ProCurve 1600M	
SC SWT 1	Cisco	Catalyst 4506	
SC SWT 2	Cisco	WS-C2950SX-24	
SC SWT 2-1	Cisco	WS-C2950SX-24	
SC SWT 2-2	Cisco	WS-C2950SX-24	
SC SWT 2-3	Cisco	WS-C2950SX-24	
SC SWT 2-4	Cisco	WS-C2950SX-24	
SC SWT LAB 2	Cisco	WS-C2950SX-12	
TH SWT1	Cisco	WS-2950SX-24	
TH SWT2	Cisco	WS-CS950SX-24	
TH SWT3	Netgear	FS605NA	5 port 10/100
11462 RTR	Cisco	1601	
AC RTR	Cisco	1604	
AF2 RTR	Cisco	2620XM	
CP RTR	Cisco	2610	
CT RTR	Cisco	2620XM	
FIN RTR	Cisco	2620XM	
IP RTR	Cisco	2621	
PF RTR 1 GG	Cisco	2620XM	
PF RTR 2 ACL	Cisco	2621	

Existing Network Gear

PF RTR 3 Storefront	Cisco	2610
PF TBR FB	Cisco	2611
SC RTR 1	Cisco	3745
TH RTR	Cisco	2620XM
TSF RTR	Cisco	1604

Existing Server Inventory

<u>System Name</u>	<u>Product Model</u>	<u>Serial Number</u>
pf-padcom1	ProLiant DL360 G3	EM43MU0437
pf-padcom2	ProLiant DL360 G3	EAP5KYDZ32
af2-fs1	ProLiant ML370 G3	D310KJ44H225
af2-recware	HP NetServer LC 2000r	US11131555
carserver	HP NetServer LC 2000	US12118606
ct-espsql	HP NetServer LP 2000r	US14941505
ct-fs1	ProLiant ML370 G3	D307KJ44H018
fc-fs1	ProLiant ML370 G3	D311KJ44H143
fc-gems	ProLiant DL380 G3	D315KJN2H152
pf-coban	ProLiant DL380 G3	ECGLKJNZ2W
pf-emsfax	Evo D510 CMT	U229KN8ZA827
pf-fs1	ProLiant ML370 G3	D316KJ44H031
pf-fs2print	ProLiant DL380 G3	D316KJN2H926
pf-videosrv	Poweredge 2900	
sc-bindview	ProLiant DL380 G3	D315KJN2H151
sc-cim	ProLiant DL380 G3	D314KJN2H915
sc-citrix	ProLiant DL380 G3	6260TMQOI19Q
sc-com	ProLiant DL380 G2	D228JZG2H336
sc-dc1	ProLiant DL380 G3	D309LDN1H443
sc-dc2	ProLiant DL380 G3	D309LDN1H442
sc-exchange	ProLiant DL380 G3	D306LDN1J192
sc-fs1	ProLiant DL380 G3	D309KJN2H821
sc-fwconsole	ProLiant DL380 G3	D316KJN2H114
sc-gemsweb	ProLiant DL380 G2	D233JZG2G124
sc-gis	HP NetServer LP 2000r	US14040624
sc-help	ProLiant DL380 G2	D228JZG2D178
sc-landesk	HP NetServer LP 2000r	US21940963
sc-monitor	ProLiant DL380 G3	D315KJN2H153
sc-nai	HP NetServer LP 2000r	US22640136
sc-print	ProLiant DL380 G3	D310KJN2H867
sc-sql	ProLiant DL380 G3	D316KJN2H048
sc-webblock	ProLiant DL380 G2	D228JZG2H323
th-fs1	ProLiant ML370 G3	D311KJ44H168

Audio Visual Solution

INTENT

The Town of Addison Information Technology Department is soliciting sealed written proposals from qualified vendors to renovate, furnish and install audio visual presentation systems to the Town's various conference and meeting rooms. We are deferring to the knowledge, expertise and experience of the vendor to propose components as well as cost saving alternatives.

Examples: Mounted motorized screens versus manual screens. Projection systems versus flat panel displays.

Proposal responses must address all aspects of system design, installation and where applicable, integration with current equipment.

REQUIRED SYSTEM FUNCTIONALITY AND FEATURES

The primary use of the system(s) will be to allow for quick and easy set up of presentations by Town staff as well as outsiders wishing to present information via digital/computer generated media.

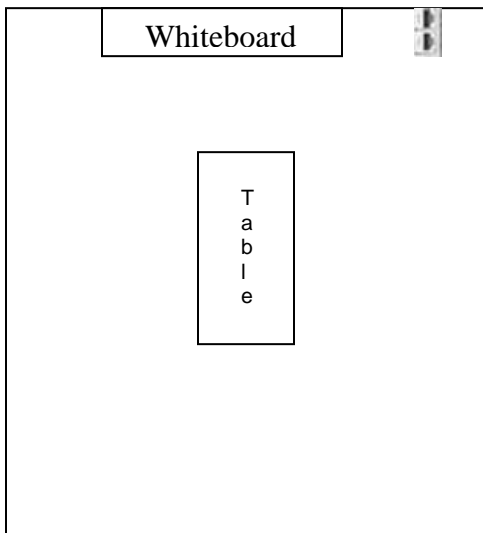
The Town will provide any and all necessary cabling work which may be required to facilitate installation of the system(s). Proposal shall include a written detail of cabling requirements.

Conference Rooms locations and specifications

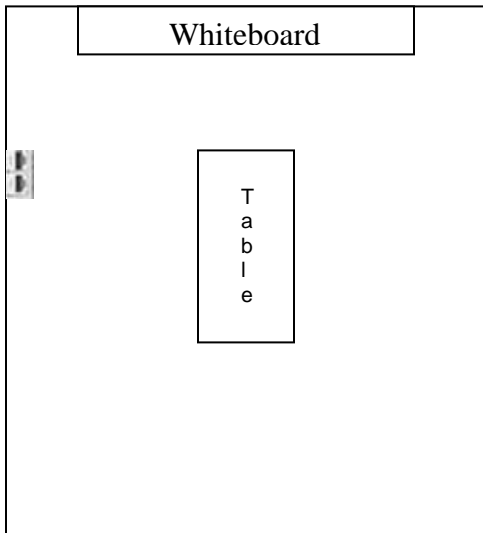
Service Center – 16801 Westgrove Drive

Upstairs: Approximate room size: 20' L x 14' W

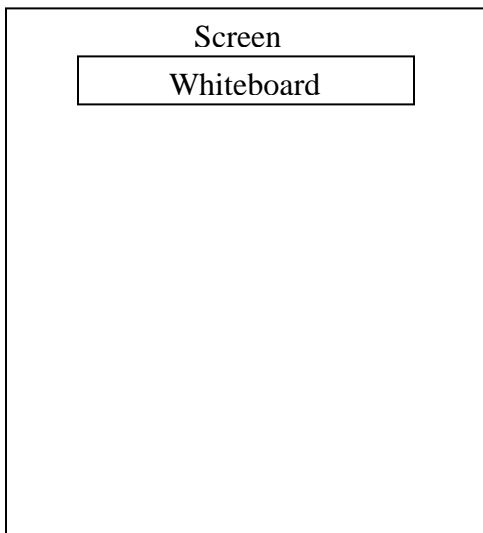
Existing whiteboard approx. 4'L x 4'W; existing network drop



Downstairs: Approximate room size: 18' L x 14' W
Existing whiteboard 4' L x 5' W and existing network drop

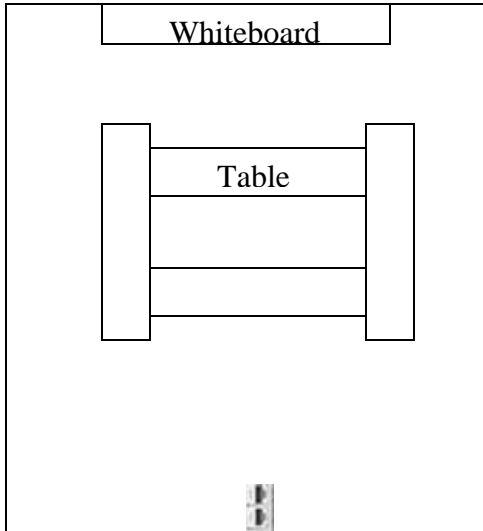


Breakroom: Approximate room size: 34' L x 32' W
Existing whiteboard 8' L x 4' W, manual screen
No network drop



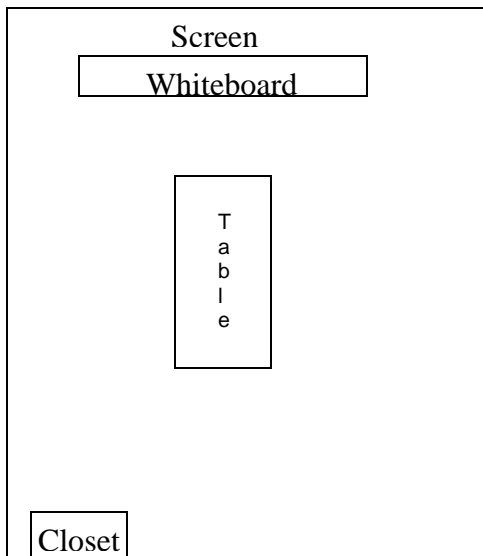
Finance Building – 5350 Belt Line Road

Upstairs: Approximate room size: 20' L x 24' W
Existing whiteboard approx. 4'L x 4'W; existing network drop



Town Hall – 5300 Belt Line Road

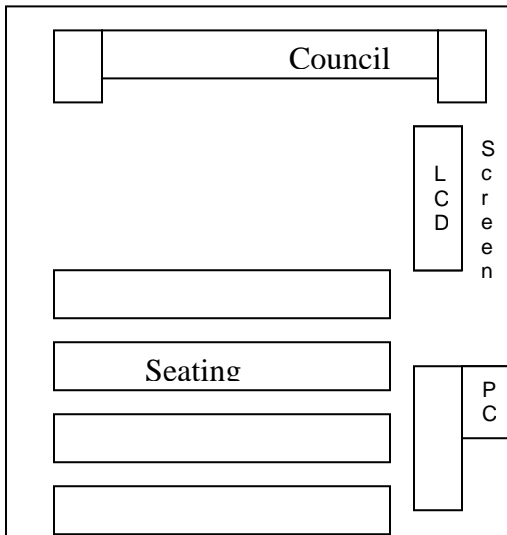
Upstairs: Approximate room size: 13' L x 11' W
Existing whiteboard approx. 11' L x 4' W, manual screen
No network drop
Mounted projector could be an issue due to chandelier
Possibly can use flat screen with TV hook up
Possibly house equipment in closet



Town Hall
 Conference Room
 2nd view



Council Chambers: Currently utilize a flat panel monitor encased in a credenza
 Manual screen
 Multiple network drops located at Council desk
 PC for recording audio
 PC for presentations



Council Chambers
PC and Recorder PC



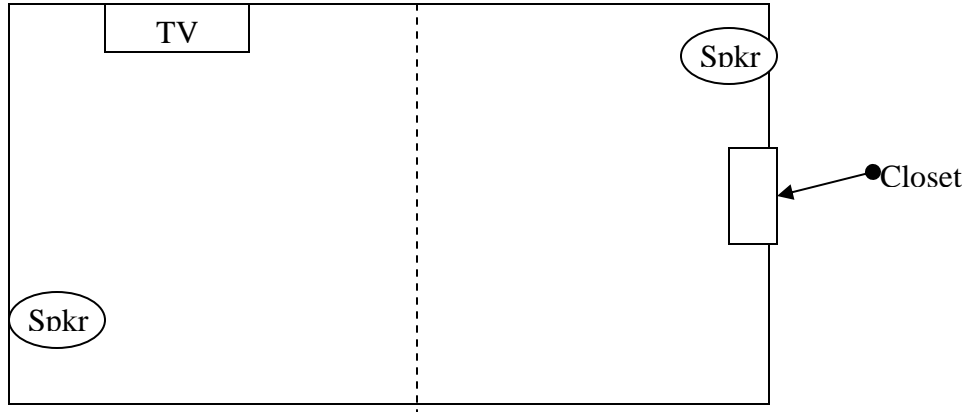
Living Room: Used as spill over from council chambers
Existing Speaker
Can possibly relocate existing LCD here
No network drop



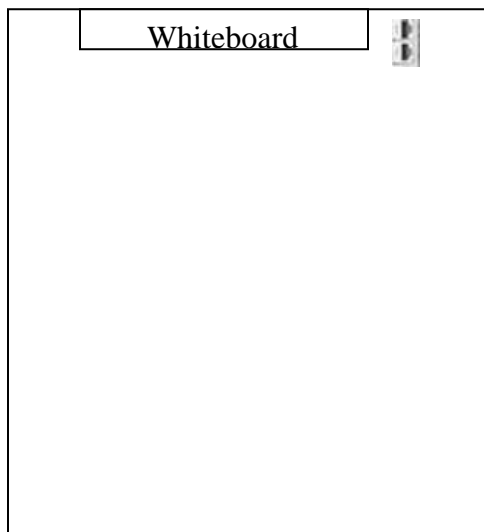
Spkr

Athletic Club – 3900 Beltway Drive

Downstairs – Multipurpose Room: Homeowner association meetings,
Kids summer camp – play wii games and watch movies
May need to divide room at times for different activities
Approximate room size: 20' L x 40' W
Existing TV and speakers
No network drop



Upstairs: Approximate room size: 22' L x 20' W
Existing whiteboard approx. 4' L x 4' W; Network Drop



Police – 4799 Airport Parkway

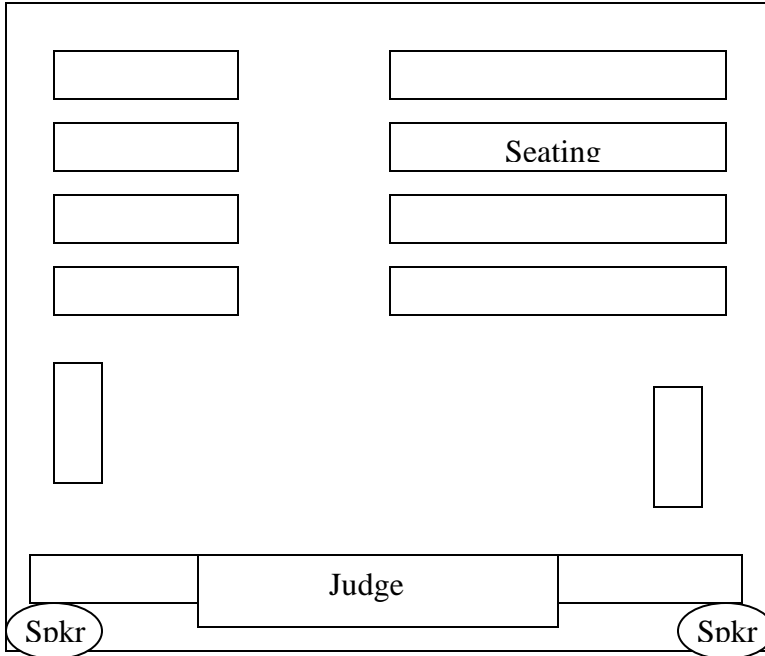
Court Room: Approximate room size: 38' L x 22' W

Movable white board; movable TV with video

Existing speakers at front of room

Room used for court cases as well as training.

Would like ability to view video as well as documents presented at trials. Judge controls audio kept behind bench



Fire Station 1 – 4798 Airport Parkway

Training Room/ EOC: Approximate room size: 34' L x 20' W

Has mounted projector, automatic screen

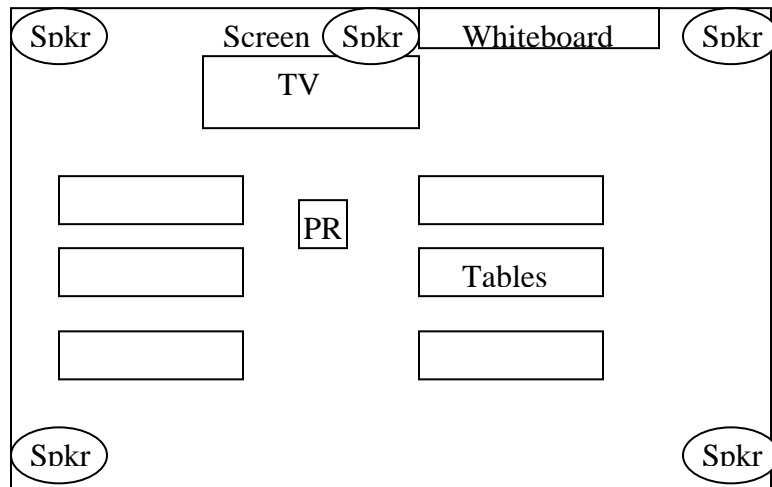
Whiteboard Approx. 5' X 5'

Speakers, TV, PC niche

Numerous network drops along side walls

This room is our emergency operations center. We would like the ability to see multiple media at one time.

Example: News station, weather station, video and pc data.



Requirements:

- * Multi-layer, stateful firewall
- * Intrusion prevention
- * Antivirus
- * Messaging security and anti-spam
- * Anti-spyware
- * Web application firewall
- * VPNs
- * Web filtering
- * Integrated endpoint security

The solution should simplify our network security and lowering associated costs, while strengthening organization defenses.

In summary, we are looking for best of breed firewall, intrusion prevention, antivirus, anti-spyware, Web application firewall, VoIP security, instant messaging (IM) and peer-to-peer (P2P) blocking, URL Filtering, as well as secure site-to-site and remote access connectivity. Also, should we decide at a future time to deploy an Endpoint client to our workstations, there should be an option for cooperative enforcement where the appliance and endpoint solution intuitively communicate with each other and ensure desktop compliance.

Qty	Item ID	Description
1	CPUTM-APP-TS3-M2070	Check Point UTM-1 2070 with 3 Years Total Security Licenses. 2800Mbps Firewall,
1	CPUTM-APP-HA-TS3-M2070	Check Point UTM-1 2070 with 3 Years Total Security License for High availability
1	CREDIT CPMP-HVG-U-NG	Credit Existing Software. Cert Key: B7A538C14E1A
2	CPUTM-SMDF-M2070	3 Years of Check Point Smart Defense Services for each UTM-1 2070
1	PREMIUM TOTAL SECURITY-3-YEAR	3 Year Premium (24x7) Collaborative Enterprise Support for Primary UTM-1 2070
1	PREMIUM TOTAL SECURITY-3 YEAR FOR HA	3 Year PREMIUM (24x7) Collaborative Enterprise Support for High availability UTM-1 2070
1	SERVICES DAILY	Implementation and Knowledge Transfer available at a Daily or Hourly Rate. Estimated Project time is 2 Days. Ongoing Maintenance and Management Negotiable
0	SERVICES HOURLY	Implementation and Knowledge Transfer available at a Daily or Hourly Rate. Estimated Project time is 2 Days. Ongoing Maintenance and Management Negotiable

Disaster Recovery Software:

Requirements:

- Ability to create an exact Windows server disk image, including operating system, databases, and applications,
- Ability to restore a disk image to different hardware or to a virtual machine, providing complete disaster recovery,
- Ability to migrate systems between any virtual and physical servers.

Product number and description below:

Acronis® True Image Echo™ Server *for Windows (9)*

Acronis® Universal Restore (9)

Software support and maintenance (5 years).

Storage Resource Management Solution:

Product number and description below:

Qty	Part #	Description
		Windows Servers <1 TB (Local and SAN)
7	NSS-SM-L-00104	Northern Storage Suite Small Host (<1 TB) Server License
7	NSS-SM-C-00104	Northern Storage Suite Small Host (<1 TB) Server Premium Support
		Premium Support will be Valid until 12 Months at Purchase
1		Electronic Media
1	NSS-WB-TR	Custom Web Based Training up to 2 hours (Optional)
		We also Offer On-Site Training. Please Call to Request

Email Archiving Solution:

Requirements:

1. Integrated Archiving, Data Protection, and Disaster Recovery
2. Comprehensive Data Capture and Discovery Capabilities
3. No Journaling or MAPI for Data Capture
4. Lowest TCO and Ease of Deployment

The solution should not only simplify IT Administrators to move their users to Exchange Server 2007 but also empower our users with more self-service capability to manage email.

Product number and description below:

Option 1:

Mimosa NearPoint for MS Exchange Solution - 250 Mailboxes	MNE-SOLCAL250 Base option
Support & Maintenance (3 years)	MNE-SOLCAL- PM
Mimosa NearPoint PST Archive Option - 250 Mailboxes	MNE-PSTCAL250 PST option
Support & Maintenance (3 years)	MNE-PSTCAL- PM
Mimosa NearPoint eDiscovery Option - 250 Mailboxes	MNE-EDCAL250 Ediscovery option
Support & Maintenance (3 years)	MNE-EDCAL-PM
NearPoint base installation and configuration including SQL server, PST and file system ingestion, setting up archiving schedules, eDiscovery setup and training and a NearPoint Archiving run book for up to 250 mailboxes, one file server with up to 2TB of data and in one location. Does not include Disaster Recovery. All work will be done remotely.	MNE-PS- BPSTEDFSA250

Option 2:

MNE-ENTCCAL250-BUNDLE (Mimosa NearPoint - Enterprise Content Archiving Solution (Includes Base, PST, DR, eD, FSA options))

MNE-ENTCCAL-BUNDLE-PM (Mimosa Maintenance & Support) 3 years.

Email Security Appliance Solution:

Requirements:

1. Performance: (eliminates the bottlenecks that slow down legacy MTAs.)
2. Virus Outbreak Filter
3. Spam Detection (Spam filtering effectiveness)
4. False Positives (the lowest false-positive rate on the market, as proven by numerous published reviews.)
5. Reporting (dozens of integrated reports that track hundreds of counters in the email system to give administrators and managers a complete and easy-to-understand view of their email traffic. Online real-time reporting is lightning fast for even the largest sites, and regularly scheduled email reports can be delivered in PDF format.
6. Support (customer support as the best in the industry)
7. Not a windows based OS

Product Part # and Description:

Option1:

EBUN-1A-EN-SQR-1Y-250 (1 year subscription email bundle for 250 users, with Anti Spam, AV, and Virus Outbreak Filter)

Option 2:

EBUN-1A-EN-SQR-5Y-250 (5 year subscription email bundle for 250 users, with Anti Spam, AV, and Virus Outbreak Filter)

Option 3:

EBUN-1A-EN-SQRT-1Y-250 (1 year subscription email bundle for 250 users, with Anti Spam, AV, encryption, and Virus Outbreak Filter)

Option 4:

EBUN-1A-EN-SQRT-5Y-250 (5 year subscription email bundle for 250 users, with Anti Spam, AV, encryption, and Virus Outbreak Filter)

iSCSI SAN / Virtualized Storage

Solution must provide SAN based data storage consolidation, support for high performance application , and meet system and application high availability and reliability requirements for Town of Addison IT operations. The solution should also address requirements for data growth and disaster recovery architecture planning while offering full compatibility for a server virtualization environment.

Minimum Feature and Functional Requirements:

- Dual arrays providing production and replication capacity for primary and PD data centers. 16 TB raw capacity per array.
- Licensing and maintenance: Quote includes 5 year support options including all related software, software maintenance, and hardware maintenance, with no license limitations on number of servers.
- Virtualized storage with demonstrated ease-of-use features for rapid implementation and storage provisioning.
- Performance scaling through multi-array data structure striping and performance management.
- Load balancing: Automatic disk pooling and load balancing must allow for pooling different RAID levels with different generations of disks and controllers without slowing the faster hardware down to match the slower.
- Configurable for RAID 5, 10, 50, and 6
- Dual purpose built storage controllers must be fully redundant with no demonstrated loss of performance in the event of a controller failure. Controllers must be hot-swappable without requirement to halt, quiesce, or re-boot the storage device. System must survive storage controller failure without reduction in the solution's controller performance or available disk performance.
- Non-disruptive controller upgrades: Must support firmware upgrades without application downtime and without compromising cache redundancy.
- Minimum of 1 Gbyte controller cache supporting read and write cache operations (per controller).
- Controller cache is to be protected through battery backup in the event of power outage.
- VMware Site Recovery Manager integration tools for fully automated SAN operations
- Dual power supplies, fully redundant and hot-swappable.
- Fully imbedded enhancement software features:
 - Software must include server-resident software for up to 50 servers for multipathing, Windows server configuration onto the SAN, application recovery integration for snapshots, clones, and remote replicas for SQL, Exchange and running VMware virtual machines.
 - Software must include command line access, performance logging and management, centralized management of the vendor's storage solutions.

- Snapshots
 - Controllable through user defined scheduler for frequency and depth.
 - Provide instant restore of full data volumes.
 - Support at least 100 snapshots per volume and be tested to at least 5,000 per solution.
 - Instant restore of a primary volume to match the state of a snapshot of that volume (and do so without loss of performance following the restore)
- Volume cloning - instant clone copy of production volume and/or selected snapshot
- Thin provisioning - providing controlled over subscription of underlying storage assets with fully automated allocation routines for dynamic allocation control
- Volume migration - Online volume migration to different storage controllers and physical disks. Online volume migration to different RAID set layouts must preserve snapshot and replication processes.
- Replication - supports replication of production volumes and VMFS instances, supports VMware remote recovery procedures for iSCSI SAN.
 - Replication must provide for access to volumes made from remote replicas without disrupting replication, for testing replication and DR routines.
 - Option to transmit changes via removable media: In the event that very large amounts of data are changed quickly, the storage must facilitate the use of tape or removable disk as a means of getting the changes replicated to the remote site, after which time the storage will maintain the replicas by replicating only the future changes.
 - Incremental site failback for long-distance replication: In the event of infrastructure issues that the primary site short of physical destruction, the solution must allow failover to the remote site WITHOUT requiring back-wards replication of all the data in order to switch production back to the primary site. This is known as incremental failback: sending from the remote site to the primary site only the data affected by operations conducted at the remote site while the primary site was inaccessible.
- Application integration and support software: Includes application recovery integration for SQL and Exchange and VMware virtual machines. Make and retain application-synchronized snapshots, clones, and remote replicas independent of any backup application and allow SQL or Exchange or VMware administrators to perform their own partial or full restores from snapshots or remote replicas, without assistance from the storage administrator. Microsoft VSS support is necessary but not sufficient.
- Asset redeployment: Solution must support non-disruptive asset retirement or re-deployment. Remove disks and controllers online and without compromising local and remote replication and without requiring manual storage re-configuration and without compromising redundancy.

Summary:

Storage solution must provide required capacity for primary and remote replication sites while enhancing overall performance. The above listed architectural features and functions describe the minimum requirements for this solution.

Below is the configuration for storage and 3 year Next Business Day Service		quantity
SKU#	Description	
223-6497	PS5000E SATA Drives	2
341-6469	16TB RAW, Dual Controller	2
987-6280	1 year Complete Care	2
983-7444	4 year Complete Care	2
983-7474	Advanced Technical Telephone Support, 7x24 access 5 year	2
990-0527	Base hardware warranty and service, parts only Exchange replacement. Initial year	2
990-0548	Base hardware warranty and service, parts only Exchange replacement. Extended Year	2
990-1369	Advanced Software Warranty and Service, 7x24. 5 year.	2
990-0598	Customer self install support services	2

KVM and LCD Console:

Objective:

Procurement of two (2) KVM-Over-IP (Keyboard/Video/Mouse digital switches) and required accessories installed at Town facilities as indicated below. Rack mounted LCD (1U) console is required at Town facility indicated below.

Requirements:

- KVM shall have the ability to control up to 8 servers, providing one remote and one local user with BIOS-level access and control.
- KVM must have dual power and dual gigabit Ethernet with automatic failover.
- KVM must have Browser based user interface that supports wide range of operating systems.
- KVM local access must be Browser based
- KVM CIM must be enhanced USB CIM for virtual media (BIOS ACCESS) and absolute mouse synchronization
- Proposal should take advantage of Raritan trade in offer on Town's existing Raritan KVM (Paragon II) switches for an upfront discount. This discount will be towards the purchase of Dominion KX II. See following link for more information: <http://www.raritan.com/promotions/kvm-trade-in.pdf>
- LCD Console drawer shall be Rack-mountable - TFT - 17" - 1280 x 1024 - 300 cd/m2 - 700:1 - black - 1U
- LCD Console drawer shall have intergraded Video, keyboard and touchpad functionality
- LCD Console shall support Sun®, Windows®, Linux and other operating systems.
- All equipment and materials shall be new. Used, refurbished or repurposed equipment or material will not be acceptable
- Both KVM-Over-IP and LCD Console must come with a 2 year repair or replacement warranty

Product number/ Description/ Location:

Service Center – 16801 Westgrove Drive

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
KVM-Over-IP	1	RARITAN	Dominion KX-II-108	DKX2-108	8-port KVM-over-IP switch, 1 remote user, 1 local user, virtual media, dual power
KVM Cables	8	RARITAN		D2CIM-DVUSB	ENHANCED USB CIM FOR VIRTUAL MEDIA (BIOS ACCESS) AND ABSOLUTE MOUSE SYNCHRONIZATION

KVM and LCD Console:

Fire Department EOC – 4798 Airport Pkwy

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
KVM-Over-IP	1	RARITAN	Dominion KX-II-108	DKX2-108	8-port KVM-over-IP switch, 1 remote user, 1 local user, virtual media, dual power
KVM Cables	8	RARITAN		D2CIM-DVUSB	ENHANCED USB CIM FOR VIRTUAL MEDIA (BIOS ACCESS) AND ABSOLUTE MOUSE SYNCHRONIZATION
LCD CONSOLE KVM	1	Raritan or equivalent brand	TBA	TBA	Rack-mountable - TFT - 17" - 1280 x 1024 - 300 cd/m2 - 700:1 - black - 1U, Device input-Keybaord and Touchpad (mouse).

Note: Proposal should take advantage of Raritan trade in offer on Town's existing Raritan KVM (Paragon II) switches for an upfront discount. This discount will be towards the purchase of Dominion KX II. See following link for more information:

<http://www.raritan.com/promotions/kvm-trade-in.pdf>

Existing equipment provided upon request

GENERAL OVERVIEW OF PROJECT

The Town of Addison is planning to replace all network gear, servers, and storage. In addition, we will be upgrading our servers to the latest possible Windows operating system according to current software vendor requirements. That will include upgrading current Exchange and SQL servers as well. Professional services may be needed for the Windows 2008 Active Directory, Exchange 2007, and SQL Server 2005 migrations. The Town's current network consists of Windows 2000 servers for Active Directory and most all application servers. We are running SQL Server 2000 and Exchange 2000 as well. Current network gear is all Cisco. All storage is direct attached and we are looking to implement iSCSI SAN's at our Police/Fire Dept. location and our Service Center location. We wish to virtualize as many servers as possible in a Blade chassis configuration with consolidated storage at these two locations. Also, we wish to consolidate backups to one server with raw disk and one LTO tape library both located at the Service Center. Each remote location will have a 10mb fiber link back to the Service Center.

Backup/DR Solution

Overview/Requirements

The Town of Addison is looking to consolidate their backup solution to the Service Center location with one storage server for onsite recovery and one LTO 4 tape library for offsite storage. We would like to replicate data between the remote sites and the Service Center and between the Service Center and the Police/Fire Dept.

- Replication of data for DR between Service Center and Police/Fire Dept. iSCSI SAN's
- Backup to raw disk with capacity of 10tb for onsite recovery
- Backup of virtual machines for system recovery and file level restores
- Backup to tape once a week for off-site storage
- Enough tape storage for a 4 week rotation and 2 month rotation of backups

Hardware Specifications

<u>Quantity</u>	<u>Part#</u>	<u>Description</u>
1	T50E-4-H-S-1	Spectralogic Spectra T50e, LTO-4, LVD SCSI, Half-height, 1 drive, 10 slots
1	90979469	LTO-4 Half-height Drive, LVD SCSI, T50e
3	90949134	LTO-4 Media Pack Includes: 10 LTO-4 media tapes w/ Certified Pre-applied Barcode Labels, MLM Software and Terapack with Dust Cover
1	90949156	LTO Cleaning Tape Pack Includes: 5 LTO Cleaning Tapes w/Certified Pre-applied Barcode Labels, MLM software and Terapack with Dust Cover
7	90876185-1-W1	2k trade in on 7 Spectra 2k Treefrog AIT-2 Tape Libraries
1	T50-NBDR-2-60	Spectra T50e (2Drive), SpectraGuard Next Business Day service 5 years
1	90970523	Encryption Support, Standard, T50/T50e 5 years
2	90979476	5-Slot COD License, T50e
1	90979437	BlueScale Standard Encryption Software Option, T50/T50e

Software Specifications

Quantity	Part#	Description
Windows Server - Core		
1	14348072	SYMC BACKUP EXEC SERVER 12.5 WIN PER SERVER STD LIC GOV BAND S
5	14348066	SYMC BACKUP EXEC SERVER 12.5 WIN PER SERVER INITIAL BASIC 12 MONTHS GOV BAND S
VMWare		
8	14358278	SYMC BACKUP EXEC AGENT FOR VMWARE VIRTUAL INFRASTRUCTURE 12.5 WIN PER HOST SERVER STD LIC GOV BAND S
40	14358266	SYMC BACKUP EXEC AGENT FOR VMWARE VIRTUAL INFRASTRUCTURE 12.5 WIN PER HOST SERVER INITIAL BASIC 12 MONTHS GOV BAND S
Client Agents		
6	14353949	SYMC BACKUP EXEC AGENT FOR WINDOWS SYSTEMS 12.5 WIN PER SERVER STD LIC GOV BAND S
30	14353942	SYMC BACKUP EXEC AGENT FOR WINDOWS SYSTEMS 12.5 WIN PER SERVER INITIAL BASIC 12 MONTHS GOV BAND S
Exchange Agent		
1	14354195	SYMC BACKUP EXEC AGENT FOR MSFT EXCHANGE 12.5 WIN PER SERVER STD LIC GOV BAND S
5	14354222	SYMC BACKUP EXEC AGENT FOR MSFT EXCHANGE 12.5 WIN PER SERVER INITIAL BASIC 12 MONTHS GOV BAND S
Media Server Option		
1	14350819	SYMC BACKUP EXEC OPTION ADVANCED DISK BACKUP 12.5 WIN PER SERVER STD LIC GOV BAND S
5	14350815	SYMC BACKUP EXEC OPTION ADVANCED DISK BACKUP 12.5 WIN PER SERVER INITIAL BASIC 12 MONTHS GOV BAND S
Storage Option - Library Expansion Option		
1	14354642	SYMC BACKUP EXEC OPTION LIBRARY EXPANSION 12.5 WIN PER DEVICE STD LIC GOV BAND S
5	14354631	SYMC BACKUP EXEC OPTION LIBRARY EXPANSION 12.5 WIN PER DEVICE INITIAL BASIC 12 MONTHS GOV BAND S

Professional Services

The Town may require support for upgrading/installing the following technologies:

- Windows 2000 Active Directory to Windows 2008 Active Directory
- Exchange 2000 Enterprise to Exchange 2007
- SQL Server 2000 Standard to SQL Server 2005
- HP C3000 Chassis System with BL460 Blades
- VMWare Site Recovery Manager setup and design
- Equallogic iSCSI SAN and replication
- Citrix Presentation Server 4.0 to Citrix XenApp
- Ironport email gateway and encryption
- Server room wire management and UPS setup

Server Virtualization

Overview/Requirements

The Town of Addison is looking to consolidate it's servers with virtualization software. Most all physical servers at the Service Center and Police/Fire Dept. will be replaced with Blades. Other remote sites will have one to two physical servers.

- Ability to automatically migrate VM's to new physical server if problems arise
- Ability to easily backup VM's with backup software
- Easily configured host OS with maximum security and least risk of exploitation
- Ability to over commit memory
- Support of non Windows guests for possible future expansion
- Live migration of server and storage
- Backups not affecting VM performance

Specifications

<u>Quantity</u>	<u>Part#</u>	<u>Description</u>
4	VI-ENT-C	VMWare Virtual Infrastructure 3 Enterprise for 2 CPU - Band A
20	VI-ENT-G-SSS-C	VMWare Gold 8x5 Support and Subscription for Infrastructure 3 Enterprise - 5 Years Total
1	VI-AK-PROMO	VMWare Enterprise Acceleration Kit Includes 4 Virtual Infrastructure 3 Enterprise for 2 CPU Licenses + 1 VirtualCenter Server License
5	VI-AK-G-SSS-PROMO	VMWare Gold 8x5 Support and Subscription for Enterprise Acceleration Kit - 5 Years Total
9	VI-SRM-GOV	VMWare Site Recovery Manager for 1 processor
45	VI-SRM-P-SSS-GOV	Platinum Support/Subscription* for VMWare Site Recovery Manager VMWare

Citrix Access Gateway

Overview/Requirements

The Town of Addison will upgrade its Windows server based Citrix Web Interface and Secure Gateway to the Citrix Access Gateway appliance for simplicity.

Specifications

<u>Quantity</u>	<u>Part#</u>	<u>Description</u>
1	EW3Z0000221 IM N40512	Citrix EZ Access Gateway Model 2010 1U Appliance
10	MW2Z0000016 IM L10918	Citrix Access Gateway Standard License x1CCU w/ SA

Anticipated Town of Addison License Requirements

SERVERS

Note: Licenses for “fail over” blade at Service Center and Police Department not included in count.

Per Microsoft:

Neither Windows nor Exchange licenses have fail-over rights at all. They can not move.

SQL, licenses may not be transferred between blades more frequently than once every 90 days. So if a blade permanently fails, then all of the licenses (unless they are OEM licenses) may be permanently transferred to a replacement blade. But the transfer cannot be on a short-term basis (more frequent than once per 90 days), so if the “fail-over blade” is meant only for short-term use while another blade is repaired, then they will need separate licenses for everything running on the fail-over blade.

If purchase license under Enterprise Agreement you can maintain a “cold” backup site in the virtual environment. However, the blade would have to remain powered off for this to apply.

Service Center: HP 3000 Blade Server

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
1	2	5	1	6 (1 – 64 bit)	2 (Standard)			
1	2	3	1	4 (1 – 64 bit)	0	1		1
1	2	5	1	6	0			
1	2	3	1	4 (1 – 64 bit)	2 (Per Processor)		1 (2008)	
1	2	Fail Over	1	1				
1	2	Has Win03r2	0	0	0			
1	2	Has Win03r3	0	0	0			

HP DL 180 g5 Server

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
				1				

Police Department/PD-EOC: HP 3000 Blade Server

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
1	2	2	1	3				
1	2	2	1	3	1 (Standard)			
1	2	Fail Over	1	1	0			
1	2		0	1				

Conference Centre: HP DL 380 Servers – 2 Servers

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
	2			1	1 (Standard)			
	2	Has Win03r2		0				

Athletic Club/Fire Station 2: HP DL 380 Servers – 2 Servers

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
	2			1	1 (Standard)			
	2	Has Win03r2		0				

Town Hall: HP DL 380 Server

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
				1				

Finance: HP DL 380 Server

Blade	No. Processor	No. Guest	VMWare Server Enterprise	No. Windows Server 2008	No. SQL	No. Exchange Enterprise	External Connector	Project Server 2007
				1				

DESKTOPS

Note: Currently running OEM version of Windows XP service pack 2 operating system on the desktops. As Addison has almost the same number of users as devices, we are basing licensing counts on a per user basis. Addison does not want OEM version licenses.

Office Professional Plus 2007	Windows Server CAL 2008	Exchange Standard Server CAL 2007	SQL CAL 2008	Terminal Service CAL 2008	Project Professional 2007	Project Server CAL 2007
250	250	250	250	250	5	15

Optional Licenses:

Ability to upgrade desktop operating system from Windows XP service Pack 2

Office Share Point CAL 2007

Microsoft Product Life Cycle:

Note: Once product is at end of life, Microsoft still issues security patches. However, there is no support for bugs or other fixes not related to security. For support would have to purchase a Premiere support agreement.

End of Life

Windows XP Service Pack 2 OS	Office XP	Office 2007	Windows Server 2003	Windows Server 2008	Exchange Standard Server 2007	SQL 2005	SQL 2008
4/2009	4/2009	4/2012	7/2010	7/2013	4/2012	4/2011	1/2014

New Version Release Dates - Anticipated

Windows XP Service Pack 2 OS	Office 14	Windows Server 2008 R2	Exchange Standard Server 14	SQL
Released	~ 6/2010	End 2009	~ 6/2010	Late 2010

Servers

Requirements:

1. Single form factor for mezzanine cards and common interconnect bays.
2. High-speed and slower-speed devices are fully interchangeable and allow choice between quantity of I/O and high bandwidth.
3. Capable of more than 6 NICs per Blade Server
4. Chassis can have no more than 8 Blade Servers
5. Chassis need to be capable of running on 110V power

Product # and Description:

Item	Part #	Qty.	Description
c3000 Enclosure for Service Center			
1	437507-B21	1	HP BladeSystem c-Class c3000 Enclosure
2	439034-B23	1	HP c-Class Insight Control Environment for BladeSystem 8 License with 1 year of 24x7 Support
3	438030-B21	4	HP BLc GbE2c Ethernet Layer 2/3 Switch for HP c-Class BladeSystem
4	437572-B21	6	HP c3000 Enclosure AC Power Supplies
5	412140-B21	6	HP Active Cool Fan Option Kits
6	448589-B21	1	HP BLc3000 Onboard Administration Module
7	437577-B21	1	HP BLc3000 DVD Drive
8	437576-B21	1	HP BLc3000 Rack Rails
9	437575-B21	1	HP BLc3000 KVM Option
10	AF556A	6	HP 1.83m 10A C13-UL US Power Cords
11	UH319E	1	HP Care Pack 5-year, Next Business Day c3000 Enclosure Hardware Support
12	UH318E	1	HP Care Pack 5-year, 4-Hour, 13x5 c3000 Enclosure Hardware Support
13	UH319E	1	HP Care Pack 5-year, 4-Hour, 24x7 c3000 Enclosure Hardware Support

Item	Part #	Qty.	Description
BL460s with 64GB RAM for Service Center			
14	447707-B21	5	HP ProLiant BL460c server blade
15	459489-B21	5	Quad-Core Intel® Xeon® E5450 (3.00GHz, 1333MHz FSB, 80W) Processor

16	459489-L22	5	Quad-Core Intel® Xeon® E5450 (3.00GHz, 1333MHz FSB, 80W) Processor
17	495604-B21	5	HP 64GB Fully Buffered DIMM PC2-5300 8x8GB Memory
18	Included	5	Embedded Smart Array E200i SAS Array Controller (without cache)
19	405102-B21	5	HP 64MB cache upgrade for E200i
20	447711-B21	5	HP BL460c backplane drive cage (two bays) - with E200i controller
21	431935-B21	10	HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive
22	Included	5	2 Embedded Ethernet Ports
23	416585-B21	5	HP BLc NC325m NIC Adapter
24	UK072E	5	HP Care Pack 5-year, Next Business Day BL4xxc Server Blade Hardware Support or
25	UK073E	5	HP Care Pack 5-year, 4-Hour, 13x5 BL4xxc Server Blade Hardware Support or
26	UK074E	5	HP Care Pack 5-year, 4-Hour, 24x7 BL4xxc Server Blade Hardware Support

Item	Part #	Qty.	Description
			c3000 Enclosure for PD
27	437507-B21	1	HP BladeSystem c-Class c3000 Enclosure
28	439034-B23	1	HP c-Class Insight Control Environment for BladeSystem 8 License with 1 year of 24x7 Support
29	438030-B21	4	HP BLc GbE2c Ethernet Layer 2/3 Switch for HP c-Class BladeSystem
30	437572-B21	6	HP c3000 Enclosure AC Power Supplies
31	412140-B21	6	HP Active Cool Fan Option Kits
32	448589-B21	1	HP BLc3000 Onboard Administration Module
33	437577-B21	1	HP BLc3000 DVD Drive
34	437576-B21	1	HP BLc3000 Rack Rails
35	437575-B21	1	HP BLc3000 KVM Option
36	AF556A	6	HP 1.83m 10A C13-UL US Power Cords
37	UH319E	1	HP Care Pack 5-year, Next Business Day c3000 Enclosure Hardware Support
38	UH318E	1	HP Care Pack 5-year, 4-Hour, 13x5 c3000 Enclosure Hardware Support
39	UH319E	1	HP Care Pack 5-year, 4-Hour, 24x7 c3000 Enclosure Hardware Support

Item	Part #	Qty.	Description
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BL460s with 64GB RAM for PD			
40	447707-B21	4	HP ProLiant BL460c server blade
41	459489-B21	4	Quad-Core Intel® Xeon® E5450 (3.00GHz, 1333MHz FSB, 80W) Processor
42	459489-L22	4	Quad-Core Intel® Xeon® E5450 (3.00GHz, 1333MHz FSB, 80W) Processor
43	495604-B21	4	HP 64GB Fully Buffered DIMM PC2-5300 8x8GB Memory
44	Included	4	Embedded Smart Array E200i SAS Array Controller (without cache)
45	405102-B21	4	HP 64MB cache upgrade for E200i
46	447711-B21	4	HP BL460c backplane drive cage (two bays) - with E200i controller
47	431935-B21	8	HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive
48	Included	4	2 Embedded Ethernet Ports
49	416585-B21	4	HP BLc NC325m NIC Adapter
50	UK072E	4	HP Care Pack 5-year, Next Business Day BL4xxc Server Blade Hardware Support or HP Care Pack 5-year, 4-Hour, 13x5 BL4xxc Server Blade Hardware Support
51	UK073E	4	or HP Care Pack 5-year, 4-Hour, 24x7 BL4xxc Server Blade Hardware Support
52	UK074E	4	HP Care Pack 5-year, 4-Hour, 24x7 BL4xxc Server Blade Hardware Support

Item	Part #	Qty.	Description
DL380s (web server, AF2, CT, TH, FC)			
53	391835-B21	5	HP ProLiant DL380 G5 Server
54	458581-L21	5	Quad-Core Intel® Xeon® X5460 (3.16GHz, 1333MHz FSB, 120W) Processor
55	458581-B21	5	Quad-Core Intel® Xeon® X5460 (3.16GHz, 1333MHz FSB, 120W) Processor
56	397415-B21	5	HP 8GB Fully Buffered DIMM PC2-5300 2X4GB Memory
57	331903-B21	5	Slim Line CD-RW/DVD-ROM 24X Combo Drive Option Kit
58	405132-B21	5	HP Smart Array P400/256 PCIe Controller
59	460355-B21	20	HP 250GB Hot Plug SFF 2.5 SATA 5,400 rpm Hard Drive
60	Included	5	HP 1000-W Hot-Plug Power Supply
61	399771-001	5	HP 1000-W Redundant Hot-Plug Power Supply (NEMA)
62	Included	5	HP Redundant Hot-Plug Fans
63	Included	5	Embedded NC373i Multifunction Gigabit Network Adapter
64	AF556A	10	HP 1.83m 10A C13 Power Cord
65	UA009E	5	HP Care Pack, 5 Years, Next Day, Hardware, ProLiant DL380

66	U8067E	5	or HP Care Pack, 5 Years, 4 Hours, 13x5, ProLiant DL380
67	U8084E	5	or HP Care Pack, 5 Years, 4 Hours, 24x7, ProLiant DL380

Item	Part #	Qty.	Description
DL180s (backup server, coban)			
68	457649-B21	2	HP DL180G5 CTO Chassis
69	458785-L21	2	HP E5420 DL180G5 FIO Kit
70	458785-B21	2	HP E5420 DL180G5 Kit
71	408854-B21	2	HP 8GB Reg PC2-5300 2 x4 GB Kit
72	461840-B21	2	HP 4GB REG PC2-5300 2x2GB LP Kit
73	454146-B21	24	HP 1TB 7.2k HP MDL SATA 1yr Wty HDD
74	405132-B21	2	HP Smart Array P400/256 Controller
75	411508-B21	2	HP Smart Array E200/128MB Controller
76	451366-B21	2	HP Redundant Power Supply Kit
77	451369-B21	2	HP DL180/185 12HDD Cage FIO Kit
78	464830-B21	2	HP Int SAS/SATA Multi-Lane Cable Kit
79	UH277E	2	HP Care Pack, 5 Years, Next Business Day, Hardware, ProLiant DL18x
			or
80	UH278E	2	HP Care Pack, 5 Years, 4 Hours, 13x5, Hardware, ProLiant DL18x
			or
81	UH279E	2	HP Care Pack, 5 Years, 4 Hours, 24x7, Hardware, ProLiant DL18x

Networking Gear/Switch & Router

Requirements:

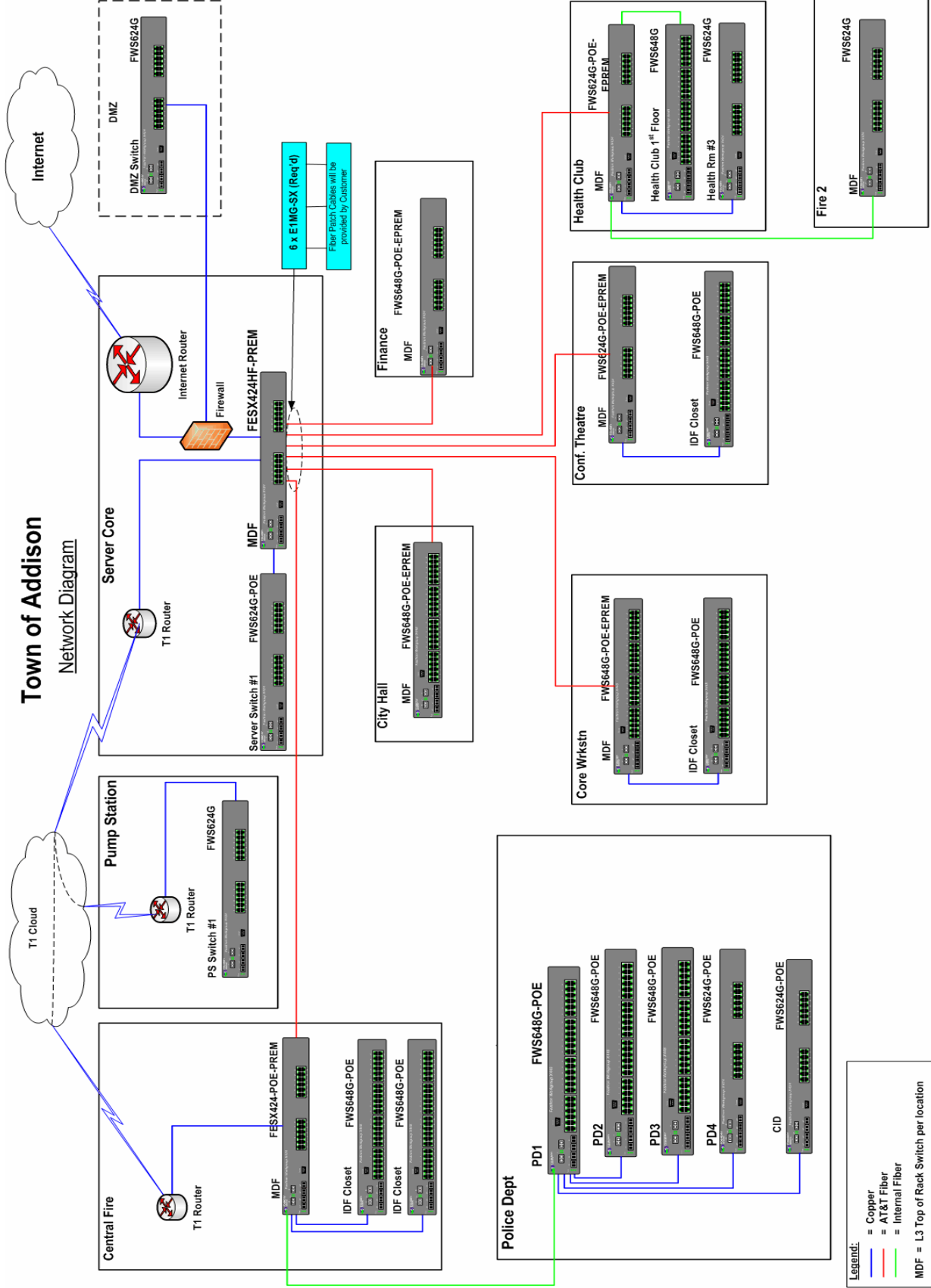
- Must support MRP (Metro Ring Protocol). Although the initial RFP deployment is based on hub-n-spoke connectivity, future plans may require a ring topology. Therefore, the proposed solutions must be capable of supporting MRP.
- Must support hardware-based embedded sflow (RFC 3176). Hardware-based forwarding of sflow data will allow for sflow to be configured on every port of every switch without any performance degradation.
- With exception of the MDF L3 Switches located at both the "Central Fire" and the "Server Core" locations (see network diagram), all other L2/L3 switches must be field upgradeable from L2 to L3 capability and they must run the same base operating system/image. This will provide simplicity and uniformity across the network and ease of management.
- The solution must also be capable of supporting the VRRP and VRRPE software configurable redundancy protocols. Future needs may require adding a backup MDF switch at certain locations for resilience. This will require running VRRP/VRRPE between two L3 switches to provide higher availability per spoke site back to the core.

Product number and description below:

	Line		
	Item	Quantity	Part #
Server Core			
Item	1	1	FESX424HF-PREM
Item	2	1	RPS-X424
Item	3	1	GOLD-FESX424
Item	4	1	FWS624G-POE
Item	5	1	GOLD-FWS624G
DMZ			
Item	6	1	FWS624G
Item	7	1	GOLD-FWS624G
Pump Station			
Item	8	1	FWS624G
Item	9	1	GOLD-FWS624G
Central Fire			
Item	10	1	FESX424-POE-PREM

Item	11	1	RPS-X424-POE
Item	12	1	GOLD-FESX424-POE
Item	13	2	FWS648G-POE
Item	14	2	GOLD-FWS648G
Citty Hall			
Item	15	1	FWS648G-POE-EPREM
Item	16	1	GOLD-FWS648G
Finance			
Item	17	1	FWS648G-POE-EPREM
Item	18	1	GOLD-FWS648G
Police Dept			
Item	19	3	FWS648G-POE
Item	20	3	GOLD-FWS648G
Item	21	2	FWS624G-POE
Item	22	2	GOLD-FWS624G
Core Wrkstn			
Item	23	1	FWS648G-POE-EPREM
Item	24	1	GOLD-FWS648G
Item	25	1	FWS648G-POE
Item	26	1	GOLD-FWS648G
Conf. Theatre			
Item	27	1	FWS624G-POE-EPREM
Item	28	1	GOLD-FWS624G
Item	29	1	FWS648G-POE
Item	30	1	GOLD-FWS648G
Health Club'			
Item	31	1	FWS624G-POE-EPREM
Item	32	1	GOLD-FWS624G
Item	33	1	FWS648G
Item	34	1	GOLD-FWS648G
Item	35	1	FWS624G
Item	36	1	GOLD-FWS624G
Fire			
Item	37	1	FWS624G
Item	38	1	GOLD-FWS624G
IronView Network Manager			
Item	39	1	IVIEW-NT
Item	40	1	IVIEW-SW

Town of Addison Network Diagram



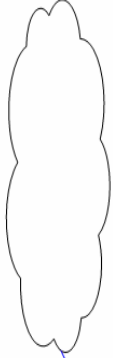
911 Option 1

4	FESX424
4	RPS-X424
4	GOLD-FESX424
12	E1MG-SX

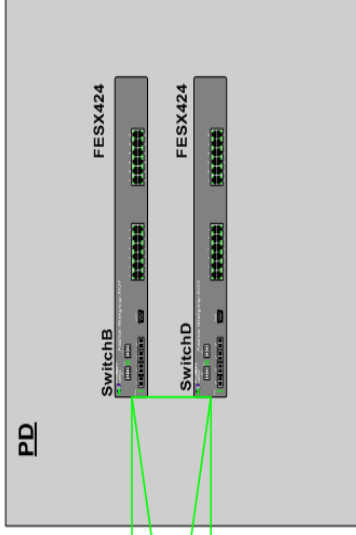
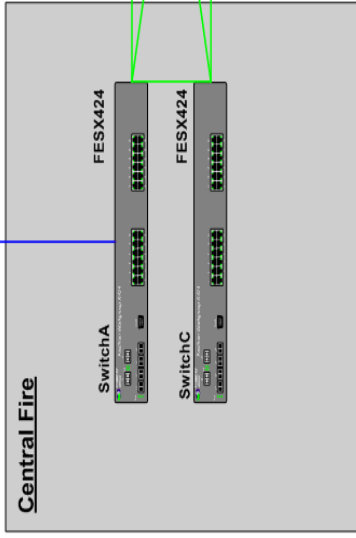
911 Option 2

4	FWS624G
4	GOLD-FWS624
12	E1MG-SX

Town of Addison 911 Service



2600 Router



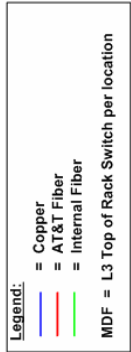
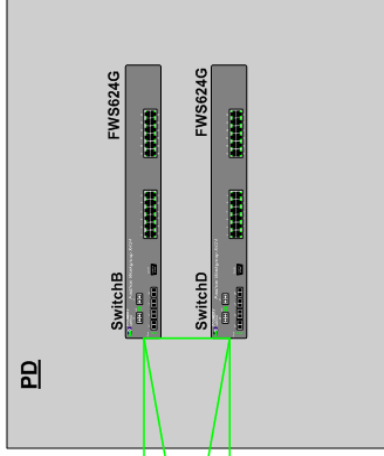
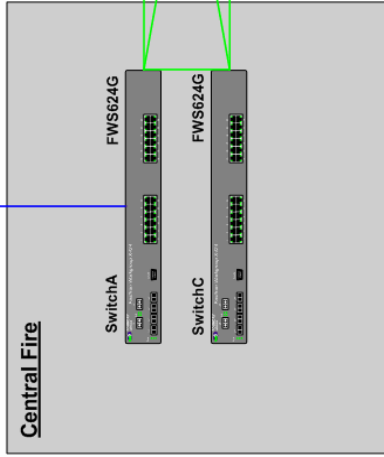
- Legend:**
- = Copper
 - = AT&T Fiber
 - = Internal Fiber
 - MDF = L3 Top of Rack Switch per location

Town of Addison

911 Service



2600 Router



Product	Description	Quantity
Internet Router		
CISCO2821	2821 w/ AC PWR,2GE,4HWICs,3PVDM,1NME-X,2AIM,IP BASE,64F/256D	1
S28NIPBK9-12422T	Cisco 2800 IP BASE	1
CAB-AC	Power Cord,110V	1
ROUTER-SDM-CD	CD for SDM software	1
ACS-2821-51-STAN	Cisco 2821/51 Standard Accessory Kit	1
Maintenance		
CON-SNT-2821	SMARTNET 8X5XNBD 2821 w/ AC PWR,2FE,4HWI	5
SC Router		
CISCO2821	2821 w/ AC PWR,2GE,4HWICs,3PVDM,1NME-X,2AIM,IP BASE,64F/256D	1
S28NIPBK9-12422T	Cisco 2800 IP BASE	1
CAB-AC	Power Cord,110V	1
ROUTER-SDM-CD	CD for SDM software	1
ACS-2821-51-STAN	Cisco 2821/51 Standard Accessory Kit	1
Maintenance		
CON-SNT-2821	SMARTNET 8X5XNBD 2821 w/ AC PWR,2FE,4HWI	5
PD Router		
CISCO2821	2821 w/ AC PWR,2GE,4HWICs,3PVDM,1NME-X,2AIM,IP BASE,64F/256D	1
S28NIPBK9-12422T	Cisco 2800 IP BASE	1
WIC-1B-U-V2	1-Port ISDN BRI NT-1 WIC	2
CAB-AC	Power Cord,110V	1
ROUTER-SDM-CD	CD for SDM software	1
ACS-2821-51-STAN	Cisco 2821/51 Standard Accessory Kit	1
Maintenance		
CON-SNT-2821	SMARTNET 8X5XNBD 2821 w/ AC PWR,2FE,4HWI	5

Wireless LAN Appliance Solution:

Requirements:

- Chassis and box 1-1 and N+1 redundancy with under 20 seconds failover time
- Newly installed controllers automatically synchronized with the already existing controller(s), without requiring a separate network management server
- TIME-OF-DAY AVAILABILITY OF GUEST SSID FOR INCREASED CONTROL AND SECURITY
- Support 802.3af standard Power-over-Ethernet (PoE) capability on for 3x3 MIMO dual-radio operation at full power of the radios - and 2 spatial streams for the 802.11n capable APs
- APs do not hold "hard configured" internal network information or certificates for authentication to the centralized switches unless this information is stored in a trusted platform module (TPM) integrated into the AP.
- Use of industry standards-based (IEEE or IETF) tunneling protocols; specify standard that the tunneling mechanism is based on.
- Centralized Encryption/De-encryption (e.g. on switch/controller in data center).
- Automatic adjustment of individual AP power and channel setting to maximize performance around other APs, limit the effects of interference (both 802.11 and non-802.11), and detect and correct any RF coverage holes.
- Automatic adjustment of individual AP power and channel setting to maximize performance around other APs, limit the effects of interference (both 802.11 and non-802.11), and detect and correct any RF coverage holes.
- Dynamic load balancing to automatically distribute clients to the least loaded channel and AP; load balancing must not require any client specific configurations or software.
- APs that are used for WLAN access should continue to perform RF scanning for the purposes of dynamic RF management and wireless intrusion detection and prevention; however this scanning should not adversely affect data transmission for mission-critical applications (user-defined), voice (through active / in-active call recognition) and load (user-defined threshold) - in other words, APs should delay scanning under these conditions until such time as resumption of scanning will not negatively impact these services.

- Load balancing across bands and steering of dual-band capable clients from 2.4GHz to 5GHz in order to improve network performance without the use of client specific configurations or software.
- Traffic shaping capabilities to offer air-time fairness across different type of clients running different operating systems in order to prevent starvation of client throughput in particular in a dense wireless user population without the use of client specific configurations or software.
- Security enforcement for wireless users through the use of a role-based, stateful firewall that can be directly integrated with the roles defined within existing authentication servers.
- Dynamic, stateful (as defined by ICSA) access rights into the network once authenticated based on source, destination, and/or ports.
- Access policies should provide for automatic capture of data and syslog of access rule triggers for audit and analysis.
- Automatic Rogue AP classification (from interfering APs) and automatic rogue AP containment without requiring dedicated APs to listen on the wired ports or any other manual procedure
- Per user, per device, and per application/TCP-port prioritization.
- Source NAT and destination NAT must be available for private address use.
- Support GRE and IPSEC tunnels between controllers and other GRE/IPSEC termination devices in order to enable secure site-to-site connections without requiring external hardware.
- APs can be updated to support wireless mesh capability without requiring a separate dedicated switch/controller or static radio configuration. Wireless mesh should support dynamic path routing for redundancy.

Product number and description below:

Part #	Description	Qty
3200-US	ARUBA 3200 (0 AP SUPPORT) US	2
SN5-3200-AOS-STD	NEXT-DAY SUPPORT FOR 3200-AOS-STD (1 YR)	2
PC-AC-NA	AC Power Cord (North America Version)	2
LIC-32-AP	Access Point License (32 Access Point License)	2
SN1-LIC-32-AP	ArubaCare Support for 32 AP License (1 YR)	2
LIC-PEF-128	Policy Enforcement Firewall Module License (128 Users)	2
SN1-LIC-PEF-128	ArubaCare Support Policy Enforcement Firewall Module License (128 Users)	2

LIC-WIP-32	Wireless Intrusion Protection Module License (32 AP Support)	2
SN1-LIC-WIP-32	ArubaCare Support for Wireless Intrusion Protection Module License (32 AP Support)	2
AP-125	Aruba 125 Wireless Access Point	19
AP-124	Aruba 124 Wireless Access Point	6
AP-120-MNT	Aruba 120 Series Wireless Access Point Wall / Ceiling Mounting Kit	25

Uninterruptible Power Supplies (UPS):

Objective:

Procurement and installation of uninterruptible power supplies and any associated hardware to maintain operation of network equipment located at various Town buildings. Electrical source will be provided by Town of Addison.

Requirements:

- Shall maintain network equipment in operation for indicated length of time during electrical outages.
 - Service Center - 15-20 minutes
 - Service Center Switch Room - 15 minutes
 - EOC - 15-20 minutes
 - Conference Center (wiring closet) - 5-10 minutes
 - Theatre Center - 5-10 minutes
 - Town Hall - 5-10 minutes
 - Finance Center - 5-10 minutes
 - Fire Station 2 - 5-10 minutes
 - Athletic club (wiring closets) 5-10 minutes
 - Police Department (wiring closet) 5-10 minutes
- Shall have SNMP and TCP/IP network capability for monitoring and control
- UPS at Service Center and Fire Station One EOC:
 - Configurable for N+1 internal redundancy
 - Redundant Intelligence Modules
 - Hot-swappable intelligence modules
 - Hot-swappable power modules
 - Hot-swappable batteries
 - Power modules and Battery modules connected in parallel
 - Automatic internal bypass
 - Automatic restart of loads after UPS shutdown
- Graceful shutdown agent (software)
- Shall be rack mountable (19 inch standard rack)
- Shall have user replaceable hot-swappable batteries
- Installation and configuration of UPS at Town of Addison sites as required.
- Energize the unit and perform a comprehensive diagnostic and self test
- Train Town Information Technology staff on basic operation of UPS
- All equipment and materials shall be new. Used, refurbished or repurposed equipment or material will not be acceptable.
- Delivery of UPS, Batteries and related software/accessories
- Two years repair or replacement Standard Warranty on all equipment

Continued next page

Product number and description below:

Service Center – 16801 Westgrove Drive, Second Level

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SYMMETRA LX	SYA12K16RMP	APC Symmetra LX 12kVA Scalable to 16kVA N+1 Rack-mount, 208/240V Input, 208/240V and 120V Output
UPS Network Management Card	1	APC	AP9617	AP9617	Embedded management of UPS protecting servers and networking equipment
UPS Backplate Kit	2	APC	SYMMETRA	SYPD11	APC Symmetra RM and LX 208/240V Backplate Kit w/(2) L6-30R
PDU	2	APC		AP7841	Rack PDU, Metered, Zero U, 30A, 200/208V, (20)C13 & (4)C19
PDU	2	APC		AP7830	Rack PDU, Metered, Zero U, 20A, 120V, (24) NEMA 5-20R
UPS INSTALLATION	1	APC		WSTRTUP7X24-SY-15	Start-Up Service 7X24

Service Center Switch Room – 16801 Westgrove Drive – Second Level

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	APC Smart-UPS 1500VA USB & Serial RM 2U 120V

EOC (Fire Station 1) – 4798 Airport Pkwy

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SYMMETRA LX	SYA12K16RMP	APC Symmetra LX 12kVA Scalable to 16kVA N+1 Rack-mount, 208/240V Input, 208/240V and 120V Output
UPS Network Management Card	1	APC	AP9617	AP9617	Embedded management of UPS protecting servers and networking equipment
PDU	1	APC		AP7841	Rack PDU, Metered, Zero U, 30A, 200/208V, (20)C13 & (4)C19
PDU	1	APC		AP7801	Rack PDU, Metered, Zero U, 20A, 120V, (8) NEMA 5-20R
UPS BACKPLATE KIT	1	APC	SYMMETRA	SYPD11	APC Symmetra RM and LX 208/240V Backplate Kit w/(2) L6-30R
UPS INSTALLATION	1	APC		WSTRTUP7X24-SY-15	Start-Up Service 7X24

Conference Center (wiring closet) 15650 Addison Rd

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 750	SUA750RM1U	APC Smart-UPS 750VA USB & Serial RM 1U 120V

Product number and description below:

Theatre Center 15650 Addison Rd

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	CT Theatre APC Smart-UPS 1500VA USB & Serial RM 2U 120V

Town Hall – 5300 Belt Line Rd

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	CT Theatre APC Smart-UPS 1500VA USB & Serial RM 2U 120V

Finance Center – 5350 Belt Line Rd

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	CT Theatre APC Smart-UPS 1500VA USB & Serial RM 2U 120V

Fire Station 2 – 3950 Beltway Drive

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	CT Theatre APC Smart-UPS 1500VA USB & Serial RM 2U 120V

Athletic Club (wiring closets)- 3900 Beltway Drive

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	2	APC	SMART-UPS 750	SUA750RM1U	APC Smart-UPS 750VA USB & Serial RM 1U 120V

Police Department – 4799 Airport Pkwy

HARDWARE	Qty	BRAND	MODEL#	PART#	DESCRIPTION
UPS	1	APC	SMART-UPS 1500	SUA1500RM2U	PD Police APC Smart-UPS 1500VA USB & Serial RM 2U 120V

Note: The Town would like to trade in old UPS equipment for a discount on new UPS equipment as follows: (Serial numbers will be provided upon request)

- SMARTUPS 1400XL (quantity of 4)
- SMARTUPS-1000 (quantity of 4)
- SMARTUPS-2200 (quantity of 2)
- SMART-UPS 3000XL (quantity of 5)
- SMART-UPS 1500
- SMART-UPS 1400 stand-alone
- SMART-UPS 2200XL

Council Agenda Item: #R15

SUMMARY:

This item is to request the Council's approval of a contract with TFE Connect for the purchase and replacement of the Town Local Area Network Storage and Routers ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$116,548.33

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

- a) **Performance** - The current Network Infrastructure is an aging system that was redesigned and upgraded in April 2003. Since then the Town has expanded its services and has purchased and implemented several new systems. These systems are all using the same network infrastructure, which was redesigned in 2003;
- b) **Warranty** - The warranty and the extended warranty for every piece of equipment purchased in 2003 has expired.

This proposed solution should provide SAN (Storage Area Network) based data storage consolidation, support for high performance application, and meet system and application high availability and reliability requirements for Town of Addison IT operations. The proposed solution should also address requirements for data growth and disaster recovery architecture planning while offering full compatibility for a server virtualization environment. The proposed solution supports replication of production volumes for disaster recovery purposes...

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with TFE Connect in the amount of \$116,548.33 subject to the City attorney's final approval.

| STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AGREEMENT

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and BlueLine Services, a [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, BlueLine Services, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and BlueLine Services do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of One Hundred Forty Thousand Eight Hundred Fifty Nine and Fifty Four/100 Dollars (\$140,859.54) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2)

years after the work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent

shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

BlueLine Services

_____, Texas _____

Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

BLUELINE SERVICES

By: _____
Ron Whitehead, City Manager

By: _____

Printed/Typed Name: _____

ATTEST:

Title: _____

By: _____
Lea Dunn, City Secretary

Council Agenda Item: #R15

SUMMARY:

This item is to request the Council's approval of a contract with TFE Connect for the purchase and replacement of the Town Local Area Network Storage and Routers ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$116,548.33

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

- a) **Performance** - The current Network Infrastructure is an aging system that was redesigned and upgraded in April 2003. Since then the Town has expanded its services and has purchased and implemented several new systems. These systems are all using the same network infrastructure, which was redesigned in 2003;
- b) **Warranty** - The warranty and the extended warranty for every piece of equipment purchased in 2003 has expired.

This proposed solution should provide SAN (Storage Area Network) based data storage consolidation, support for high performance application, and meet system and application high availability and reliability requirements for Town of Addison IT operations. The proposed solution should also address requirements for data growth and disaster recovery architecture planning while offering full compatibility for a server virtualization environment. The proposed solution supports replication of production volumes for disaster recovery purposes...

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with TFE Connect in the amount of \$116,548.33 subject to the City attorney's final approval.

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AGREEMENT

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and TFE CONNECT, a _____ [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, TFE CONNECT, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and TFE CONNECT do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of One Hundred Sixteen Thousand Five Hundred Forty Eight and Thirty Three/100 Dollars (\$116,548.33) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2)

years after the work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent

shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

TFE CONNECT

_____, Texas _____

Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

TFE CONNECT

By: _____
Ron Whitehead, City Manager

By: _____

Printed/Typed Name: _____

ATTEST:

Title: _____

By: _____
Lea Dunn, City Secretary

Council Agenda Item: #R16

SUMMARY:

This item is to request the Council's approval of a contract with CompuCom for the purchase and replacement of the Storage Resources & Management Software, Backup Hardware & Software, KVM devices (**Keyboard, Video or Visual Display Unit, Mouse**), and VMWare Virtualization Software ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$188,599.94

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

With the proposed network infrastructure upgrade we're totally revamping our network architecture by introducing advanced technologies such as Virtualization and SAN storage solutions...

With the Virtualization, we can see immediate, quantifiable cost savings, while ensuring true business agility—the ability to rapidly respond to the changing market environment. The Virtualization allows us to reduce CapEx through consolidation, Improve OpEx through automation, have a reliable DR (Disaster Recovery) solution in conjunction with SAN technology, and minimize lost revenue due to energy usage - by reducing the energy demands of our datacenter.

The proposed solution consolidates the Town backup solution to the Service Center location with one storage server for onsite recovery and one LTO 4 tape library for offsite storage. It also replicates data between the remote sites and the Service Center and between the Service Center and the Police/Fire sites.

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with CompuCom in the amount of \$188,599.94 subject to the City attorney's final approval.

| STATE OF TEXAS

§

§

AGREEMENT

COUNTY OF DALLAS

§

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and COMPUCOM, a [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, COMPUCOM, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and COMPUCOM do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of One Hundred Eighty Eight Thousand Five Hundred Ninety Nine and Ninety Four/100 Dollars (\$188,599.94) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2)

years after the work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent

shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

COMPUCOM

_____, Texas _____

Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

COMPUCOM

By: _____
Ron Whitehead, City Manager

By: _____

Printed/Typed Name: _____

ATTEST:

Title: _____

By: _____
Lea Dunn, City Secretary

Council Agenda Item: #R17

SUMMARY:

This item is to request the Council's approval of a contract with Solid IT Networks, inc. for the purchase and replacement of the Town Local Area Network Switches and Localized Indoor Wireless Devices ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$146,783

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

- a) **Performance** - The current Network Infrastructure is an aging system that was redesigned and upgraded in April 2003. Since then the Town has expanded its services and has purchased and implemented several new systems. These systems are all using the same network infrastructure, which was redesigned in 2003;
- b) **Warranty** - The warranty and the extended warranty for every piece of equipment purchased in 2003 has expired.

This proposed solution will provide indoor wireless capability at all the town facilities through 802.11x and tunneling protocols. This solution also enables the Public Safety vehicles to upload and download information when they are 300 - 400 feet away from Police Department sally port, and Fire stations 1 and 2...

We are estimating to configure and install these devices in 3-4 months including 6-8 weekends. Implementation will depend on the success of migration and the nature of the problems we might encounter during the process. This is a very complex and time consuming implementation. Our goal is to configure these devices during weekdays and install them on weekends or after hours.

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with Solid IT Networks, inc. in the amount of \$146,783 subject to the City attorney's final approval.

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of One Hundred Forty Six Thousand Seven Hundred Eighty Three and 00/100 Dollars (\$146,783) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2)

years after the work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent

shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

Solid IT Networks, inc.

_____, Texas _____

Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

SOLID IT NETWORKS, INC.

By: _____
Ron Whitehead, City Manager

By: _____

Printed/Typed Name: _____

ATTEST:

Title: _____

By: _____
Lea Dunn, City Secretary

Council Agenda Item: #R18

SUMMARY:

This item is to request the Council's approval of a contract with CDWG for the purchase and replacement of the UPS (Uninterrupted Power Supply), Citrix Remote Access Gateway Software, and DR (Disaster Recovery) Software ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$31,884

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network. Currently we are facing the following challenges that are impacting productivity across the Town's network;

- a) **Performance** - The current UPS devices are an aging system that was redesigned and upgraded in April 2003. Since then the Town has expanded its services and has purchased and implemented several new systems. These systems are all using the same network infrastructure, which was redesigned in 2003;
- b) **Warranty** - The warranty and the extended warranty for every piece of equipment purchased in 2003 has expired.

This proposed solution will provide ~ 15 - 20 minutes of emergency power to allow the network equipments shutdown gracefully when the blackout occurs... This solution also filters AC/DC power supply for noise, induction, and regulates the current...

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with CDWG in the amount of \$31,884 subject to the City attorney's final approval.

| STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AGREEMENT

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and CDWG, a [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, CDWG, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and CDWG do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of Thirty One Thousand Eight Hundred Eighty Four and 00/100 Dollars (\$31,884.0) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the work has been completed. Coverage must be amended

to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

CDWG

_____, Texas _____
Attn:_____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

CDWG

By: _____
Ron Whitehead, City Manager

By: _____

ATTEST:

Printed/Typed Name: _____

By: _____
Lea Dunn, City Secretary

Title: _____

Council Agenda Item: #R19

SUMMARY:

This item is to request the Council's approval of a contract with Peak Resources, inc. for the license upgrade and replacement of the Town Local Area Network Firewall Appliances ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$40,765

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network.

The proposed solution should simplify our network security and lowering associated costs, while strengthening organization defenses by offering firewall technology, intrusion prevention, antivirus, anti-Spyware, Web application firewall, VoIP security, instant messaging (IM) and peer-to-peer (P2P) blocking, URL Filtering, as well as secure site-to-site and remote access connectivity. This solution also offers an option for cooperative enforcement where the appliance and endpoint solution intuitively communicate with each other and ensure desktop compliance.

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with Peak Resources, inc. in the amount of \$40,765 subject to the City attorney's final approval.

| STATE OF TEXAS

§

AGREEMENT

§

COUNTY OF DALLAS

§

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and Peak Resources, inc., a _____ [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, Peak Resources, inc., located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and Peak Resources, inc. do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of Forty Thousand Seven Hundred Sixty Five and 00/100 Dollars (\$40,765.0) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the work has been completed. Coverage must be amended

to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

Peak Resources, inc.

_____, Texas _____

Attn:_____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

PEAK RESOURCES, INC.

By:_____
Ron Whitehead, City Manager

By:_____

ATTEST:

Printed/Typed Name:_____

By:_____
Lea Dunn, City Secretary

Title:_____

Council Agenda Item: #R20

SUMMARY:

This item is to request the Council's approval of a contract with SHI Direct for the purchase and upgrade of the Town Local Area Network Infrastructure Microsoft Licenses to Server 2008 Operating System, SQL Server 2008 (Database), Exchange Server 2008, Windows Office 2007 products, and users licenses for Servers, Mail servers, and SQL databases ... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

We chose SHI Direct through DIR (Texas Department of Information Resources) because their prices were lower than lowest bid received through the RFP process. SHI Direct didn't participate in the RFP process.

DIR (Texas Department of Information Resources) is responsible for a cooperative contracts program that enables government entities to efficiently pool their purchasing power to drive down costs. The program provides an effective procurement channel to thousands of public sector entities across Texas. DIR simplifies the procurement process for public sector entities throughout the State by releasing RFP (Request for Proposal) and choosing vendors at the State level whom can be selected by State agencies and Local governments without issuing RFP...

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$166,020

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network.

Microsoft Product Support - Currently we are using Microsoft Windows 2000 Server Operating system and Microsoft Windows Office 2002 products which based on Microsoft Licensing Policy

- Office 2002 Products - Microsoft discontinued offering mainstream support for Office 2002 products in July, 2006. The Office 2002 **extended** support period will last through July, 2011.
- Windows 2000 Server Operating System - Microsoft discontinued offering mainstream support for Windows 2000 Server Operating products in June, 2005. The Windows 2000 Server Operating **extended** support period will last through July, 2010.

We will be upgrading to Microsoft Windows 2008 Server Operating system and Microsoft 2007 Office products.

Mainstream Support

Mainstream Support is the first phase of the product support lifecycle. At the [supported service pack level](#), Mainstream Support includes:

- Incident support (no-charge incident support, paid incident support, support charged on an hourly basis, support for warranty claims)
- Security update support
- The ability to request non-security hotfixes

Extended Support

The Extended Support phase follows Mainstream Support for Business and Developer products.

At the [supported service pack level](#), Extended Support includes:

- Paid support
- Security update support at no additional cost
- Non-security related hotfix support requires a separate Extended Hotfix Support Agreement to be purchased (per-fix fees also apply).

Attached are copies of RFP, and vendors list and their proposed cost for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with SHI Direct in the amount of \$166,020.

| STATE OF TEXAS

§

§

AGREEMENT

COUNTY OF DALLAS

§

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and SHI Direct, a [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, SHI Direct, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and SHI Direct do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of One Hundred Sixty Six Thousand Twenty and 00/100 Dollars (\$166,020) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the work has been completed. Coverage must be amended

to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

SHI Direct

_____, Texas _____
Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

SHI DIRECT

By: _____
Ron Whitehead, City Manager

By: _____

ATTEST:

Printed/Typed Name: _____

By: _____
Lea Dunn, City Secretary

Title: _____

Council Agenda Item: #R21

SUMMARY:

This item is to request the Council's approval of a contract with CCS Presentation Systems for the purchase and installation of audio visual presentations systems at the Town facilities conference and meeting rooms... On February 13, 2009 we released a comprehensive RFP which was due on March 20, 2009. A non-mandatory pre-bid meeting was also scheduled on March 13... Twenty four (24) proposals were received.

FINANCIAL IMPACT:

Budgeted Amount: \$923,450

Cost: \$71,273

This amount is budgeted in the Information Technology Internal Service Fund.

BACKGROUND:

The original Information Technology Infrastructure was purchased and installed in April of 1998. Since the original purchase each department, based on their number of users, has been contributing to the Information Technology Internal Service Fund on an annual basis. This fund allows the Town to replace systems including hardware and software on a regular basis in order to be adequately responsive to the increasing demands on the network.

This proposed solution will provide audio/video presentation systems at the Town facilities conference and meeting rooms. This solution should address all aspects of system design, installation and where applicable, integration with current equipments. This solution will allow for quick and easy set up of presentations by the Town staff as well as vendors wishing to present via digital/ computer generated media.

We are estimating to configure and install these devices in 3-4 months including 6-8 weekends. Implementation will depend on the success of migration and the nature of the problems we might encounter during the process. This is a very complex and time consuming implementation. Our goal is to configure these devices during weekdays and install them on weekends or after hours.

Attached are copies of RFP, vendors list and their proposed cost, and contract for your review.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into an agreement with CCS Presentation Systems in the amount of \$71,273 subject to the City attorney's final approval.

| STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AGREEMENT

This Agreement is entered into by and between the Town of Addison, Texas (the “City”) and CCS Presentation Systems, a [type of entity and state of formation] (“Vendor”) (the City and Vendor are referred to herein together as the “Parties”).

Recitals:

1. The Town of Addison, Texas (“City”) desires to purchase and replace the Town Local Area Network Servers (“Equipment”) , and sought requests for proposals (“Request for Proposal” issued February 13, 2009, a true and correct copy of which is attached hereto as Attachment 1 and incorporated herein) from qualified vendors for that purpose. The replacement of the Equipment will generally require (i) the loading , configuring, installing, designing, and delivery of the new Equipment (Hardware & software) to the City (the “Project”, which is described more fully in the Request For Proposal and the Vendor Proposal).

2. Pursuant to the request for proposal process, CCS Presentation Systems, located at _____, _____, Texas (the “Vendor Office”) submitted a proposal (the “Vendor Proposal”, a true and correct copy of which is attached hereto as Attachment 2 and incorporated herein) to perform the Project, and the City has selected Vendor to perform the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein and other good and valuable consideration, the Town of Addison, Texas and CCS Presentation Systems do hereby contract and agree as follows:

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

Section 2. Vendor Services.

A. Vendor shall perform the Project in accordance with this Agreement, including without limitation the Request for Proposal and the Vendor Proposal. Without limiting the foregoing:

- (1) Following the receipt of the Equipment, the City will evaluate and test the Equipment. In the event any of the Equipment do not function properly (as determined by the City in consultation with Vendor) and such failure to properly function is determined by the City to be related to the service or work of Vendor, Vendor shall retrieve such Equipment from the City, make such corrections as may be necessary so that such Equipment will function properly, and return the same to the City for testing. This process shall be repeated until such time as the City has determined and is satisfied that the Equipment are functioning properly;

provided, however, that notwithstanding the foregoing, the event the City is not satisfied with any of the Equipment, the City may:

- (a) accept such Equipment with an equitable price adjustment to the extent they do not conform to this Agreement; or
- (b) return such Equipment, in whole or in part, and receive damages described in Section 5 below.

For purposes hereof, each date on which the City determines that it is satisfied with a Desktop Set and/or the Servers is referred to as an "Acceptance Date".

B. Vendor shall provide to the City the products and services described herein in a timely manner (and time is of the essence of this Agreement) and to the City's satisfaction.

C. Vendor will retain risk of loss and damage for all computer hardware, software and other materials while the same is in its possession or control and during any periods of delivery (whether initially or upon the return to Vendor of any such hardware, software, or materials), and such risk of loss and damage will end upon delivery of the same to the City. Vendor will be responsible for any damage caused by its officers, employees, or subcontractors.

Section 3. Fees; Payment. For the Project and the services provided by Vendor hereunder (including, without limitation, the products (computer hardware, software, license, etc.) described in Attachment 2), the City shall pay to Vendor the sum of Seventy One Thousand Two Hundred Seventy Three and 00/100 Dollars (\$71,273.0) (the "Vendor Price"). Such payment shall be made in accordance with the following:

Following the Acceptance Date for any Equipment, Vendor shall submit an invoice for the proportionate share of the Vendor Price relating to such Equipment; provided, however, that in no event shall the total price billed by Vendor and paid by the City under this Agreement exceed the Vendor Price. In addition, each such invoice shall include such additional information as the City may request in connection with the invoice and/or the compensation paid to Vendor.

Section 4. Insurance; Indemnity.

A. Vendor, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- 1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include, without limitation, products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2)

years after the work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance. An alternative would be to have separate limits for all lines of General Liability coverage for each project.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
4. Professional Liability coverage with minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of the contract.

With reference to the foregoing insurance requirements, Vendor shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the Town of Addison, Texas shall be contained in the Workers Compensation and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name The Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Vendor may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.

9. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

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

1. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
3. Upon request, Vendor shall furnish the Town of Addison with certified copies of all insurance policies.

B. 1. If a third Party claims that any computer hardware, software, or other materials that Vendor provides under this Agreement infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Vendor will defend the City against that claim at Vendor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

- (a) promptly notifies Vendor in writing of the claim and does not incur defense expenses without prior notice to Vendor; and
- (b) allows Vendor to control, and cooperates with Vendor in, the defense and any related settlement negotiations.

The provisions of this paragraph B.1. shall survive the termination or expiration of this Agreement.

2. Vendor shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract or tort (including strict liability), arising from, out of, or in connection with (i) any act or omission of Vendor or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them, (ii) any breach of this Agreement by Vendor, and (iii) any assertion 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 provision. The provisions of this paragraph B.2. shall survive the termination or expiration of this Agreement.

Section 4. Warranty.

A. Vendor warrants that its services and work will be provided in a professional, good and workman like manner, consistent with the commercially accepted best practices and standards that are in use in Vendor's line of business as of the time such services and work are provided. Vendor covenants that its services and work shall meet the City's standard work rules, security regulations or similar requirements if Vendor is informed of same. Vendor warrants and represents that it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described in the Request for Proposal, the Vendor 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.

B. Vendor warrants its service and work as described in this Agreement for a period of twelve (12) months from each Acceptance Date.

C. Vendor represents and warrants that it has clear title to and the right to sell (or will have clear title to and the right to sell prior to and at the time of the sale of the items to the City) the items to be delivered by Vendor hereunder.

D. In connection with the Project and prior to each Acceptance Date, Vendor shall, with respect to the products described herein which are applicable or relate to an Acceptance Date, assign to the City all benefits of the manufacturer's warranty on the products described herein provided to the City, or any other guarantee which may apply to any such products, if Vendor has such benefits, warranty or guarantee.

Section 5. Termination. 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 City terminates the Agreement for default by Vendor, City will pay Vendor for any hardware and materials that City elects to accept. City will return to Vendor any hardware and materials that it does not elect to accept and pay for. Vendor will pay to City the actual damages that are caused by Vendor's default.

Section 6. Conflict Between Documents. To the extent of a conflict which cannot be reconciled (as determined by the City) between this Agreement, the Request for Proposal, and the Vendor Proposal, this Agreement shall control over the Request for Proposal and the Vendor Proposal, and the Request for Proposal shall control over the Vendor Proposal.

Section 7. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Vendor, Vendor has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent

shall be considered null and void and shall be cause for the City to immediately terminate this Agreement.

Section 8. Venue. In the event of any suit or action under this Agreement, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Vendor agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

Section 9. Entire Agreement and Modification. This Agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Vendor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 10. Enforceability; Survival. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Agreement allocating responsibility or liability of or between City and Vendor shall survive completion of the services hereunder and termination of this Agreement.

Section 11. Confidential Information. The Parties' agreement regarding confidential information is set forth in the Vendor Proposal.

Section 12. Independent Contractor. Vendor shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Vendor performs the services which are the subject matter of the Agreement; provided always however that the services to be provided by Vendor shall be provided in a manner consistent with all applicable standards and regulations governing such services.

Section 13. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent first class mail or by hand-delivery to:

To the City:

Town of Addison
16801 Westgrove Drive
Addison, TX 75001-9010
Attn: Hamid Khaleghipour

To Vendor:

CCS Presentation Systems

_____, Texas _____

Attn: _____

Section 14. Authority. Each Party hereby represents that as of the date of execution of this Agreement that it has full power and authority to enter into and to perform this Agreement, and that the undersigned officers and/or agents of the Parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective Parties. Each Party hereby represents, covenants, and warrants that as of the date of this Agreement 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the ____ day of April, 2009.

TOWN OF ADDISON, TEXAS

CCS PRESENTATION SYSTEMS

By: _____
Ron Whitehead, City Manager

By: _____

Printed/Typed Name: _____

ATTEST:

Title: _____

By: _____
Lea Dunn, City Secretary

Council Agenda Item: #R22

SUMMARY:

Consideration and approval of (1) a proposed Addison Airport Master Landlord's Consent to Sublease form and (2) delegate authority to the City Manager or his designee to execute the Master Landlord's Consent to Sublease for Addison Airport on behalf of the Town provided the City Attorney has determined no material alteration or modification to the terms and conditions of the Agreement are required by the Airport tenant seeking such consent.

BACKGROUND:

Under the terms and conditions of all Addison Airport ground and city-owned commercial hangar lease agreements, the tenant is to obtain the Town's prior written consent of the creation and execution of any sublease. Although this requirement is commonly found in commercial leases, such a practice has proven to be difficult to administer at the Airport and has become generally ignored by Airport tenants. This is because under the Town's current procedures in order to obtain "the Town's consent" each and every sublease must be considered and approved by the Town Council during a regularly scheduled meeting, which in some instances may require as much as 45 days before a determination can be rendered. Most tenants find this requirement onerous and time consuming, especially given the highly competitive marketplace where subtenants are looking for and needing a lease commitment in advance of 45 days.

To improve upon the current situation, staff is proposing the Town Council adopt the attached Master Landlord's Consent to Sublease Agreement (the "Consent Agreement") and delegate its authority of consent to the City Manager or his designee. The benefits of the above action include:

1. Tenants can use the Consent Agreement form as a standard rider to all future subleases. In so doing, tenants can incorporate the rider early in their sublease negotiations with a higher degree of confidence and understanding of the Town's requirements, expectations and responsiveness.
2. Allow tenants the opportunity to bring existing subleases into compliance without having to formally petition the Town Council.
3. Reduce unnecessary legal costs for all parties.
4. Opportunity for subtenants to become in compliance and to become better apprised of their duties and obligations to the Town and their landlord.
5. The Town and Airport Management can more effectively manage the users and operators at the Airport and ensure the Town's interests are adequately protected.

RECOMMENDATION:

Staff and Airport Management recommend the Town Council delegate its authority of sublease consent as required by certain Airport leases to the City Manager or his designee, and to adopt the use of the Addison Airport Master Landlord's Consent to Sublease Agreement .

The City Attorney has reviewed the proposed sublease consent form and finds the terms set forth acceptable.

Attachments: Bill Dyer – Memorandum
Master Landlord's Consent to Sublease Agreement Form



William M. Dyer
Real Estate Manager
16051 Addison Road,
Suite 220
Addison, Texas 75001

Main: 972-392-4850
Direct: 972-392-4856
Fax: 972-788-9334
Bill.Dyer@AddisonAirport.net

Memorandum

To: Mark Acevedo
From: Bill Dyer
CC: Joel Jenkinson
Date: 4/20/2009
Re: Proposed Master Landlord Consent to Sublease Agreement Form and Administrative Guidelines

Requested Action: Airport Management is requesting the Town Council to (1) consider and consent to the proposed Addison Airport Master Landlord's Consent to Sublease Agreement form (see attached) and (2) delegate authority to the City Manager or his designee to execute the Master Landlord's Consent to Sublease on behalf of the Town provided the City Attorney has determined no material alteration or modification to the terms and conditions of the Agreement are required by the Airport tenant seeking such consent.

Background Information:

Under the terms and conditions of all Addison Airport ground and city-owned commercial hangar lease agreements, the tenant is to obtain the Town's prior written consent of the creation and execution of any sublease. Although this requirement is commonly found in commercial leases, such a practice has proven to be difficult to administer at the Airport and has become generally ignored by Airport tenants. This is because under the Town's current procedures in order to obtain "the Town's consent" each and every sublease must be considered and approved by the Town Council during a regularly scheduled meeting, which in some instances may require as much as 45 days before a determination can be rendered. Most tenants find this requirement onerous and time consuming, especially given the highly competitive marketplace where subtenants are looking for and needing a lease commitment in advance of 45 days.

Even though such a practice constitutes a technical default of the primary lease and both the tenant and subtenant run the risk of the Town invalidating a violating sublease at anytime, Airport Management estimates there may be as many as 200-300 subleases currently in effect at the Airport where the tenant has not petitioned the Town for its consent because either (1) they are not aware of the requirement or (2) they choose to avoid what is regarded to be a burdensome process and not risk losing their subtenant prospect.

As a result of the current circumstances not only are tenants technically in default, but most subtenants are probably not aware they are to be bound to many of the same terms and conditions contained in the primary lease including, but not limited to, the permitted use, Airport Rules and Regulations and the Airport Minimum Standards. Additionally, the Town and Airport Management are denied the opportunity to effectively and proactively manage those using and conducting business at the Airport. It certainly negates the Town's ability to proactively intervene on certain sublease arrangements that might create either an operational risk or incompatible use. It is usually far less expensive and disruptive to deny a sublease in advance than to invalidate it after the fact. Also, there might be circumstances when a tenant has defaulted under their primary lease and the Town's options become mired because of tenancy issues that could have been avoided otherwise.

Proposed Action: It is important for the Town to maintain a proactive position with respect to all subleases by exercising its consent rights. In order to improve upon the current situation, Airport Management is proposing the Town Council adopt the attached Master Landlord's Consent to Sublease Agreement (the "Consent Agreement") and delegate its authority of consent to the City Manager or his designee. The benefits of the above action include:

1. Tenants can use the Consent Agreement form as a standard rider to all future subleases. In so doing, tenants can incorporate the rider early in their sublease negotiations with a higher degree of confidence and understanding of the Town's requirements, expectations and responsiveness.
2. Allow tenants the opportunity to bring existing subleases into compliance without having to formally petition the Town Council.
3. Reduce unnecessary legal costs for all parties.
4. Opportunity for subtenants to become in compliance and to become better apprised of their duties and obligations to the Town and their landlord.
5. The Town and Airport Management can more effectively manage the users and operators at the Airport and ensure the Town's interests are adequately protected.

Implementation Plan:

Upon the Town's adoption of the Consent Agreement and the Council granting the City Manager or his designee the authority to consent on behalf of the Town, Airport Management will begin to distribute the Consent Agreement form to all current and future tenants at the Airport with detailed instructions and guidance on how and why having a fully executed Consent Agreement on file is important and serves the best interests of all parties concerned. Airport Management expects it will take the better part of twelve (12) months working closely with tenants and their subtenants to achieve substantial compliance at the Airport.

The following general guidelines will be used for implementation and continued compliance:

1. Where the sublease is for aircraft storage only (personal or business use) and aircraft storage is among the permitted uses under the parent lease agreement, the Town will, with reservation, waive its consent requirement provided that:
 - a) the sublease is limited to aircraft storage use only; and
 - b) the parties to the sublease agree to attach an executed Consent Agreement to the sublease (without the Town's prior consent) which shall be available for the Town's inspection anytime during normal business hours and reasonable advance notice is given.
2. With the exception of #1 above, all other subleases require the Town's prior consent evidenced by a fully executed Consent Agreement.
3. Upon receipt of a completed Consent Agreement, Airport Management will promptly review the consent request for:
 - a) consistency and compliance with the primary lease,
 - b) that no apparent operational or compatibility concerns exist, and
 - c) subtenant is provided current copies of the Airport Rules and Regulations and Airport Minimum Standards.
4. Provided there are no objections, Airport Management will recommend to the City Manager or his designee to give consent on behalf of the Town with the objective to have such consent back to the tenant no later than seven (7) business days after the request is first received.
5. If Airport Management has any reservation about the proposed sublease, Airport Management is to notify the tenant of its concerns within five (5) business days after first receiving the consent request.
 - a) If Airport Management and the tenant are able to resolve the discrepancy, Airport Management is to forward its favorable recommendation to the City Manager or his designee with the objective to have such consent back to the tenant no later than seven (7) business days thereafter.

- b) If after further counsel with tenant and/or the subtenant Airport Management is unable to resolve the discrepancy, Airport Management may refer the matter to the City Manager or his designee, who may, at his or her sole discretion, refer the matter to the Town Council for their consideration and consent.
6. In the event a tenant requests a certain modification to the terms and conditions of the Consent Agreement to accommodate a particular situation, the City Attorney will determine if the proposed modification is material and will require the consideration and consent of the Town Council.

Conclusion and Recommendation:

Under the terms and conditions of all Addison Airport ground and city-owned commercial hangar lease agreements, the tenant is required to obtain the Town's prior written consent to the creation and execution of any sublease. The current procedure requires each and every sublease to be considered and consented to by the Town Council, which has proven to be onerous for all parties concerned.

In order to improve on its procedures and practices, Airport Management is proposing the Town Council delegate its authority of sublease consent as required by certain Airport leases to the City Manager or his designee, and to adopt the use of the Addison Airport Master Landlord's Consent to Sublease Agreement as attached hereto and as described herein.

ATTACHMENT

MASTER LANDLORD'S CONSENT TO SUBLEASE

Rider to Sublease Agreement

GROUND TENANT & MASTER LEASE INFORMATION

Name of Tenant as "Tenant"			
Primary Contact			
Legal Notice Address:			
Telephone:		Ground Lease No: _____.	
E-mail Address:		Effective Date of Ground Lease: ____ / ____ / ____.	
		the " Master Lease Effective Date "	

SUBLEASE AGREEMENT (the "Sublease")

"Sublease Agreement Date": ____ / ____ / ____	"Commencement Date": ____ / ____ / ____	"Expiration Date": ____ / ____ / ____
Describe Renewal Options (if applicable): 		

Name of Subtenant:	(as " Subtenant ")	"State" of Registration (if applicable)
DBA:		
"Entity Type"	Corporation	Partnership
	Limited Liability Company (LLC)	Joint Venture
	Sole Proprietorship	Individual
	Other:	
Primary Contact:		Title:
Address of Leased Premises		
Telephone:		E-mail:
Website:	<input type="checkbox"/>	Please include in Airport Directory (See Page 2 for additional information)

SECONDARY COMPANY CONTACT INFORMATION

Name:		Title:
Telephone:		E-mail

ATTACHMENT

MASTER LANDLORD'S CONSENT TO SUBLEASE

Rider to Sublease Agreement

EMERGENCY / AFTER HOURS CONTACT INFORMATION

Name:		Title:
Telephone:		E-mail

BASED AIRCRAFT REGISTRATION (if needed, use an additional sheet)

N #	Make	Model	Year

**PERMITTED USE OF SUBLEASED PREMISES SUBJECT TO MASTER LEASE-
(check all that apply)**

<input type="checkbox"/> Aircraft Sales & Rentals	<input type="checkbox"/> Aircraft Maintenance & Repairs
<input type="checkbox"/> Air Cargo Operations	<input type="checkbox"/> Instruction/Training
<input type="checkbox"/> Corporate Aircraft Storage & Flight Oper.	<input type="checkbox"/> Office & General Administration
<input type="checkbox"/> Fractional Ownership/Charter Oper.	<input type="checkbox"/> Personal Aircraft Storage Only
<input type="checkbox"/> Other (describe):	<input type="checkbox"/> Other (describe)

AERONAUTICAL BUSINESS SERVICES AND AFFILIATIONS (choose from the list below)

Primary Business Type:	Secondary Business Type:
------------------------	--------------------------

ANCILIARY SERVICES SUBTENANT PROVIDES (choose all that apply)

<input type="checkbox"/> Aircraft Air Conditioning	<input type="checkbox"/> Aviation Support	<input type="checkbox"/> Government Contracts
<input type="checkbox"/> Aircraft Cleaning	<input type="checkbox"/> Avionics Sales/Repair	<input type="checkbox"/> Hangar Development
<input type="checkbox"/> Aircraft Sales - Turbine	<input type="checkbox"/> Charter - Cargo	<input type="checkbox"/> Hangar Management
<input type="checkbox"/> Aircraft Sales - Piston	<input type="checkbox"/> Charter - Passenger	<input type="checkbox"/> Hangar/Office Leasing
<input type="checkbox"/> Airport Management	<input type="checkbox"/> Concessions	<input type="checkbox"/> Helicopter Maintenance
<input type="checkbox"/> AMP Testing	<input type="checkbox"/> Corporate Flight Dept.	<input type="checkbox"/> Helicopter Repairs
<input type="checkbox"/> Aviation Consulting	<input type="checkbox"/> Fixed Base Operator	<input type="checkbox"/> Instrument Sales/Repair
<input type="checkbox"/> Aviation Insurance	<input type="checkbox"/> Flight Instruction	<input type="checkbox"/> Interior Design/Refurbishment
<input type="checkbox"/> Aviation Maintenance/Heavy	<input type="checkbox"/> Fractional Ownership	<input type="checkbox"/> Museum
<input type="checkbox"/> Aviation Maintenance/Light	<input type="checkbox"/> Fuel Tank Inspect/Repair	<input type="checkbox"/> Pilot Shop

FAA & OTHER CERTIFICATIONS

ATTACHMENT

MASTER LANDLORD'S CONSENT TO SUBLEASE Rider to Sublease Agreement

(Underlined terms are defined as first given above)

The Town of Addison, Texas (the "Master Landlord") is the sole Landlord under that certain Ground Lease/Lease Agreement dated as of the Master Lease Effective Date wherein by way of any assignment, amendment, modification or other act, the above named Tenant is the Tenant of the Ground Lease/Lease Agreement described above. Together with any and all assignments, modifications and amendments thereto, if any, the Ground Lease/Lease Agreement is hereinafter referred to as the "Master Lease," by the terms of which Tenant leased from Master Landlord certain property referred to as the "Demised Premises," "Leased Premises," or "Premises" (or such similar term) in the Master Lease (referred to herein as the "Demised Premises") located at Addison Airport within the Town of Addison, Texas, said property being more particularly described in said Master Lease. Tenant is hereby seeking Master Landlord's consent to the sublease ("Consent to Sublease") by Tenant of all or a part of the Demised Premises, which part is described in the Sublease, to the Subtenant so named above, pursuant to that Sublease Agreement described above (the "Sublease"), on the following terms and conditions:

Based on Tenant's representations, Master Landlord hereby consents to the Sublease on the following terms and conditions:

1. Tenant shall remain fully liable for the performance of each and every term, provision, covenant, duty and obligation of the Tenant under the Master Lease including, without limitation, the duty to make any and all payments of rent. This Consent to Sublease shall in no way release Tenant from any of its covenants, agreements, liabilities and duties under the Master Lease. Upon written demand by Master Landlord, Tenant and/or Subtenant shall deliver a true and correct copy of the Sublease as it may be amended or modified from time to time. This Consent to Sublease does not constitute approval by Master Landlord of the terms of the Sublease. Nothing herein contained shall be deemed a waiver or release of any of the Master Landlord's rights under the Master Lease.

2. No further subletting or assignment, conveyance, or other transfer of all or any portion of the Demised Premises shall be made without the prior written consent of the Master Landlord.

3. Subtenant's use and occupancy of the Demised Premises shall be subject to all of the terms and conditions of the Master Lease, Subtenant agrees to be bound by the terms and provisions of the Master Lease and in the event of any conflict between the terms of the Master Lease and the terms of the Sublease, the terms of the Master Lease shall control (and, without limiting the foregoing, the Demised Premises shall never be used for any purpose other than as permitted by the Master Lease, and this Consent to Sublease does not constitute and is not consent to any use on or within the Demised Premises which is not permitted by the Master Lease).

4. Subtenant shall be obligated to obtain Master Landlord's consent to any action as to which Tenant is obligated to obtain such consent under the Master Lease.

5. The Sublease shall automatically terminate upon termination of the Master Lease, notwithstanding any other provision of the Sublease to the contrary. Master Landlord has no obligation to communicate such termination to Subtenant.

6. Tenant shall be fully liable for any violation by Subtenant of any of the terms and conditions of the Master Lease.

7. Master Landlord shall have no obligation for the performance by Tenant of its obligations under the Sublease. Neither this Consent to Sublease, the exercise by Master Landlord of its rights hereunder, nor the Sublease or any other instrument shall give Subtenant

ATTACHMENT

MASTER LANDLORD'S CONSENT TO SUBLEASE

Rider to Sublease Agreement

any rights directly or indirectly against Master Landlord or create or impose any obligation, duty, responsibility, or liability of Master Landlord in favor of or for the benefit of Subtenant.

8. In the event of the occurrence of an event of default under the Master Lease by Tenant while the Sublease is in effect, Master Landlord, in addition to any other rights or remedies provided in the Master Lease or by law, in equity, or otherwise, may at Master Landlord's option, collect directly from the Subtenant all rents becoming due under the Sublease and apply such rent against any sums due to Master Landlord. No direct collection by Master Landlord from Subtenant shall release Tenant from the payment or performance of Tenant's obligations under the Master Lease; provided that if Master Landlord collects any rents directly from Subtenant pursuant to this paragraph, Subtenant shall be released from its obligations to pay such rents to Tenant.

9. Tenant and Subtenant each hereby represent and warrant to Master Landlord that other than the Sublease, there are no agreements or understandings, whether written or oral between Tenant and Subtenant with respect to Subtenant's use and occupancy of the Demised Premises or any property of Tenant located therein.

10. Tenant and Subtenant each hereby covenants and agrees with Master Landlord that Tenant and Subtenant shall **defend, indemnify and hold harmless** Master Landlord, its elected officials, its officers, employees, representatives and agents from and against any and all claims, liabilities and obligations to any broker or agent in connection with the Sublease, including, without limitation, any reasonable attorneys' fees and costs incurred by Master Landlord in connection therewith.

11. If Subtenant is to operate as a commercial aeronautical service provider pursuant to the Sublease Agreement, Tenant hereby warrants and represents to Master Landlord that Tenant has delivered to Subtenant a complete copy of the *Addison Airport Minimum Standards and Requirements for Commercial Aeronautical Service Providers* and the *Addison Airport Rules and Regulations*, and Subtenant hereby acknowledges and warrants and represents to Master Landlord that Subtenant has received the same and shall comply with the requirements set forth therein.

12. Tenant and Subtenant attest, warrant and represent to Master Landlord that all information given herein is true and correct.

This Master Landlord's Consent to Sublease shall not be effective unless and until an original copy executed by all parties has been returned to Master Landlord, attention Real Estate Manager, Addison Airport, 16051 Addison Road, Suite 220, Addison, TX 75001.

ATTACHMENT

MASTER LANDLORD'S CONSENT TO SUBLEASE Rider to Sublease Agreement

ACKNOWLEDGED AND AGREED:

By Tenant:

By: _____

Date: _____

Subtenant:

By: _____

Date: _____

Recommended by Airport Manager

By: _____

Title: _____
Airport Director

Dated: _____

Master Landlord Town of Addison, Texas

By: _____

Title: _____
Its Delegated Authority

Dated: _____

Council Agenda Item: #R23

SUMMARY:

Consideration and approval of a proposed Addison Airport Non-Aeronautical Use License Agreement. This Agreement is to be used when an Off-Airport Property Owner desires to use or access any portion of the Airport public area (as defined in Chapter 14, Article III, Division 3 of the City's Code of Ordinances as the same may be amended or superseded) for non-aeronautical purposes only in accordance with the City Ordinance.

BACKGROUND:

Since 1998 there has been an existing ingress/egress license agreement by and between the Town and T.F. Stone, an individual property owner of 4651 Glenn Curtiss, 4700 Ratliff, 4751 Glenn Curtiss and 16175 Addison Road (four buildings located north of Glenn Curtiss and west of Addison Road). Glenn Curtiss is a platted 50' wide access right-of-way (ROW) owned by the Town as part of the Addison Airport common area facilities. The license agreement commenced May 1, 1998 and is scheduled to expire December 31, 2018. Late last year the Town approved the re-platting of the property into four individual legal parcels. Stone has subsequently sold or is in the process of selling each of these properties to various owners. Consequently, the existing single license agreement is no longer appropriate for its intended use.

The proposed Non-Aeronautical Use License Agreement has been drafted in keeping with the generalities of the Airport Access Ordinance while providing the fee-simple property owner and their tenants', guests and invitees the right to use Glenn Curtiss to access their property (vehicle and pedestrians) only. These properties do not have physical access to the operating portion of the Airport, so the license specifically precludes any aircraft-related use (we would require a TTF permit in such a case). Section 14-106(c) grants the City Manager the authority to execute an Access Permit on behalf of the Town providing the applicant has provided all the required information and/or materials required by an access permit; the applicant is current with any and all city property taxes, charges, assessments, or fines; and in compliance with all laws, ordinances, codes, rules, policies and regulations of the Town.

RECOMMENDATION:

Staff and Airport Management recommends the Town Council consent to the adoption of the proposed Addison Airport Non-Aeronautical Use License Agreement and grant the City Manager the authority to execute an Access Permit on behalf of the Town providing the applicant has provided all the required information and/or materials required by an access permit; the applicant is current with any and all city property taxes, charges, assessments, or fines; and in compliance with all laws, ordinances, codes, rules, policies and regulations of the Town.

The City Attorney has reviewed the proposed License Agreement and finds the terms set forth acceptable.

Attachments: Bill Dyer – Memorandum
Addison Airport Non-Aeronautical Use License Agreement



William M. Dyer
Real Estate Manager
16051 Addison Road,
Suite 220
Addison, Texas 75001

Main: 972-392-4850
Direct: 972-392-4856
Fax: 972-788-9334
Bill.Dyer@AddisonAirport.net

Memorandum

To: Mark Acevedo
From: Bill Dyer
CC: Joel Jenkinson
Date: 4/21/2009
Re: Proposed Addison Airport Non-Aeronautical Use License Agreement

Requested Action:

Airport Management is requesting the Town Council to consider and consent to the adoption of the proposed Addison Airport Non-Aeronautical Use License Agreement to be used when an Off-Airport Property Owner desires to use or access a specific portion of the Airport public area (as defined in Chapter 14, Article III, Division 3 of the City's Code of Ordinances as the same may be amended or superseded) for *non-aeronautical purposes only* in accordance with the City Ordinance.

Background Information:

Since 1998 there has been an existing ingress/egress license agreement by and between the Town and T.F. Stone, an individual property owner of 4651 Glenn Curtiss, 4700 Ratliff, 4751 Glenn Curtiss and 16175 Addison Road (four buildings located north of Glenn Curtiss and west of Addison Road as shown below). Glenn Curtiss is a platted 50' wide access right-of-way (ROW) owned by the Town as part of the Addison Airport common area facilities. The license agreement commenced May 1, 1998 and is scheduled to expire December 31, 2018. The initial annual license fee of \$1,000 per year is due payable on the first day of every calendar year over the term, subject to bi-annual

CPI adjustments. The current annual license fee is to \$1,288.10 and is scheduled for its next CPI adjustment in January 2010.



The subject properties highlighted in green are situated between Glenn Curtiss (Airport ROW) and Ratliff Rd. (a city street) to their right.

Late last year the Town approved the re-platting of the property into four individual legal parcels. Stone has subsequently sold or is in the process of selling each of these properties to various owners. Consequently, the existing single license agreement is no longer appropriate for its intended use.

The proposed Non-Aeronautical Use License Agreement has been drafted in keeping with the generalities of the Airport Access Ordinance while providing the fee-simple property owner and their tenants', guests and invitees the right to use Glenn Curtiss to access their property (vehicle and pedestrians) only. These properties do not have physical access to the operating portion of the Airport, so the license specifically precludes any aircraft-related use (we would require a TTF permit in such a case). Section 14-106(c) grants the City Manager the authority to execute an Access Permit on behalf of the Town providing the applicant has provided all the required information and/or materials required by an access permit; the applicant is current with any and all city property taxes, charges, assessments, or fines; and in compliance with all laws, ordinances, codes, rules, policies and regulations of the Town.

Our discussion with the new property owners' representative is the total fee would remain the same, subject to annual adjustment, but pro-rated based upon each property's actual frontage feet to Glenn Curtiss or \$3.24 per frontage foot per annum subject to a bi-annual CPI adjustment. The initial term is for twenty-five (25) years and will

automatically renew for an additional fifteen (15) years if the License is not earlier terminated. The Town has the right to adjust the License fee at the time of any renewal.

Alternative Consideration:

The Town could decline granting the proposed Non-Aeronautical Use License Agreement to the respective property owners; however, each will incur significant hardship adversely impacting the use and benefit of their property holdings, which would also adversely impact the Town's property tax base. Furthermore failure by the Town to assess fair and reasonable fees for such use of Airport Property could cause the Town to be in violation of its grant assurances with TxDOT and the FAA.

Conclusion and Recommendation:

Airport Management recommends the Town Council consent to the adoption of the proposed Addison Airport Non-Aeronautical Use License Agreement for when an Off-Airport Property Owner desires to use or access a specific portion of the Airport public area (as defined in Chapter 14, Article III, Division 3 of the City's Code of Ordinances as the same may be amended or superseded) for *non-aeronautical purposes only* in accordance with the City Ordinance. Section 14-106(c) grants the City Manager the authority to execute an Access Permit on behalf of the Town providing the applicant has provided all the required information and/or materials required by an access permit; the applicant is current with any and all city property taxes, charges, assessments, or fines; and in compliance with all laws, ordinances, codes, rules, policies and regulations of the Town.

STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

ADDISON AIRPORT NON-AERONAUTICAL USE LICENSE AGREEMENT
 (License No. 7600-_____)

This Addison Airport Non-Aeronautical License Agreement ("License") is issued by the Town of Addison, Texas ("Licensor") to _____ ("Licensee"), effective as of _____, 200_, (the "Effective Date").

Licensee Contact Information and Other Salient Terms (which are further defined herein):

Name of "<u>Licensee</u>":	
Type of Entity: <i>(an individual, or type of entity and state of formation)</i>	
" <u>Licensee Property</u> " Legal Address: <i>(inc .Lot & Block description if available)</i>	
Licensee's Notice Address: <i>(If different from the Licensee Property Address)</i>	
Licensee's Telephone Number:	
Licensee's Facsimile Number:	
Licensee's E-Mail Address:	
Licensee's Stated Use of Property:	
" <u>Linear Front Footage</u> ":	
" <u>Non-Aeronautical Access Rate</u> "	
" <u>Base License Fee</u> ": <i>(Linear Front Footage x Non-Aeronautical Access Rate)</i>	

WHEREAS, Licensor is the owner of Addison Airport ("Airport") which, as of the Effective Date, is as depicted in the Final Plat attached hereto as Exhibit "A," which plat has been recorded in Volume 2005131, Page 82, Map Records of Dallas County, Texas (the "Airport Plat"); and

WHEREAS, the Airport is as of the Effective Date operated and managed for Licensor by a third party (the "Airport Manager", which, as of the Effective Date, is Washington Staubach Addison Airport Venture, a Texas joint venture); and

WHEREAS, Licensee is the sole owner of certain real property described and depicted in Exhibit "B" attached hereto and made a part hereof ("Licensee Property" or "Licensee's Property"), which property has a common boundary with the Airport; and

WHEREAS, Licensee desires to obtain from Licensor a non-exclusive license to use a portion of the Licensor's non-airport operating area (non-aviation area) on the Airport solely for vehicle (automobile and truck only; non-aircraft) and pedestrian access to and from Licensee's Property.

NOW, THEREFORE, for and in consideration of the premises and mutual promises and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereto agree as follows:

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

2. License. Subject to the terms and conditions contained in this Agreement, Licensor hereby grants to Licensee a non-exclusive license to use a portion of the non-aviation area of the Airport commonly known as Glenn Curtiss Drive (as shown on the Airport Plat and being 50 feet in width) that is immediately adjacent to, abuts with, and shares a common property boundary with Licensee's Property (such portion being the "Licensed Area" and is more particularly described and depicted in Exhibit "C" attached hereto and made a part hereof), solely for the purpose of ingress and egress (vehicle (automobile and truck only; non-aircraft) and pedestrian ingress and egress only) to and from the Licensee Property and Addison Road. Except for the Licensed Area, Licensee shall have no rights under this Agreement to access any other area of the Airport, including the aviation movement areas. The license hereby granted is limited and restricted to the use of the Licensed Area for vehicle (automobile and truck only) and pedestrian ingress and egress only for the Licensee Property.

Notwithstanding, this Agreement is:

(a) subject to and given only upon the terms and conditions set forth in this License; and

(b) subject and subordinate to:

(i) the prior and continuing right of the Licensor, its successors and assigns, to use all and any part of the Licensed Area for any purpose whatsoever in the Licensor's sole discretion,

(ii) any electric, gas, communication, cable, water, sanitary sewer, storm sewer, or other utility or drainage easement, license, or right within or affecting the Licensed Area now in effect or hereafter established,

(iii) any and all currently existing title exceptions or other matters affecting title (whether of record or not), and visible or apparent easements or encumbrances which may be observed from an inspection,

(iv) any existing franchise, grant, license, lease, easement, or other interest heretofore or hereafter granted or conveyed by the Licensor, and

(v) all federal, state and local laws, constitutional provisions, statutes, the Town of Addison Charter, ordinances, codes (including building, electrical, plumbing, mechanical, property maintenance, and similar codes), standards, directives, orders, policies, rules, regulations, and grants (including grant agreements and grant assurances and any and all requirements, conditions, policies, permits, standards, rules, or directives in connection therewith or relating thereto), now in effect or hereafter promulgated, and all court orders, governmental directives, and governmental orders, and all interpretations of the foregoing, now in effect or hereafter promulgated (collectively, "Laws," and "Law" means any of the foregoing) (and including, without limitation, Laws of the Federal Aviation Administration ("FAA"), United States Environmental Protection Agency, the State of Texas, the Texas Commission on Environmental Quality, the Texas Department of Transportation ("TxDOT"), and the Town of Addison, Texas).

3. Term.

A. *Initial Term.* The term of this Agreement shall commence on the Effective Date set forth above and, unless otherwise terminated, shall continue in effect for a period of twenty five (25) years (the "Initial Term").

B. Renewal Term.

(1) At the end of the Initial Term, provided there is not then an uncured default of this Agreement by Licensee, this License shall be automatically renewed without further action of either Licensor or Licensee for an additional period of fifteen (15) years (the "Renewal Term") (subject to the termination provisions of this License); for a total possible total term not to exceed forty (40) years.

(2). At the Licensor's sole discretion, this License may be continued or extended beyond the Renewal Term provided:

a. the Licensor will still own and control the Licensed Area during the modified term;

b. any continuation of the License is consistent with the Licensor's and/or Airport's purposes and objectives;

c. where no more than fifteen (15) years remain under the prevailing Term and such renewal or extension does not exceed any duration of term authorized by law;

d. that at the time of such continuance of this License, the Licensee is not in default of this License;

e. any extension or continuance of this License shall be made in compliance and accordance with the terms, conditions, and standards set for the

Town of Addison Code of Ordinances as the same may be amended or modified in whole or in part from time to time, as they pertain to this License.

Each Renewal Term shall be on the same terms and conditions as set forth in this License, except as the same may be modified as provided for herein.

4. License Fee. As consideration for this License, Licensee agrees to pay Licensor an annual fee (the "License Fee") as follows:

A. Subject to adjustment as hereinbelow provided, Licensee agrees to pay to Licensor, without demand, offset or deduction, an annual fee (the "License Fee") for the use of the Licensed Area pursuant to this Agreement. The License Fee is determined by the number of linear feet of the Licensee's Property which front or abut the Licensed Area (the "Linear Front Footage") multiplied by a dollar amount per each linear foot (the "Non-Aeronautical Access Rate") as determined by Licensor. The first such annual payment of the License Fee shall be (i) due and payable by Licensee on or before the Commencement Date (ii) in an amount equal to the "Base License Fee" first given above. Thereafter, another payment or installment of the License Fee, subject to adjustment as set forth below, shall be due and payable by Licensee on the first day of each calendar year during the Initial Term hereof and any Renewal Term, as the case may be. The License Fee is due on the first day of each calendar year and is delinquent after the 10th day after said License Fee is due.

B. If the Linear Front Footage of the Licensee Property is modified, Licensee shall promptly give written notice thereof to Licensor. Upon such notice and confirmation of such modification by the Licensor and Licensor's determination that the modification has been accomplished in accordance with applicable Laws, this Agreement shall be amended to reflect the modified Linear Front Footage and applicable License Fee, and a pro-rata adjustment to the License Fee shall be made as appropriate.

C. The annual License Fee shall be paid by personal or corporate check or money order (cash cannot be accepted) in advance by Licensee, made payable to the Town of Addison in care of the Airport Manager at the address set forth below.

D. If the Effective Date is other than January 1, the License Fee payment shall be a ratable amount of the License Fee for the first year of this License determined by multiplying the License Fee times a fraction, the numerator of which is the number of days following (and including) the Effective Date and remaining in the calendar year of the Effective Date and the denominator of which is 365. In the final year of this Agreement, the final License Fee payment shall be a ratable amount of the then current annual License Fee times a fraction, the numerator of which is the number of days remaining for this License in the final calendar year and the denominator of which is 365.

E. Commencing on the second January 1 next following the Effective Date and on January 1 every two years thereafter while this License is in effect (hereinafter referred to as the "Adjustment Date"), the annual License Fee shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas, Texas Metropolitan Area (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index - All Urban Consumers (CPI-U)* for the Dallas-Fort Worth Consolidated Metropolitan Statistical Area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI Adjustment"). For purposes hereof, the basic index ("Basic Index") is the Consumer Price Index existing on January 1 of the year of the Effective Date or of the then applicable Renewal Date, as the case may be. The current index ("Current Index") is the most current Consumer Price Index already published by the U.S. Department of Labor, Bureau of Labor Statistics as of the then applicable Adjustment Date. The adjustment is made as follows:

Beginning with the calendar year of the then applicable Adjustment Date, the License Fee shall be adjusted so that it equals the product of the Base License Fee multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Basic Index, but in no event shall the License Fee ever be decreased below the Base License Fee.

In the event that the Consumer Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Consumer Price Index as closely as feasible (as reasonably determined by the Licensor) shall be substituted therefor.

F. At the beginning of the Renewal Term or any other renewal or extension to the Term of this License, the Non-Aeronautical Access Rate shall be re-established to then prevailing rate and charges established by the Town of Addison.

5. Use of Licensee Property and Licensed Area.

A. The use of the Licensee Property and the Licensed Area shall be in accordance with and subject to the terms, conditions, and provisions of this Agreement and with and subject to all ordinances, laws, rules, orders, directives, regulations, standards, plans, policies and permits of the Licensor, the FAA, TxDOT, and any government (whether federal, state, or local) entity, agency, department, commission or board having jurisdiction over, at, or in connection with the Licensed Area, as the same may exist on the Effective Date or as may hereafter be amended, modified, superseded, established, created, or enacted.

B. Licensee shall not keep anything on or within the Licensee Property or Licensed Area, nor shall Licensee permit any portion of the Licensee Property or Licensed Area to be occupied or used, for any purpose in violation of any applicable Law, or which is deemed by the Licensor to be extra-hazardous, or invalidates any insurance policies carried on or at the Licensed Area or the Airport by the Licensor or by the Airport Manager.

C. The Licensee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person on the grounds of race, creed, color, national origin, sex, age or handicap shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Licensed Area and/or the Licensee's Property; (ii) that in the construction of any improvements on, over or under the Licensee's Property and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin, sex, age, or handicap shall be excluded from participation in , denied the benefits of or otherwise be subjected to discrimination; and (iii) that the Licensee shall use the Licensed Area in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

6. Assignment.

Licensee shall not, and has no authority or right to, sell, assign, convey, or otherwise transfer (together, "assign" or "Assignment"), by any means whatsoever (including, without limitation, by merger, consolidation, or otherwise), this License or any of its rights, duties, or obligations hereunder, without the prior written consent of the Licensor. Any such Assignment without the prior written consent of the Licensor is void. In the event of any Assignment, or in the event of any subletting of all or any portion of the Licensee Property, Licensee shall not convey any of such rights, duties or obligations hereunder without first obtaining a written agreement from each person or party to whom an Assignment (or a subletting of all or any portion of the Licensee Property) is made whereby each such person or party agrees to be bound by the terms and provisions of this License, and a true and correct copy of such agreement shall be provided to the City. Any such person or party to whom an Assignment (or a subletting of the Licensee Property or any portion thereof) is made shall be required to comply with all of the terms and conditions of this License.

7. Fuel.

A. The sale of fuel for aviation or other purposes and activities in connection therewith on, from, or in connection with the use of the Licensee Property and Licensed Area is prohibited. No business offering the sale of fuel shall operate on the Licensee Property. No person, including Licensee, shall be permitted or allowed to self-fuel or sell fuel (whether on or off the Airport) for aviation or any other purpose at or in connection with the Licensee Property and/or Licensed Area. No motor vehicle or aviation fuel any kind shall be delivered to, stored upon or sold or conveyed from the Licensee Property, or any part thereof, or sold for use in any aircraft, automobile or other equipment operated from or on the Licensee Property.

B. Licensee shall not install, store, use, treat, transport, discharge or dispose (or permit or acquiesce in the installation, storage, use, treatment, transportation,

discharge or disposal by Licensee, its agents, employees, representatives, invitees, contractors, or sub-licensees) on the Licensed Area any chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any Law, or which, even if not so regulated may or could pose a hazard to the health and safety of the occupants or users of the Airport or the public ("Hazardous Materials"). Licensee shall comply in all respects and at all times with any and all environmental Laws affecting or applicable to the Licensed Area and the Licensee Property, and shall provide as often as may be required by the Licensor (and in accordance with any applicable requirements) a storm water retention plan with respect to the Licensee Property and comply at all times with such plan.

8. Contiguous Property. Property located adjacent and contiguous to the Licensee Property in which Licensee has an interest shall not be used in conjunction or in connection with the Licensee Property so as to constitute a violation of the terms hereof. By way of example, no aviation fuel shall be stored upon any such property for the purpose of using such fuel for aircraft located or stored upon the Licensee Property.

9. Airport Use; Compliance with Laws, Grant Agreements.

A. No use of the Airport or Licensed Area shall be permitted pursuant to this Agreement except as specifically set forth herein. Licensee agrees and obligates itself to abide by, and this License is subject to, all of the Laws covering the operation and use of the Licensed Area, including, but not limited to, such Laws as have been or may be promulgated or adopted by the Licensor, the FAA, TxDOT, or by any other governmental authority having jurisdiction over or in connection with the Airport now or hereafter.

B. This Agreement is and shall be subject to and conform and comply with any and all requirements, conditions, policies, standards, rules, or directives in connection with or which are a part of any Airport grant or funding, or any grant agreements or grant assurances (whether in effect as of the Effective Date or as hereafter agreed to, adopted, issued, modified, established, or imposed).

C. THIS LICENSE IS AND SHALL BE SUBJECT TO THE INITIAL AND ONGOING CONSENT AND OVERSIGHT OF THE FAA, TXDOT, AND ANY OTHER GOVERNMENT ENTITY, QUASI-GOVERNMENT ENTITY, OR REGULATORY AUTHORITY OR AGENCY HAVING JURISDICTION OVER THE AIRPORT AS MAY BE REQUIRED OR AS DETERMINED TO BE NECESSARY BY THE LICENSOR IN THE LICENSOR'S SOLE DISCRETION. IF ANY SUCH ENTITY OR REGULATORY AGENCY FORMALLY OBJECTS TO THIS LICENSE OR ITS CONTINUANCE, THIS LICENSE SHALL BE NULL AND VOID AND LICENSEE SHALL HAVE NO RIGHT TO ACCESS THE AIRPORT AS SET FORTH HEREIN.

10. Construction, Reconstruction. During any period of construction on the Licensee Property (whether new construction or reconstruction), the Licensor or Airport Manager may require Licensee to erect a fence, barrier and/or safety markers on the Licensee Property or affected portion of the Licensed Area to prevent unauthorized

access, injury or accident where deemed necessary to protect the health and welfare of the general public.

11. Termination; Reinstatement; Additional Remedies.

A. Licensee may terminate this License upon giving Licensor at least thirty (30) days' advance written notice of its desire and intent to terminate the License to include a forwarding address where any prepaid but unearned License Fee amounts may be refunded. Upon the termination of this License under this sub-section, Licensor may, at its sole discretion, erect or place a fence or other barrier to prevent unauthorized access to the Licensed Area from the Licensee Property.

B. Licensor may in its sole discretion terminate, cancel and revoke, or may suspend, this License upon the occurrence of any one or more of the following (which shall be events of default of this License):

- (1) Licensee fails to timely pay the License Fee or any other sum payable to Licensee hereunder on the date that same is due and such failure shall continue for a period of ten (10) days.
- (2) Licensee or any guarantor of Licensee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Licensee or any guarantor of Licensee's obligations hereunder and the same is not dismissed within sixty (60) days; or
- (4) Licensee or any guarantor of Licensee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors; or
- (5) Licensee or any guarantor shall do or permit to be done any act which results in a lien being filed against any property at the Airport; or
- (6) Upon the liquidation, termination, dissolution or (if Licensee is a natural person) the death of Licensee or any guarantor of Licensee's obligations hereunder; or
- (7) Licensee (or any third party using the Licensee Property) fails to comply with any provision of this Agreement, other than those specified in subsection (1) through (6) of this subsection B., and such failure is not cured to Licensor's satisfaction within fifteen (15) days after written notice thereof to Licensee; or
- (8) Licensee fails to pay prior to delinquency ad valorem taxes levied on or against or which are related to the Licensee Property.

C. Licensors shall not be liable to Licensee or to any of Licensee's owners, shareholders, directors, officers, managers, partners, employees, representatives, agents, contractors, licensees, concessionaires, customers, guests, invitees, heirs, executors, administrators, successors, or assigns for any damages, injuries, losses, or costs of any kind or nature whatsoever, whether direct, indirect, or otherwise, which may occur as a result of or arise out of any such termination, cancellation, revocation, or suspension of this License, and Licensee fully RELEASES Licensors, its past and present officials, officers, employees, representatives, agents, and volunteers from and WAIVES any and all demands, claims, actions or liabilities against Licensors, its past and present officials, officers, employees, representatives, agents, and volunteers for any damages, injuries, losses or costs that are sustained by reason of or that relate to such termination, cancellation or revocation.

D. If Licensors terminate, cancel, revoke or suspend this License for any reason set forth herein, it may, at its sole discretion, erect or place a fence or other barrier to prevent unauthorized access to the Licensed Area from the Licensee Property. Licensee agrees to reimburse Licensors for all reasonable costs (including attorney's fees) incurred to collect any amounts due under this Agreement or to erect and remove a fence or other barrier as described above.

E. If this License is terminated, canceled, revoked, or suspended, it may be reinstated only after Licensors has determined that sufficient extenuating circumstances exist to merit consideration for reinstatement and upon payment of any outstanding fees plus interest as may be required by Licensors and/or the correction of any non-compliance. If a fence or other barrier prohibiting access to the Licensed Area from the Licensee Property has been erected or placed by the Licensors, Licensee shall, as a condition precedent to obtaining access to the Licensed Area, reimburse Licensors for all costs incurred by it in erecting or placing and in removing the fence or other barrier.

F. In addition to the other remedies provided in this Agreement, Licensors shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation or attempted or threatened violation, of any of the provisions herein, or to a decree compelling performance of any other provisions herein, or to any other remedy allowed at law, in equity, or otherwise.

G. Licensors shall have a continuing lien against the Licensee Property to secure payment of any delinquent annual License Fee (or portion thereof), as well as interest thereon, late fees and costs of collection, including, without limitation, court costs and attorneys' fees as provided for herein. Although no further action is required to create or perfect the lien, Licensors may, as further evidence and notice of the lien, execute and record a document setting forth, as to the Licensee Property, the existence of this License, the lien, and the amount of any delinquent sums hereunder due Licensors.

H. Notwithstanding any other remedy or provision set forth in this License: (i) all rights and remedies of Licensors herein or existing at law, in equity, or otherwise are cumulative and the exercise of one or more rights or remedies shall not be taken to

exclude or waive the right to the exercise of any other; (ii) Licensee agrees that acceptance of full or partial payments of the annual Licensee Fee by Licensor after notice of termination, cancellation or revocation will not constitute a waiver of any default unless Licensor agrees to a waiver in writing, nor affect any legal proceedings taken or to be taken by Licensor except to reduce Licensee's obligation to Licensor by the amount of such payment; and (iii) the failure by Licensor to exercise any right, power, or option given to it by this License, or to insist upon strict compliance with the terms of this License, shall not constitute or operate as a waiver of any of the terms and conditions of this License or of any default or breach by Licensee of this License, nor a waiver by Licensor of its rights to require exact and strict compliance with all the terms and conditions of this License.

12. Indemnity and Exculpation.

A. Exculpation. Licensor and Airport Manager, and Licensor's and Airport Manager's officials, officers, employees and agents (both in their official and private capacities) shall not be liable to Licensee or to Licensee's owners, shareholders, directors, officers, managers, partners, employees, representatives, agents, servants, customers, invitees, sub-licensees, concessionaires, contractors, subcontractors, , heirs, executors, administrators, successors, or assigns, for any death or injury to persons or damage to or destruction of property or any other harm on or about the Licensed Area or any adjacent area owned by Licensor caused by or resulting from any act or omission of Licensee, Licensee's employees, agents, servants, customers, invitees, sub-licensees, licensees, concessionaires, contractors, subcontractors, or any other person entering the Licensed Area under express or implied invitation of Licensee, or arising out of the use or occupation of the Licensed Area by Licensee's employees, agents, servants, customers, invitees, sub-licensees, licensees, concessionaires, contractors, or subcontractors and/or the conduct of Licensee's business thereon, or arising out of any breach or default by Licensee in the performance of Licensee's obligations hereunder;

B. **LICENSEE'S INDEMNITY OBLIGATION.** Licensee covenants, agrees to, and shall **DEFEND (with counsel reasonably acceptable to Licensor), INDEMNIFY AND HOLD HARMLESS**

(1) **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, individually or collectively, in both their official and private capacities each being an "Addison Person" and collectively the "Addison Persons"), and**

(2) **Airport Manager and Airport Manager's owners, officers, managers, employees and agents (the Airport Manager and the Airport Manager's owners, officers, managers, employees and agents each being a "Manager Person" and collectively the "Manager Persons"),**

from and against any and all claims, actions, causes of action, demands, losses, harm, damages, injuries, proceedings, penalties, fines, liabilities, liens, expenses, lawsuits, judgments, costs, and fees (including reasonable attorney fees and court costs) of any kind and nature whatsoever made upon or incurred by any Addison Person or any Manager Person, whether directly or indirectly, (collectively, , "Claims"), that result from, relate to, or arise out of,

(i) any condition of the Licensed Area caused in whole or in part by Licensee or by any of Licensee's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, architects, consultants, contractors, subcontractors, licensees, sublicensees, tenants, subtenants, invitees, concessionaires, heirs, executors, administrators, successors, or assigns, any person or entity claiming any right to use the Licensee Property or the Licensed Area by, through or under Licensee, and/or any other person or entity for whom Licensee is legally responsible, and their respective owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, architects, consultants, contractors, subcontractors, licensees, sublicensees, tenants, subtenants, invitees, concessionaires, heirs, executors, administrators, successors, and/or assigns (collectively, "Licensee Persons"),

(ii) representations or warranties by Licensee under this License,

(iii) any act or omission of or by Licensee or any Licensee Person, under, in connection with, or in the performance of, this License

(iv) and any breach by Licensee or any failure of Licensee to comply with the provisions of this License and/or

(v) the Licensed Area becoming out of repair due to the fault of Licensee or of any Licensee Person, for any reason.

SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION 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 OF ANY MANAGER PERSON, OR CONDUCT BY ANY ADDISON PERSON OR BY ANY MANAGER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND. However, Licensee's liability under this clause shall be reduced by that portion of the total amount of the Claims (excluding defense fees and costs) equal to:

(a) in the case of any Addison Persons, the Addison Person or Addison Persons' proportionate share of the negligence that caused the loss, and

(b) in the case of any Manager Persons, the Manager Person or Manager Persons' proportionate share of the negligence that caused the loss.

Likewise, Licensee's liability for:

(a) any Addison Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to the Addison Person or Addison Persons' proportionate share of the negligence that caused the loss, and

(b) any Manager Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to the Manager Person or Manager Persons' proportionate share of the negligence that caused the loss.

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

C. Release. Licensee hereby RELEASES the Licensor and all other Addison Persons and Airport Manager and all other Manager Persons, from, and agrees that the Licensor and all other Addison Persons and Airport Manager and all other Manager Persons shall not be liable to Licensee or to any Licensee Persons for, any loss or damage that may be occasioned by or through the acts or omissions of other licensees or any tenants of Licensor or caused by operations in construction of any private, public or quasi-public work on or within the Licensed Area. To the extent this subsection C. conflicts with the indemnity obligations outlined above, the indemnity obligations shall prevail.

D. The provisions of this Section 12 shall survive the expiration or termination of this License.

13. Insurance. At all times in connection with this License, Licensee shall purchase and maintain in a company or companies lawfully authorized to do business in Texas such insurance coverages as set forth below:

1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/ completed operations aggregate), and XCU (Explosion, Collapse, Underground) hazards.

Coverage for products/completed operations must be maintained for at least two (2) years after the construction work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance.

2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each-occurrence/\$1,000,000 by disease aggregate.

3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.

Any contractor(s) hired by the Licensee to perform work pursuant to or in connection with the Licensee Property License shall maintain insurance coverage equal to that required of the Licensee. It is the responsibility of the Licensee to assure compliance with this provision.

With reference to the foregoing insurance requirements, Licensee shall specifically endorse applicable insurance policies as follows:

1. The Town of Addison, Texas and Airport Manager shall be named as a named additional insured with respect to all liability policies.

2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison.

3. A waiver of subrogation in favor of the Town of Addison, Texas, and Airport Manager shall be contained in each policy required herein.

4. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.

5. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.

6. All insurance policies, which name the Town of Addison, Texas and Airport Manager as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.

7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.

8. Licensee may maintain reasonable and customary deductibles, subject to approval of Licensor.

9. Insurance must be purchased from insurers that are financially acceptable to Licensor and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, delivered to Licensee and the City prior to the commencement of this License (and updated on a regular basis), and shall:

1. List each insurance coverage described and required herein. Such certificates will also include a copy of the endorsements necessary to meet the requirements and instructions contained herein.

2. Specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.

Upon request, Licensee shall furnish the Town of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

14. Special Events. Licensor may sponsor certain special events, including, but not limited to, fireworks displays, automobile races and air shows, to be conducted on portions of the Airport, which may limit or obstruct access to the Licensed Area ("Special Events"). As a material inducement to Licensor to enter into this License and to allow access to the Licensee Property from the Licensed Area as set forth herein, and notwithstanding anything to the contrary contained herein, Licensee, on its behalf and on behalf of all Licensee Persons, hereby: (i) agrees that Licensor has the right to sponsor any or all Special Events and to allow use of portions of the Licensed Area therefor even if the same limit or obstruct access to the Licensee Property from the Licensed Area; (ii) RELEASES, WAIVES and FULLY DISCHARGES Licensor and all other Addison Persons, and Airport Manager and all other Manager Persons, from any and all liability of any nature whatsoever for any loss, damage, cost, expense or claim arising or resulting from or pertaining to the limitation or obstruction of access to the Licensee Property from the Licensed Area from or in connection with the conduct of Special Events and/or activities relating or pertaining thereto, including, without limitation, death, injury to person or property or loss of business or revenue (the "Released Claims"); (iii) covenants not to sue Licensor or any other Addison Person and Airport Manager or any other Manager Person for any Released Claims; (iv) agrees that the terms contained in this Section are intended and shall be construed to be as broad and inclusive as possible under the laws of the State of Texas or any other law, rule or regulation; and (v) agrees that if any portion of this Section is held to be invalid or unenforceable, the remainder of this Section shall not be affected thereby but shall continue in full force and effect. Licensee shall cause any person using, occupying or having access to the Licensee Property by or through the Licensed Area to comply with this License, including, without limitation, the terms and provisions of this Section.

15. Late Charge; Interest.

A. Licensee's failure to pay sums due hereunder promptly may cause Licensor to incur unanticipated costs. The exact amount of such costs are impractical or extremely difficult to ascertain. Such costs may include, but are not limited to, processing and accounting charges. Therefore, if the annual License Fee or any installment thereof is not received on or before the date on which it is due, Licensee shall pay to Licensor a late charge in the amount of \$50.00 (provided, however, that if the \$50.00 late charge would be deemed in violation of law, such amount shall be reduced such that the late charge shall be equal to an amount determined by multiplying the amount of the annual License Fee then due times the highest rate of interest per annum allowed under applicable law). The late charge set forth herein represents a fair and reasonable estimate of the costs Licensor will incur by reason of such late payment. In addition to the foregoing late charges, Licensee shall reimburse Licensor on demand for all returned check or other bank charges assessed against Licensor in connection with each of Licensee's checks that is returned unpaid for any reason.

B. Any sums required to be paid hereunder and not paid when due, including attorneys' fees, shall bear interest, until paid, at the lesser of the following rates: (i) 18% per annum; or (ii) the highest rate allowed under applicable Law. Interest shall accrue on the annual License Fee and late charges until such payments are received by Licensor, and on returned check charges from the date Licensor receives such returned check until such returned check is made good. All licenses between Licensor and Licensee, whether now existing or hereafter arising, whether herein contained or in any other instrument or license, whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever shall any late charges, returned check charges, interest charges, or any other charges whatsoever, be deemed as interest charged, contracted for or received in excess of the amount permitted under applicable Law, it particularly being the intention of the parties hereto to conform strictly to the laws of the State of Texas. Any portion of such charges which are deemed as interest in excess of the amount permitted under applicable Law, as of the date such charge is due, shall be applied to a reduction of the annual License Fee next coming due hereunder, or, if such portion of charges exceeds the annual License Fee next coming due hereunder, such amount shall be refunded to Licensee. If a specific due date for any monetary obligation owed by Licensee to Licensor is not provided for in this License, the due date for such obligation shall be that date which is ten (10) days after Licensor delivers a written request for payment to Licensee.

16. Address for Notice and Payments. All payments, notices, demands, requests, and other communications in connection with this License shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given when received by the party to whom it is sent. Addresses for such notices and other communications are as follows:

To Licensor:

Town of Addison, Texas
c/o Washington Staubach Addison Airport
Venture
16051 Addison Road, Suite #220
Addison, Texas 75001
Attn: Real Estate Manager

To Licensee:

*Address As First Given Above Under
Heading of
"Off-Airport User Contact Information And
Other Salient Terms"*

The addresses and addressees for the purpose of this Section may be changed by giving notice of such change in the manner provided in this Section 16. Unless and until such written notice is received the last addresses and addressee stated by written notice, or provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

Licensee represents that its mailing address, Licensee Property address, electronic mail address, telephone number, and facsimile number as set forth above are true and correct. If such information changes at any time, Licensee shall promptly provide notice of such change of information to Licensor as required herein.

17. Exhibits. The exhibits attached (or to be attached) hereto are incorporated herein and made a part of this License for all purposes.

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

19. Severability. If any clause, paragraph, section or portion of this License shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the License shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there shall be added automatically as a part of this License a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

20. Time of the Essence. Time is of the essence in the payment and performance of the duties and obligations imposed upon Licensee by the terms and conditions of this License.

21. Miscellaneous.

A. The rights and remedies set forth in this License: (i) are and shall be in addition to any and all other remedies either party may have at law, in equity, or otherwise, and (ii) may be pursued successively or concurrently as either party may elect. The

exercise of any remedy by either party shall not be deemed an election of remedies or preclude that party from exercising any other remedies in the future.

B. The failure by Licensor to exercise any right, power, or option given to it by this License, or to insist upon strict compliance with the terms of this License, shall not constitute a waiver of the terms and conditions of this License for any reason whatsoever, including with respect to the matter of such compliance or to any other or subsequent breach hereof, nor a waiver by Licensor of its rights at any time to require exact and strict compliance with all the terms hereof. Any rights and remedies Licensor may have arising out of this License shall survive the cancellation, expiration or termination of this License.

C. The provisions of this License are severable, and if any clause, paragraph, section, phrase, word, or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional, or void for any reason by a court of competent jurisdiction, the balance of this License shall remain in full force and effect and the parties shall be deemed to have contracted as if said illegal, unlawful, unconstitutional, or void clause, paragraph, section, phrase, word, or portion had not been in the Agreement initially. In lieu of any such illegal, invalid, unconstitutional, or void provision, there shall be added hereto another provision that would be permitted that is as close to the intent of the original provision as possible.

D. The provisions of this Agreement are solely for the benefit of Licensor and Licensee and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

E. Section and paragraph headings are for convenience only and shall not be used in interpretation of this License. For purposes of this License, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

F. Licensee represents and warrants to Licensor that Licensee is the sole owner of the Licensee Property, and that no authorization or consent of any other person or entity to this License is required for any reason or purpose whatsoever. Licensee represents and warrants to Licensor that the execution and delivery of this License does not: (i) conflict with, or result in any violation or breach of, any provision of Licensee's charter or organizational documents; (ii) result in any violation or breach of, or constitute a default under, or require a consent or waiver under, any of the terms, conditions or provisions of any license, contract or other agreement to which Licensee is a party; or (iii) materially conflict with or violate any franchise, license, judgment, order, statute, law, rule or regulation applicable to Licensee.

G. If Licensee is a corporation, partnership, limited liability company, or other business entity, Licensee represents and warrants to Licensor that: (i) Licensee is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, and which shall remain in good standing throughout the term of this License; (ii) it is lawfully authorized to do business in the State of Texas and shall remain so throughout the term of this License, (iii) it has the requisite power and authority to carry on

its business as it is now being conducted; (iv) it has the legal capacity to enter into this License; and, (iv) the execution, delivery and performance of this License and the consummation of the transactions contemplated by this Agreement have been authorized and approved by all action required on the part of the Licensee.

H. Any rights and remedies Licensor may have with respect to Licensee arising out of the performance of or in connection with this License shall survive the expiration or termination of this License.

I. The parties hereto have the relationship only of licensor and licensee, and under no circumstances shall this License be construed as one of agency, partnership, joint venture, joint enterprise, or employment or any other relationship between the parties.

22. Prior Licenses Rescinded; Entire Agreement. This License supersedes and replaces all prior licenses, agreements, rights or claims regarding a right or entitlement to access the Licensee Property from the Licensed Area, which are hereby terminated. This License contains the entire agreement between the parties and merges any prior representations, warranties, or understandings they may have had regarding the subject matter of this License.

23. Authorized Parties. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this License on behalf of the parties hereto.

IN WITNESS WHEREOF, the undersigned parties have executed this License to be effective as of the Effective Date first above written.

TOWN OF ADDISON, TEXAS

LICENSEE

By: _____
Ron Whitehead, City Manager

By: _____
Typed name: _____
Title: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on this the ____ day of _____, 2009 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas home-rule municipality, on behalf of the said municipal corporation.

Notary Public, State of Texas

Print Name: _____

My Commission Expires: _____

STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on this the ____ day of _____, 2009 by _____, _____, a _____.

Notary Public, State of Texas

Print Name: _____

My Commission Expires: _____

EXHIBIT A

AIRPORT PLAT

EXHIBIT B
Licensee Property

EXHIBIT C

Licensed Area