



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.

JUNE 23, 2009

TOWN HALL

5300 BELT LINE ROAD

WORK SESSION

Item #WS1 - Presentation, discussion, review and update regarding branding for 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:

June 2, 2009, Special Meeting and Work Session

June 4, 2009, Special Meeting, Work Session and Site Tour

June 9, 2009, Regular City Council Meeting and Work Session

Item #R3 - Presentation, discussion and consideration of approval of an ordinance amending the Code of Ordinances of Town by adding a new Article XIII regarding and regulating Solar Energy Systems to Chapter 18, Buildings and Building Regulations.

Attachments:

1. Lynn Chandler Memorandum
2. Ordinance

Administrative Recommendation:

Administration recommends approval.

Item #R4 - Presentation, discussion and consideration of approval of the First Amendment to the Master Facilities Agreement (regarding the construction of public improvements within that area generally described as Vitruvian Park) between the Town of Addison, UDR, Inc., and various property owners in order to provide for a revision to the location of the Phase

II construction area modifying it from the northern side of Brookhaven Club Drive and Ponte Avenue to the southeast side of Brookhaven Club Drive and Bella Lane including certain public streets, a bridge and streetscaping improvements, and to provide for modifications to the Brookhaven Development Phasing Plan, subject to Final Approval by the City Attorney.

Attachments:

1. Council Agenda Item Overview
2. Revised Exhibit C-1, Funding No. 1
3. Exhibit E Vitruvian Development Phasing Plan

Administrative Recommendation:

Administration recommends approval.

Item #R5 - Presentation, discussion and consideration of approval of a resolution approving the removal and separation of the City from oversight and control of the Addison Arbor Foundation and authorizing the City Manager to execute an agreement with the Addison Arbor Foundation reflecting such removal and separation.

Attachments:

1. Memorandum of Understanding
2. Resolution with Memorandum of Understanding
3. Amendment to Bylaws Showing Red-Line Changes
4. Bylaws and Articles of Incorporation-Final

Administrative Recommendation:

Administration recommends approval.

Item #R6 - Presentation, discussion and consideration of award of a contract to Jim Bowman Construction LP in the amount of \$41,990.00 for Sidewalk, Ramp, Curb & Gutter, Bid 09-14.

Attachments:

1. Council Agenda Item Overview
2. Quorum Drive Pedestrian Study
3. Bid Tabulation

Administrative Recommendation:

Administration recommends approval.

Item#R7 - Presentation, discussion and consideration of approval to authorize the City Manager to execute a water easement agreement with King Aerospace regarding property generally located within the Town at or about 16400 – 16500 Midway Road.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item#R8 - 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 \$12,901.00, transfer 7% (\$632.15) to the City of Dallas for the administration of the grant, and allocate 30% (\$3,870.30) to Dallas County.

Attachments:

1. Council Agenda Item Overview
2. Resolution with Justice Assistance Grant Agreement

Administrative Recommendation:

Administration recommends approval.

Item#R9 - Presentation, discussion and consideration of approval of the final payment to American Landscape Systems, Inc., totaling \$4,899.80, for landscape renovation and tree replacement planting in various parts of the Town.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item#R10 - Presentation, discussion and consideration of approval of the final payment to Schwartz Construction Company, Inc., totaling \$3,937.00, for painting and repairs to various park structures within the Town.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item#R11 - Discussion and update of the Vitruvian Development Design.

EXECUTIVE SESSION

#ES1 - Closed (Executive) session of the Addison City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) about pending litigation, to wit:

A. *Thielsch Engineering, Inc. v. Town of Addison, Texas, et al*, Cause No. 08-00463, 95th District Court, Dallas County, Texas.

B. *City of San Antonio, Texas, Town of Addison, et al. v. Hotels.com, L.P., et al.*, Case No. SA06CA0381 OG, United States District Court, Western District of Texas, San Antonio Division.

Item #R12 - Consideration of approval of any item or matter in connection with certain pending litigation, to wit: *Thielsch Engineering, Inc. v. Town of Addison, Texas, et al*, Cause No. 08-00463, 95th District Court, Dallas County, Texas.

Adjourn Meeting

Posted:

June 19, 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.**

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

June 2, 2009
7:00 P.M.
Council Chambers
5300 Belt Line Road

Present: Mayor Chow, Councilmembers Braun, Clemens, Daseke, Lay, Mellow and Noble

Absent: None

Item #S1 - Non-Profit Recommendations and Presentations.

Greg Layman introduced the following Non-Profit representatives who made their respective presentations:

The Communities in Schools presentation was made by Betsy Holland.

The Contact Crisis Line presentation was made by Benaye Rogers.

The Dance Council presentation was made by Pam Deslorieux.

The Metrocrest Chamber of Commerce presentation was made by Greg Vaughn.

The Metrocrest Family Medical Clinic presentation was made by Jane Hawkins.

The Metrocrest Social Services presentation was made by Bunny Summerlin.

The Richardson Symphony Orchestra presentation was made by George Landis.

The Second Thought Theatre presentation was made by Stew Awalt.

The Senior Adult Services presentation was made by Greg Gerendas.

The Special Care and Career Services presentation was made by Cathy Packard and Joy Hinkelman.

The Family Place presentation was made by Tina Hageman.

The WaterTower Theatre presentation was made by Terry Marin and Greg Patterson.

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 SPECIAL MEETING, WORK SESSION AND
SITE TOUR OF THE CITY COUNCIL**

June 4, 2009
2:00 P.M.
Various Locations

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

Absent: Councilmembers Clemens and Noble

Item #S1 - Site Tour by the Addison City Council at two locations: Beginning at 14325 Proton Road, Farmers Branch and continuing to Village on the Parkway, 5100 Belt Line Road, Addison, Texas.

The City Council toured two locations: Beginning at 14325 Proton Road, Farmers Branch and continuing to Village on the Parkway, 5100 Belt Line Road, Addison, Texas.

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**

June 9, 2009
6:00 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

Council Members Present:

Mayor Chow, Councilmembers Braun, Clemens, Daseke, Lay, Mellow and Noble

Absent: None

Work Session

Item #WS1 - Presentation and discussion by the Police Department regarding public crime reporting software.

Ron Davis made the presentation and led the discussion regarding public crime reporting software.

There was no action taken.

Mayor-Joe Chow

Attest:

City Secretary-Lea Dunn

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

June 9, 2009
7:30 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

Present: Mayor Chow, Councilmembers Braun, Clemens, Daseke, Lay, Mellow and Noble

Absent: None

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Ian Storm with the Fire Department, and Mushtaq Ali with the Finance Department.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

May 18, 2009, Special Meeting and Work Session
May 26, 2009, Regular City Council Meeting and Work Session
May 29, 2009 and May 30, 2009, Special Meeting and Work Session

Mayor Chow moved to approve the Minutes with the following changes:

May 18, 2009, Special Meeting and Work Session.

Item #S1, last paragraph, should read: "Mayor Chow was sworn in by City Secretary, Lea Dunn. Councilmembers Daseke, Clemens, Lay and Noble were sworn in by City Secretary, Lea Dunn."

May 29, 2009 and May 30, 2009, Special Meeting and Work Session.

Page 2: "Item #4, continued", should read: "Item #S4, continued".

There were no changes for the Minutes for May 26, 2009, Regular City Council Meeting and Work Session.

Councilmember Braun seconded the motion. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble

Voting Nay: None
Absent: None

Item #R3 - Discussion and consideration of approval of an appointment of a member to the Board of Zoning Adjustment to replace Bianca Noble who resigned to run for councilmember. (Appointment recommendation to be received from Blake Clemens.)

Councilmember Clemens moved to appoint Burk Burkhalter to the Board of Zoning Adjustment to replace Bianca Noble who resigned to run for councilmember. (Appointment recommendation to be received from Blake Clemens.)

Councilmember Braun seconded the motion. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble
Voting Nay: None
Absent: None

Item #R4 - Presentation of the “America in Bloom - Package Your Community for Success” Program.

Slade Strickland made the presentation of the “America in Bloom - Package Your Community for Success” Program and introduced Marlborough Packard and Diane Clasen from America in Bloom, who responded to questions.

There was no action taken.

Item #R5 - FINAL PLAT/MHSS Addition. Presentation, discussion and consideration of approval of a final plat for one lot of 7.4013 acres in a Planned Development District, located at the northwest corner of the intersection of Dallas Parkway and Sojourn Drive, on application from Kimley-Horn and Associates, Inc., represented by Mr. David Kochalka, subject to staff conditions.

Councilmember Mellow moved to approve the final plat for one lot of 7.4013 acres in a Planned Development District, located at the northwest corner of the intersection of Dallas Parkway and Sojourn Drive, on application from Kimley-Horn and Associates, Inc., represented by Mr. David Kochalka, such approval to be effective immediately following the date and time on which the ordinance of the Town which zoned the said tract of land (Ordinance No. 009-004 of the Town) takes effect.

Councilmember Lay seconded. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble
Voting Nay: None
Absent: None

Item #R6 - REPLAT/Lots 2 and 3, Block A, Beltwood North–Airport Addition. Presentation, discussion and consideration of approval of Lots 2 and 3, Block A, Beltwood North-Airport Addition, Midway Road, between Commander Drive and Kellway Drive (in Carrollton), on application from S&B Realty, LLC, represented by Mr. Bob Wright of Pate Engineers.

Councilmember Braun moved to approve a replat of Lots 2 and 3, Block A, Beltwood North-Airport Addition, Midway Road, between Commander Drive and Kellway Drive (in Carrollton), on application from S&B Realty, LLC, represented by Mr. Bob Wright of Pate Engineers.

Councilmember Clemens seconded. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble
Voting Nay: None
Absent: None

Item #R7 - Presentation, discussion and consideration of approval to enter into an agreement with Gershman, Brickner & Bratton, Inc., for consultant services related to determining the feasibility of implementing a sole-source sanitation and recycling program for Addison businesses and residents.

Councilmember Daseke moved to approve entering into an agreement with Gershman, Brickner & Bratton, Inc., for consultant services related to determining the feasibility of implementing a sole-source sanitation and recycling program for Addison businesses and residents.

Councilmember Lay seconded. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble
Voting Nay: None
Absent: None

Item #R8 - Presentation, discussion and consideration of approval to enter into a Memorandum of Understanding with CLEAResult Consulting to provide services to identify energy efficiency measures for Town facilities.

Councilmember Daseke moved to approve entering into a Memorandum of Understanding with CLEAResult Consulting to provide services to identify energy efficiency measures for Town facilities.

Councilmember Lay seconded. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble
Voting Nay: None

Absent: None

At 8:35 P.M., Mayor Chow announced that Council would convene into Executive Session to discuss the following Items:

#ES1 - Closed (executive) session of the City Council, pursuant to Section 551.072, Texas Government Code, to conduct a closed meeting to deliberate the lease for real property on Belt Line Road, which exists within the jurisdictional limits of the Town of Addison, Texas.

The Council came out of Executive Session at 9:30 P.M.

#R9 - Consideration of approval to authorize the City Manager to negotiate a lease for real property on Belt Line Road, which exists within the jurisdictional limits of the Town of Addison, Texas.

Councilmember Daseke moved to approve authorizing the City Manager to negotiate a lease for real property on Belt Line Road, which exists within the jurisdictional limits of the Town of Addison, Texas.

Councilmember Clemens seconded. Motion carried.

Voting Aye: Chow, Braun, Clemens, Daseke, Lay, Mellow and Noble

Voting Nay: None

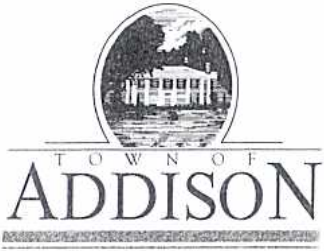
Absent: None

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

Mayor-Joe Chow

Attest:

City Secretary-Lea Dunn



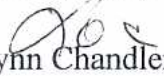
BUILDING INSPECTION DEPARTMENT

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

16801 Westgrove

Post Office Box 9010 Addison, Texas 75001-9010

To: Carmen Moran, Director Development Services

From:  Lynn Chandler, Building Official

Date: June 15, 2009

Subject: Solar Energy Systems Ordinance

The Solar Energy Systems Ordinance was written to enable the Town to enforce certain aesthetic requirements for the installation of these systems along with the building code requirements. This ordinance will give the property owners an opportunity to use alternate sources of power without compromising the integrity of the neighborhoods.

The ordinance was also written to incorporate the recommendations of the Planning and Zoning Commission for the Green Building Program. I would also like to point out that we already have put regulations in place for wind generating systems.

TOWN OF ADDISON, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 18 ("BUILDINGS AND BUILDING REGULATIONS") OF THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE XIII REGULATING SOLAR ENERGY SYSTEMS; FINDING THAT A PUBLIC PURPOSE EXISTS FOR REGULATING SOLAR ENERGY SYSTEMS; PROVIDING DEFINITIONS; PROVIDING FOR INSTALLATION, LOCATION AND COLOR REQUIREMENTS; PROVIDING FOR AN APPEAL WHERE CITY REGULATIONS PROHIBIT OR UNREASONABLY LIMIT THE INSTALLATION AND USE OF SOLAR ENERGY SYSTEMS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Addison, Texas (the "City") recognizes and finds that the maintenance and integrity of neighborhood beauty is important to all citizens; and

WHEREAS, the City Council has further determined that the uncontrolled proliferation of solar energy systems is likely and that such proliferation will adversely affect the health, safety and general welfare of the City; and

WHEREAS, the City Council hereby finds that solar energy systems are less likely to blend in with their surroundings, thereby creating visual blight and potentially reducing the economic value of adjacent properties; and create safety concerns as a result of their size (e.g. such solar energy systems may be subject to a high amount of wind force as a result of the shape of the solar panel; therefore, both the solar energy system and the supporting structure must be constructed in a manner that will allow for great amounts of wind force); and

WHEREAS, such advancing technology coincides with the City's goals and objectives of reducing visual blight and protecting the health, safety and welfare of the citizens of the City.

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

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

Section 2. Amendment. Chapter 18 ("Buildings and Building Regulations") of the Code of Ordinances of the Town of Addison, Texas, is hereby amended in the following particulars, and all other chapters, articles, sections, paragraphs, sentences, phrases and words of the said Code are not amended but are hereby ratified, verified, approved and affirmed:

A. A new Article XIII relating to the regulation of solar panels is hereby added to Chapter 18 to read as follows:

ARTICLE XIII. SOLAR ENERGY SYSTEMS

Sec. 18-726. Definitions.

The following words, terms, and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Solar energy system means a device or combination of devices or elements that rely on direct sunlight for the following uses; heating or cooling of a structure or building; heating or pumping of water; or, generating electricity.

Sec. 18-727.

Purpose. The City Council finds that the maintenance and integrity of neighborhood beauty is important to all citizens. The uncontrolled proliferation of solar energy systems is likely and such proliferation will adversely affect the health, safety and general welfare of the citizens of the City.

Sec. 18-728. Installation - Permit Required.

No person shall install, construct, or place solar energy systems on any property within the City without first obtaining a building permit from the City.

Sec. 18-729. Size, Location, etc.

- (a) Ground mounted solar energy systems shall:
1. Be installed, constructed or placed in the back 1/2 of residential lots and behind the front building line on commercial or multifamily lots.
 2. Be screened from view on all sides by a solid fence, wall or landscaping to a minimum height that shall be equal to the tallest point of the structure at its operating height; provided, however, that no fence or wall used as a screening device shall exceed the height permitted by the City's fence regulations, and to the extent that the maximum operating height of the system exceeds the permitted

maximum height of a fence or wall, landscaping shall be used as a screening device. Screening shall be of a material that is compatible with the building materials or landscaping, as appropriate, used in the area;

3. Conform to all adopted building, electrical, plumbing and mechanical codes;
4. Not be portable or moveable; and
5. Be of a forest green, black, brown or grey color or other neutral color designed to blend in with the surroundings.

(b) Roof mounted solar energy systems shall:

1. Not be installed greater than six (6) inches between the panel and the roof.
2. Conform to all adopted building, electrical, plumbing and mechanical codes.
3. Not be portable or moveable; and
4. Be a forest green, black, brown or grey color or other neutral color designed to blend in with the surroundings.

Sec. 18-730 Appeals.

Section 1. Any person aggrieved by the application of this Article XIII may appeal its effect to the Building/ Fire Code Board of Appeals created in Section 18-54 of this Code. Upon a clear and convincing showing by an appellant that the regulations set forth in this Article either prohibit or unreasonably limit the use of ground mounted or roof mounted solar energy systems, the Board of Appeals may grant an exception from the terms of this Article and authorize the issuance of a building permit so as to avoid unnecessary hardship and so that the spirit of this Article shall be observed and substantial justice done.

Section 2. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting zoning and solar energy systems and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction,

such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Five Hundred Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 5. Effective date. This Ordinance shall become effective from and after its date of passage and publication as provided by law.

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

Mayor – Joe Chow

ATTEST:

City Secretary – Lea Dunn

Council Agenda Item: #R4

SUMMARY:

Discussion and consideration of approval of the First Amendment to the Master Facilities Agreement (regarding the construction of public improvements within that area generally described as Vitruvian Park) between the Town of Addison, UDR, Inc., and various owners of property, in order to provide for a revision to the location of the Phase II construction area modifying it from the northern side of Brookhaven Club Drive and Ponte Avenue to the southeast side of Brookhaven Club Drive and Bella Lane including certain public streets, a bridge and streetscaping improvements, and to provide for modifications to the Brookhaven Development Phasing Plan, subject to Final Approval by the City Attorney.

FINANCIAL IMPACT:

There is no financial impact as the funding amount of \$23,290,000 remains the same.

Project Manager: Clay Barnett, P.E.

BACKGROUND:

On February 12, 2008, the Town approved the Master Facilities Agreement for the construction of public infrastructure in Vitruvian Park. Exhibit C-1 was approved as part of the agreement and included the delineation and estimate for Phase I and Phase II construction. UDR, Inc. is requesting that the phasing delineation for Phase II be moved as shown in Revised Exhibit C-1 to the other side of Brookhaven Club Drive for two reasons. There are existing apartment complexes that remain on the north side of Brookhaven Club Drive that impact the proposed Phase II. The design team has also determined that the Bella Lane bridge should be constructed in conjunction with the creek improvements to allow the park to be completed at once. These changes will need to be reflected on Exhibits "C-2" and "E" as well.

RECOMMENDATION:

Staff recommends the Council approve the First Amendment to the Master Facilities Agreement (regarding the construction of public improvements within that area generally described as Vitruvian Park) between the Town of Addison and UDR, Inc., in order to provide for a revision to the location of the Phase II construction area modifying it from the northern side of Brookhaven Club Drive and Ponte Avenue to the southeast side of Brookhaven Club Drive and Bella Lane including certain public streets, a bridge and streetscaping improvements.

Staff recommends the agreement be approved by the Council subject to final approval by the City Attorney so that any changes suggested by UDR, Inc., or the Council can be considered by the City Attorney and incorporated if appropriate.



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 "D"	\$ 3,938,484
Water	\$ 214,949
Wastewater	\$ 91,522
Drainage	\$ 179,828

SubTotal Phase II \$ 4,424,783

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

Phase 101:

392 Residential Units
16,000 sq ft Retail
\$67,750,000 Private Investment
Estimated Delivery January 2010

Phase 102:

352 Residential Units
10,500 sq ft Retail
17,600 sq ft Office
\$68,000,000 Private Investment
Estimated Delivery June 2011

Phase 201 (Based on 5-story Design):

422 Residential Units
\$70,000,000 Private Investment
Estimated Delivery June 2012

Phase 202: TBD

Total Private Developments:

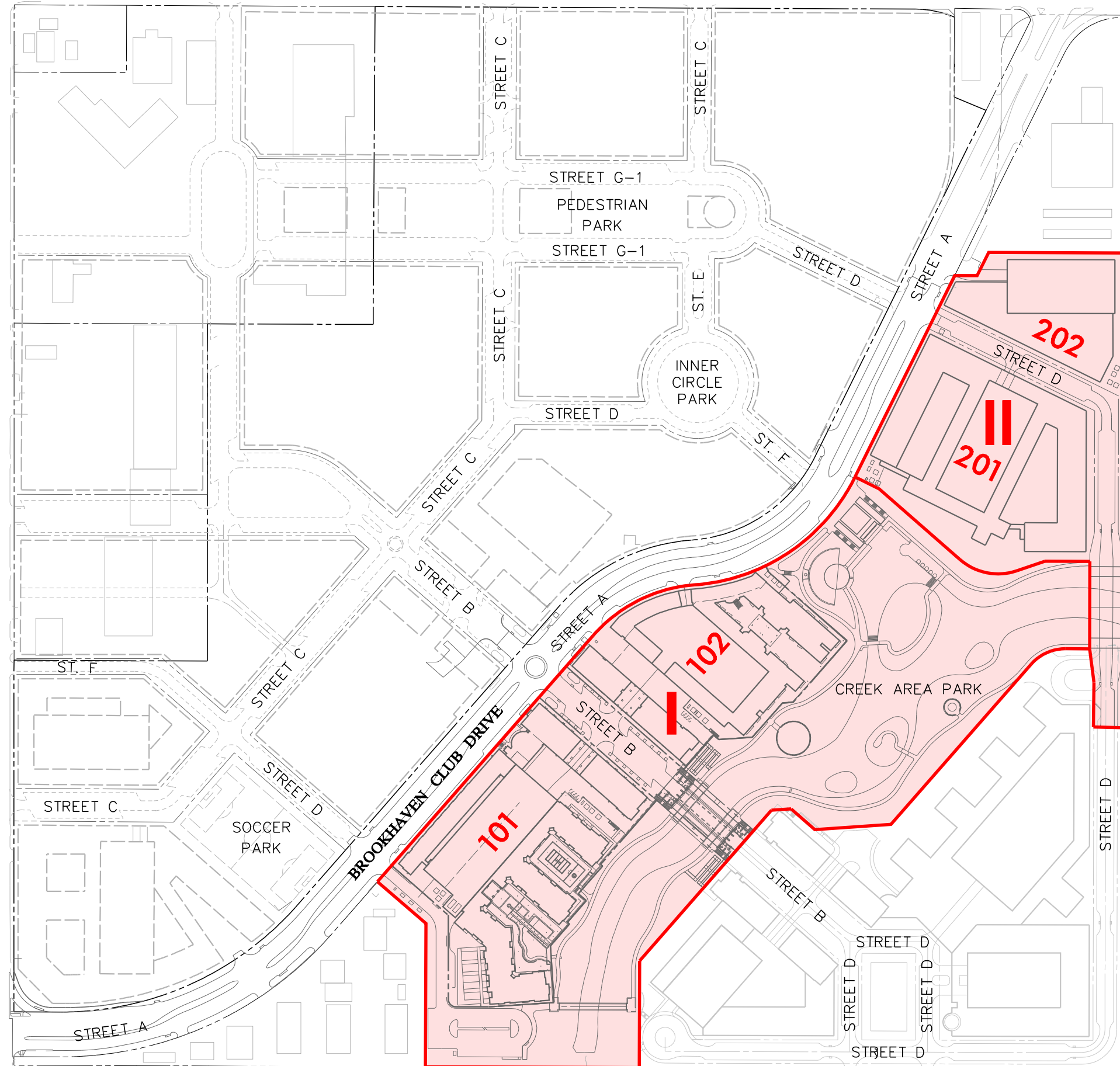
1166 Residential Units
26,500 sq ft Retail
17,600 sq ft Office
\$205,750,000 Private Investment

* Private Development Figures and Timing are Current Estimates and are Subject to Change Based on Design Refinement and/or Market Influence.

**REVISED
EXHIBIT "C-1"
FUNDING NO. 1**

06/02/09

MARSH LANE





SCALE: 1"=250'

icon Consulting Engineers, Inc.
Civil Engineers - Designers - Planners

Bicentennial Financial Center
250 W. Southlake Blvd., Suite 117
Southlake, Tx 76092
Phone: (817) 552-6210
Fax: (817) 552-3126

MARSH LANE

SPRING VALLEY ROAD

VIII

VI

II

IV

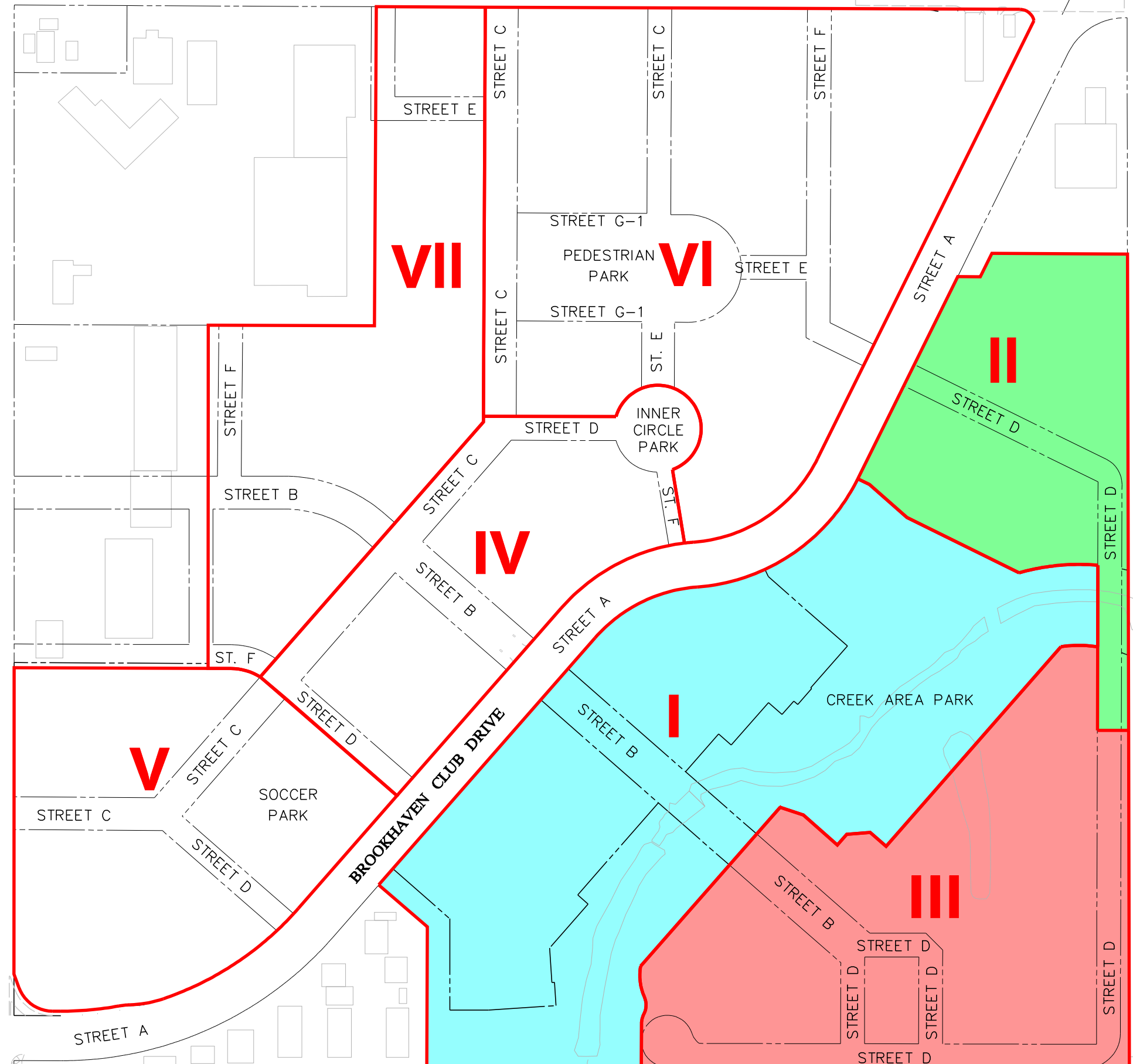
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III

EXHIBIT "E" VITRUVIAN DEVELOPMENT PHASING PLAN

05/12/09



June ____, 2009

**M E M O R A N D U M OF UNDERSTANDING
BETWEEN THE TOWN OF ADDISON, TEXAS
AND THE ADDISON ARBOR FOUNDATION**

Background

For the past number of months, the Town has been working with the members of the Addison Arbor Foundation (AAF) in an effort to amend its by-laws and allow the organization to function more independently. The goal is to encourage the AAF to control its own destiny. Specifically, AAF will pursue an articulated annual program of work, administer its financial responsibilities, recruit and expand its membership, conduct regular fund-raising activities through the promotion and marketing of the AAF, and pursue other operational duties it sees fit to successfully grow the AAF.

General Duties and Procedures of the AAF

Among other responsibilities identified in its Articles of Incorporation, By-laws, and other legal requirements, AAF shall:

- Maintain not less than 7 or more than 11 directors for a term of 2 years each (subject to the AAF's authority to approve modifications to the number and terms of directors)
- Selects a president, vice president, secretary, and treasurer
- Submit and present an annual program of work to the Addison City Council for consideration of approval
- In connection with the receipt of any funds from the Town in connection with AAF's provision of public projects benefiting the Town, enter into an agreement with the Town regarding the expenditure and use of such funds, and in connection therewith provide an annual statement of revenues and expenditures for the preceding year and an annual budget for the forthcoming fiscal year (October 1 – September 30) to the Addison City Council for approval
- Establishes and presents annual fund-raising goals to the Addison City Council

AAF Funding

Initially, the Town will convey the current balance of monies in the Addison Arbor Foundation line item of the Town's budget to the reconstituted AAF organization (which are monies paid directly to the AAF and which the Town has held solely for the benefit of AAF). This balance is presently \$190,000. Going forward, AAF

may annually receive a portion of the Town's collected recycling proceeds as approved by the Addison City Council based on, among other things, its submitted annual program of work and the reported accomplishments of AAF.

This document represents the general articulated operational arrangement between AAF and the Town of Addison. The signatures of the undersigned parties represent their intent to comply with the provisions set forth herein.

Ron Whitehead, City Manager

Neil Hewitt, AAF President

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS EXPRESSING THE EXPECTATION OF THE TOWN COUNCIL THAT STEPS WILL BE TAKEN BY THE ADDISON ARBOR FOUNDATION TO REMOVE THE CITY COUNCIL FROM OVERSIGHT OR AUTHORITY REGARDING THE FOUNDATION; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ARBOR FOUNDATION REFLECTING THE REMOVAL OF THE TOWN FROM SUCH OVERSIGHT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in or about 199__ the Addison Arbor Foundation (the “Arbor Foundation” or “Foundation”), a non-profit corporation under the laws of the State of Texas, was established and created primarily for the purpose of promoting the landscaping, public parks, and parks and recreation programs of the Town of Addison, Texas (the “City”); and

WHEREAS, since its inception, (i) members of the City staff have served as members of the Arbor Foundation’s board of directors, (ii) the City Council has, pursuant to the Foundation’s bylaws, had certain rights with respect to the Arbor Foundation, including the right to nominate and elect persons to serve on, and to remove persons from, the Foundation’s board of directors, and (iii) the City has held and separately accounted for funds of and paid directly to the Arbor Foundation, which funds were independently obtained and collected by the Foundation to facilitate the accomplishment of its objectives and goals; and

WHEREAS, in order to assist and encourage the further development of the Foundation and the accomplishment of its public purposes, the City Council desires that the Foundation continue in an independent capacity separate and apart from the oversight and authority of the City (except as such oversight and authority may be established in a future agreement between the City and the Foundation regarding City funds which may hereafter be paid to the Foundation to accomplish its public purposes).

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

Section 1. In accordance with the above and foregoing recitals, the City Council anticipates that the Foundation will take the steps necessary to remove the City Council from any oversight of or authority regarding the Foundation, including amending the bylaws of the Arbor Foundation to, among other things, remove the role of the Council and City staff from the administrative activities of the Foundation. In connection therewith and upon such steps being taken and finalized, the City Manager is directed to cause the payment to the Arbor Foundation of funds of and belonging to the Arbor Foundation which have been held and separately accounted for by the City and which have been independently obtained by the Foundation.

Section 2. The City Manager is authorized to execute an agreement between the City and the Arbor Foundation reflecting the matters set forth herein, a true and correct copy of which agreement is attached hereto as Attachment 1.

Section 3. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas the is 23rd day of June, 2009.

Joe Chow, Mayor

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

ATTACHMENT 1

June ____, 2009

M E M O R A N D U M OF UNDERSTANDING BETWEEN THE TOWN OF ADDISON, TEXAS AND THE ADDISON ARBOR FOUNDATION

Background

For the past number of months, the Town has been working with the members of the Addison Arbor Foundation (AAF) in an effort to amend its by-laws and allow the organization to function more independently. The goal is to encourage the AAF to control its own destiny. Specifically, AAF will pursue an articulated annual program of work, administer its financial responsibilities, recruit and expand its membership, conduct regular fund-raising activities through the promotion and marketing of the AAF, and pursue other operational duties it sees fit to successfully grow the AAF.

General Duties and Procedures of the AAF

Among other responsibilities identified in its Articles of Incorporation, By-laws, and other legal requirements, AAF shall:

- Maintain not less than 7 or more than 11 directors for a term of 2 years each (subject to the AAF's authority to approve modifications to the number and terms of directors)
- Selects a president, vice president, secretary, and treasurer
- Submit and present an annual program of work to the Addison City Council for consideration of approval
- In connection with the receipt of any funds from the Town in connection with AAF's provision of public projects benefiting the Town, enter into an agreement with the Town regarding the expenditure and use of such funds, and in connection therewith provide an annual statement of revenues and expenditures for the preceding year and an annual budget for the forthcoming fiscal year (October 1 – September 30) to the Addison City Council for approval
- Establishes and presents annual fund-raising goals to the Addison City Council

AAF Funding

Initially, the Town will convey the current balance of monies in the Addison Arbor Foundation line item of the Town's budget to the reconstituted AAF organization (which are monies paid directly to the AAF and which the Town has held solely for the benefit of AAF). This balance is presently \$190,000. Going forward, AAF may annually receive a portion of the Town's collected recycling proceeds as approved by the Addison City Council based on, among other things, its submitted annual program of work and the reported accomplishments of AAF.

This document represents the general articulated operational arrangement between AAF and the Town of Addison. The signatures of the undersigned parties represent their intent to comply with the provisions set forth herein.

Ron Whitehead, City Manager

Neil Hewitt, AAF President

**UNANIMOUS WRITTEN CONSENT
OF THE DIRECTORS OF
ADDISON ARBOR FOUNDATION**

Pursuant to Article 1396-9.10 of the Texas Non-Profit Corporation Act (article 1396-1.01 *et seq.*, Tex. Rev. Civ. Stat.) (the “Act”) and Section 2.02 of Article 2 (Management of the Foundation) of the Bylaws of the Foundation, the undersigned, being all of the members of the Board of Directors of Addison Arbor Foundation, a Texas non-profit corporation (the “Foundation”), who would be entitled to vote upon the resolutions hereinafter set forth if the same had been submitted to a formal meeting of the Board of Directors of the Foundation duly called and held for the purpose of acting upon said resolutions, do hereby consent that, when they shall have signed this Consent or an exact counterpart hereof, the following resolutions shall then be deemed to be adopted to the same extent, and have the same force and effect as if adopted at a formal meeting of the Board of Directors of the Foundation duly called and held for the purpose of acting upon proposals to adopt said resolutions:

WHEREAS, Article 12 of the Bylaws of the Foundation provide that the Bylaws may be altered and amended by the Board of Directors, and article 1396-2.09.B. of the Act provides that the board of directors of a non-profit corporation may amend the corporation’s bylaws unless (1) the articles of incorporation or the Act reserves the power exclusively to the members in whole or in part, (2) the management of the corporation is vested in its members, or (3) the members in amending, repealing, or adopting a particular by-law expressly provide that the board of directors may not amend or repeal that by-law, and none of the foregoing (1), (2), or (3) is applicable to the Foundation; and

WHEREAS, the Board of Directors has determined it to be in the best interest of the Foundation to amend the Bylaws as set forth herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
ADDISON ARBOR FOUNDATION:**

RESOLVED, that the Bylaws of the Foundation be and the same are hereby amended as follows:

1. **Article 1, Offices** of the Bylaws is amended by amending **Section 1.01** thereof to read as follows:

1.01. The principal office of the Foundation in the State of Texas shall be located at _____ ~~5300 Belt Line Road, Addison, Texas~~
~~75240~~. The Foundation may have such other offices, either in Texas or elsewhere, as the Board of Directors may determine. The Board of Directors may change the location of any office of the Foundation.

2. **Article 2, Board of Directors** of the Bylaws is amended by amending **Section 2.03, Section 2.04, Section 2.05, Section 2.06, and Section 2.16** thereof to read as follows:

Number, Qualifications and Tenure of Directors

2.03. The number of directors shall be not less than seven (7) or more than eleven (11) ~~three~~. The exact number of directors within these limits shall be fixed from time to time by resolution of the Board of Directors of the Foundation. ~~Directors shall be at least twenty-one years of age and residents or employees of the Town of Addison, Texas.~~ Each director shall serve for a term of ~~twoone~~ (21) years. The number of directors may be increased or decreased from time to time by amendment to these Bylaws. Any decrease in the number of directors shall not have the effect of reducing the total number of directors below ~~five~~ three (3) nor of shortening the tenure which any incumbent director would otherwise enjoy.

Nomination of Directors

2.04. At any meeting at which the election of a director occurs, any director~~member of the Addison City Council~~ may nominate a person with the second of any other director~~member of the Council~~.

Election of Directors

2.05. A person who meets all~~any~~ qualification requirements to be a director and who has been duly nominated may be elected as a director. Directors shall be elected by the majority vote of the Board of Directors~~Addison City Council~~. Each director shall hold office until a successor is elected and qualified or as otherwise provided for herein. A director may be elected to succeed himself or herself as director.

Vacancies

2.06. Vacancies on the Board of Directors shall exist upon: (a) the death, resignation or removal of any director; (b) an increase in the authorized number of directors; or (c) the failure to elect the full authorized number of members of the Board of Directors at any annual or regular meeting of the Board of Directors at which any director is to be elected. ~~The Addison City Council may declare the office of a director vacant if the director is adjudged incompetent by a court, is convicted of a crime involving moral turpitude, or does not accept the office of director in writing or by attending a meeting of the Board of Directors within sixty (60) days notice of election.~~ Any vacancy occurring in the Board of Directors, and any director position to be filled due to an increase in the number of directors, shall be filled by the Board of Directors~~Addison City Council~~. A vacancy is filled by the affirmative vote of a majority of the Board of Directors~~Addison City Council~~. A director elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

Removal of Directors

2.16. The Board of Directors ~~at any time may vote to remove~~ recommend to the Addison City Council that a director ~~at any time be removed~~, with or without cause. ~~Upon such recommendation or on its own initiative at any time, the Addison City Council may vote to remove a director with or without cause.~~ The director who is the subject of the removal shall have the right to present evidence at the meeting of the Board of Directors ~~or City Council~~ as to why he or she should not be removed. At the meeting, the ~~Board of Directors~~ City Council shall consider possible arrangements for resolving the problems that are in the mutual interest of the Foundation and the director. A director may be removed by the affirmative vote of a majority of the ~~Board of Directors~~ City Council.

3. **Article 3, Officers** of the Bylaws is amended by amending **Section 3.01** thereof to read as follows:

Officer Positions

3.01. The officers of the Foundation shall be a president, vice-president, a secretary, and a treasurer. The Board of Directors may create additional officer positions, define the authority and duties of each such position, and elect or appoint persons ~~staff members~~ of the Town of Addison to fill the positions. Any two or more offices may be held by the same person, except the offices of president and secretary.

4. **Article 10, Notices** is amended by amending **Section 10.01** thereof to read as follows:

Notice by Mail or Telegram

10.01. Any notice required or permitted by the Bylaws to be given to a director, officer, or member of a committee of the Foundation may be given by mail, hand-delivery, facsimile, ~~or telegram,~~ or electronic mail. If mailed, a notice shall be deemed to be

delivered when deposited in the United States mail addressed to the person at his or her address as it appears on the records of the Foundation, with postage prepaid. If given by facsimile, notice shall be deemed delivered upon the sending of the same to the telephone facsimile number that appears on the records of the Foundation. If given by telegram, a notice shall be deemed to be delivered when accepted by the telegraph company and addressed to the person at his or her address as it appears on the records of the Foundation. If electronically mailed, such notice shall be deemed to be delivered when the electronic message is transmitted to an electronic message address provided by the person to whom the notice is given, or to which the person consents, for the purpose of receiving notice. A person may change his or her address (physical or electronic) by giving written notice to the secretary of the Foundation.

EXECUTED this _____ day of _____, 2009.

Randy Moravec, Director

Slade Strickland, Director

Chris Terry, Director



The State of Texas

**SECRETARY OF STATE
CERTIFICATE OF AMENDMENT
OF**

**ADDISON ARBOR FOUNDATION
FORMERLY:
ADDISON PARKS FOUNDATION**

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Amendment to the Articles of Incorporation of the above corporation duly executed pursuant to the provisions of the Texas Non-Profit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Amendment to the Articles of Incorporation and attaches hereto a copy of the Articles of Amendment.

Dated: August 23, 1999



Elton Bomer
Secretary of State



The State of Texas
Secretary of State

CERTIFICATE OF INCORPORATION
OF

ADDISON PARKS FOUNDATION
CHARTER NUMBER 01349808

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS, HEREBY CERTIFIES THAT THE ATTACHED ARTICLES OF INCORPORATION FOR THE ABOVE NAMED CORPORATION HAVE BEEN RECEIVED IN THIS OFFICE AND ARE FOUND TO CONFORM TO LAW.

ACCORDINGLY, THE UNDERSIGNED, AS SECRETARY OF STATE, AND BY VIRTUE OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES THIS CERTIFICATE OF INCORPORATION.

ISSUANCE OF THIS CERTIFICATE OF INCORPORATION DOES NOT AUTHORIZE THE USE OF A CORPORATE NAME IN THIS STATE IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER THE FEDERAL TRADEMARK ACT OF 1946, THE TEXAS TRADEMARK LAW, THE ASSUMED BUSINESS OR PROFESSIONAL NAME ACT OR THE COMMON LAW.

DATED MAR. 20, 1995

EFFECTIVE MAR. 20, 1995




Antonio O. Garza, Jr., Secretary of State



COPY

The State of Texas
Secretary of State

MAR. 22, 1995

COWLES & THOMPSON- JOHN M. HILL
901 MAIN ST., STE. 4000
DALLAS ,TX 75202-3793

RE:
ADDISON PARKS FOUNDATION
CHARTER NUMBER 01349808-01

IT HAS BEEN OUR PLEASURE TO APPROVE AND PLACE ON RECORD THE ARTICLES OF INCORPORATION THAT CREATED YOUR CORPORATION. WE EXTEND OUR BEST WISHES FOR SUCCESS IN YOUR NEW VENTURE.

AS A CORPORATION, YOU ARE SUBJECT TO STATE TAX LAWS. SOME NON-PROFIT CORPORATIONS ARE EXEMPT FROM THE PAYMENT OF FRANCHISE TAXES AND MAY ALSO BE EXEMPT FROM THE PAYMENT OF SALES AND USE TAX ON THE PURCHASE OF TAXABLE ITEMS. IF YOU FEEL THAT UNDER THE LAW YOUR CORPORATION IS ENTITLED TO BE EXEMPT YOU MUST APPLY TO THE COMPTROLLER OF PUBLIC ACCOUNTS FOR THE EXEMPTION. THE SECRETARY OF STATE CANNOT MAKE SUCH DETERMINATION FOR YOUR CORPORATION.

IF WE CAN BE OF FURTHER SERVICE AT ANY TIME, PLEASE LET US KNOW.



VERY TRULY YOURS,

A handwritten signature in black ink, appearing to read "A. Garza, Jr.", written over a horizontal line.

Antonio O. Garza, Jr., Secretary of State



The State of Texas

Secretary of State

ANTONIO O. GARZA, JR.
SECRETARY OF STATE

CHARTER NO. 01349808-01
ARTICLE 9.01, T.N.P.C.A. REPORT
FILING FEE \$5.00

PURSUANT TO THE PROVISIONS OF ARTICLE 9.01 OF THE TEXAS NON-PROFIT CORPORATION ACT, THE UNDERSIGNED CORPORATION HEREBY FILES ITS REPORT SETTING FORTH:

- 1. THE NAME OF THE CORPORATION IS: ADDISON PARKS FOUNDATION
2. IT IS INCORPORATED UNDER THE LAWS OF: TEXAS
3. THE STREET ADDRESS OF THE REGISTERED OFFICE OF THE CORPORATION IN THE STATE OF TEXAS IS: 901 MAIN ST., STE. 4000 DALLAS, TX 75202 (MAKE ANY CHANGES HERE)
4. ITS REGISTERED AGENT AT SUCH ADDRESS IS: JOHN M. HILL (MAKE ANY CHANGES HERE)
5. IF A FOREIGN CORPORATION, THE STREET ADDRESS OF ITS PRINCIPAL OFFICE THE STATE OR COUNTRY UNDER THE LAWS OF WHICH IT IS INCORPORATED IS:

6. THE NAMES AND RESPECTIVE ADDRESSES OF ITS DIRECTORS (OR TRUSTEES, ETC.) AND OFFICERS ARE: (NAME AT LEAST 3)

Table with 3 columns: NAME, TITLE, ADDRESS. Rows include Slade Strickland (President), Chris Terry (Vice President), Randy Moravec (Treasurer), and Chris Terry (Secretary).

7. THE FOREGOING INFORMATION IS GIVEN AS OF THE DATE OF THE EXECUTION OF THIS REPORT:

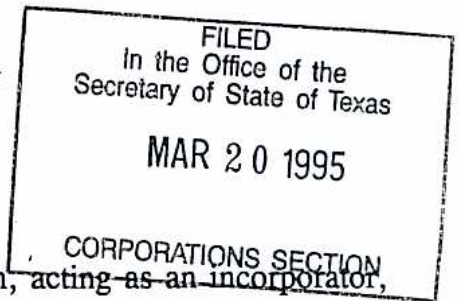
DATED 3-5, 19 97

Addison Parks Foundation
NAME OF CORPORATION
BY Slade Strickland
(SIGNATURE)

ITS President
(TITLE OF OFFICER SIGNING)

NOTE: ALL ITEMS MUST BE COMPLETED. MAKE CHANGES TO ITEMS 3 AND 4 AS NECESSARY. RETURN TO SECRETARY OF STATE, CORPORATIONS SECTION, P.O. BOX 13697, AUSTIN, TEXAS 78711-3697 WITH A \$5.00 FEE.

**ARTICLES OF INCORPORATION
OF
ADDISON PARKS FOUNDATION**



I, the undersigned, natural person over the age of eighteen, acting as an incorporator, adopt the following articles of incorporation of the Addison Parks Foundation (referred to as the "Foundation") under the Texas Non-Profit Corporation Act (referred to as the "Act"):

ARTICLE I

NAME

The name of the Foundation is the Addison Parks Foundation.

ARTICLE II

NON-PROFIT CORPORATION

The Foundation is a non-profit corporation. Upon dissolution, all of the Foundation's assets shall be distributed to the State of Texas or an organization exempt from taxes under the Internal Revenue Code Section 501(c)(3) for one or more purposes that are exempt under the Texas franchise tax.

ARTICLE III

DURATION

The Foundation shall continue in perpetuity.

ARTICLE IV

PURPOSES

The purposes for which the Foundation is organized and operated shall be exclusively non-profit and exclusively for charitable, scientific, literary or educational purposes to which ends the following objects are specified:

- A. To engage in, conduct and promote charitable, scientific, literary, educational,

social and public welfare activities for the benefit of the public parks systems and the parks and recreation programs of the Town of Addison, examples of which activities include but are not limited to the following:

1. To accept and improve land for parks, environmental easements and other public uses.
 2. To develop public park facilities.
 3. To restore and beautify parks, greenbelts and other public land.
 4. To enhance the Addison landscape and public buildings with gifts of visual art.
 5. To develop public cultural, social and educational resources.
 6. To improve opportunities for the visual and performing arts.
 7. To strengthen the delivery of public park and recreation services.
 8. To give grants to qualified non-profit organizations which carry out projects and programs that fulfill the purposes of the foundation provided that the following conditions exist with respect to any recipient organization:
 - a. It is not a private school.
 - b. It is not a religious program.
 - c. It is a functioning organization.
 - d. It has a governing board.
 9. To further the education of the public and quasi-public professionals engaged in services to the community.
- B. To solicit, accept, receive, take and hold gifts, grants, legacies, bequests, devises, funds and property of any kind, nature or description (whether real, personal, mixed or otherwise), without limitation as to amount or value, from individuals, businesses, industries, foundations and governmental agencies.
- C. To sell, convey and dispose of any such funds and property and to invest and re-

invest the principal thereof and to use, apply, employ, deal with, expand, contribute and donate the principal or income, or both, for any of the aforementioned purposes and objectives, either directly or through any charitable, scientific, governmental, literary, educational or public welfare corporation, association, agency or institution.

- D. To exercise, do and perform any, all and every power, act, or thing incidental to or necessary in connection with the accomplishment and furtherance of the aforementioned purposes and objectives.

The Foundation shall not attempt to influence legislation and shall not participate in, or intervene in, including the publishing or distributing of statements, any political campaign on behalf of, or in opposition to, any candidate for public office.

ARTICLE V

POWERS

Except as otherwise provided in these Articles, the Foundation shall have all of the powers provided in the Texas Non-Profit Corporation Act (the "Act"). Moreover, the Foundation shall have all implied powers necessary and proper to carry out its express powers.

ARTICLE VI

RESTRICTIONS AND REQUIREMENTS

The Foundation shall not pay dividends or other corporate income to its directors or officers or otherwise accrue distributable profits or permit the realization of private gain. The Foundation shall have no power to take any action prohibited by the Act. The Foundation shall not have the power to engage in any activities, except to an insubstantial degree, that are not in furtherance of the purposes set forth above.

The Foundation shall have no power to take any action that would be inconsistent with

the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures. The Foundation shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Foundation shall have no power to:

- 1) Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
- 2) Serve a private interest other than one that is clearly incidental to an overriding public interest.
- 3) Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.
- 4) Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.
- 5) Have objectives that characterize it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
- 6) Distribute its assets on dissolution other than for one or more exempt purposes; on dissolution, the Foundation's assets shall be distributed to the state government for public purpose, or to an organization exempt from taxes under the Internal Revenue Code Section 501(c)(3) to be used to accomplish the general purposes for which the Foundation was organized.

7) Permit any part of the net earnings of the Foundation to inure to the benefit of any private shareholder or member of the Foundation or any private individual.

8) Carry on an unrelated trade or business except as a secondary purpose related to the Foundation's primary, exempt, purposes.

The Foundation shall make distributions at such times and in such manners as to avoid the tax under Internal Revenue Code Section 4942. The Foundation shall not engage in any act of self-dealing as defined in Section 4941(d). The Foundation shall not retain excess business holdings as defined in Section 4943(c). The Foundation shall not make any investments that would subject it to the tax described in Section 4944. The Foundation shall not make any taxable expenditures as defined in Section 4945(e).

ARTICLE VII

MEMBERSHIP

The Foundation shall have no members.

ARTICLE VIII

INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Corporation is 901 Main Street, Suite 4000, Dallas, Texas 75202. The name of the initial registered agent at this office is John M. Hill.

ARTICLE IX

BOARD OF DIRECTORS

The qualifications, manner of selection, duties, terms, and other matters relating to the Board of Directors (referred to as the "Board of Directors") shall be provided in the Bylaws. The initial Board of Directors shall consist of three persons. The number of directors may be increased or decreased by adoption or amendment of bylaws. The number of directors may not

be decreased to less than three. The initial Board of Directors shall consist of the following persons at the following addresses:

<u>NAME OF DIRECTORS</u>	<u>STREET ADDRESS</u>
Slade Strickland	16801 Westgrove Drive Addison, Texas 75248
Chris Terry	5300 Belt Line Road Addison, Texas 75240
Randy Moravec	5350 Belt Line Road Addison, Texas 75240

ARTICLE X

LIMITATION ON LIABILITY OF DIRECTORS

To the fullest extent permitted by applicable law, as the same may be modified or amended from time to time, no director of the Corporation shall be liable to the Corporation for monetary damages for an act or omission in such director's capacity as a director of the Corporation. Any repeal or amendment of this Article Ten shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such repeal or amendment.

ARTICLE XI

INDEMNIFICATION

The Foundation may indemnify a person who was, is, or is threatened to be made a named defendant or respondent in litigation or other proceedings because the person is or was a director or other person related to the Foundation regardless of the provisions in the Act governing indemnification. As provided in the bylaws, the Board of Directors shall have the power to define the requirements and limitations for the Foundation to indemnify directors, officers or others related to the Foundation.

ARTICLE XII
CONSTRUCTION

All references in these Articles of Incorporation to statutes, regulations, or other sources of legal authority shall refer to the authority cited, or their successors, as they may be amended from time to time.

ARTICLE XIII
INCORPORATORS

The name and street address of the incorporator is:

John M. Hill	901 Main Street, Suite 4000 Dallas, Texas 75202
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ARTICLE XIV
ACTION BY WRITTEN CONSENT

Action may be taken by the use of signed written consents by the number of directors or committee members whose vote would be necessary to take action at a meeting at which all such persons entitled to vote were present and voted. Each written consent must bear the date of signature of each person signing it. A consent signed by less than all of the directors or committee members is not effective to take the intended action unless consents, signed by the required number of persons, are delivered to the Foundation within sixty days after the date of the earliest dated consent delivered to the Foundation. Delivery must be made by hand, or by certified or registered mail, return receipt requested. The delivery may be made to the Foundation's registered office, registered agent, principal place of business, transfer agent, registrar, exchange agent or an officer or agent having custody of books in which the relevant proceedings are recorded. If the delivery is made to the Foundation's principal place of business, the consent must be addressed to the president or principal executive officer.

The Foundation will give prompt notice of the action taken to persons who do not sign consents. If the action taken requires documents to be filed with the Secretary of State, the filed documents will include that the written consent procedures have been properly followed. A telegram, telex, cablegram, or similar transmission by a member, director or committee member, or photographic, facsimile, or a similar reproduction of a signed writing is to be regarded as being signed by the director or committee member.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of MARCH, 1995.



John M. Hill, Incorporator

**BYLAWS OF
ADDISON PARKS FOUNDATION**

These Bylaws (referred to as the "Bylaws") govern the affairs of Addison Parks Foundation, a nonprofit corporation (referred to as the "Foundation") organized under the Texas Non-Profit Corporation Act (referred to as the "Act").

ARTICLE 1

OFFICES

Principal Office

1.01. The principal office of the Foundation in the State of Texas shall be located at 5300 Belt Line Road, Addison, Texas 75240. The Foundation may have such other offices, either in Texas or elsewhere, as the Board of Directors may determine. The Board of Directors may change the location of any office of the Foundation.

Registered Office and Registered Agent

1.02. The Foundation shall comply with the requirements of the Act and maintain a registered office and registered agent in Texas. The registered office may, but need not, be identical with the Foundation's principal office in Texas. The Board of Directors may change the registered office and the registered agent as provided in the Act.

ARTICLE 2

BOARD OF DIRECTORS

Management of the Foundation

2.01. The affairs of the Foundation shall be managed by the Board of Directors, subject to limitation imposed by law, the Articles of Incorporation or by these Bylaws.

Action By Consent of Board of Directors Without Meeting

2.02. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, and with the same force and effect as a unanimous vote of the Board of Directors, if all members of the Board of Directors consent in writing to the action. Such consent may be given individually or collectively.

Number, Qualifications and Tenure of Directors

2.03. The number of Directors shall be three. Directors shall be at least twenty-one years of age and residents or employees of the Town of Addison, Texas. Each director shall serve for a term of one (1) year. The number of directors may be increased or decreased from time to time by amendment to these Bylaws. Any decrease in the number of directors shall not have the effect of reducing the total number of directors below three (3) nor of shortening the tenure which any incumbent director would otherwise enjoy.

Nomination of Directors

2.04. At any meeting at which the election of a director occurs, any member of the Addison City Council may nominate a person with the second of any other member of the Council.

Election of Directors

2.05. A person who meets any qualification requirements to be a director and who has been duly nominated may be elected as a director. Directors shall be elected by the majority vote of the Addison City Council. Each director shall hold office until a successor is elected and qualified or as otherwise provided for herein. A director may be elected to succeed himself or herself as director.

Vacancies

2.06. Vacancies on the Board of Directors shall exist upon: (a) the death, resignation or removal of any director; (b) an increase in the authorized number of directors; or (c) the failure to elect the full authorized number of members of the Board of Directors at any annual or regular meeting of the Board of Directors at which any director is to be elected. The Addison City Council may declare the office of a director vacant if the director is adjudged incompetent by a court, is convicted of a crime involving moral turpitude, or does not accept the office of director in writing or by attending a meeting of the Board of Directors within sixty (60) days notice of election. Any vacancy occurring in the Board of Directors, and any director position to be filled due to an increase in the number of directors, shall be filled by the Addison City Council. A vacancy is filled by the affirmative vote of a majority of the Addison City Council. A director elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

Annual Meeting

2.07. The annual meeting of the Board of Directors may be held without notice other than these Bylaws. The annual meeting of the Board of Directors shall be held at 7:30 P.M. on the second Tuesday of October each year or at another time that the Board of Directors designate.

Regular Meetings

2.08. The Board of Directors may provide for regular meetings by resolution stating the time and place of such meetings. The meetings may be held either within or without the State of Texas and shall be held at the Foundation's registered office in Texas if the resolution does not specify the location of the meetings. No notice of regular meetings of

the Board is required other than a resolution of the Board of Directors stating the time and place of the meetings.

Special Meetings

2.09. Special meetings of the Board of Directors may be called by or at the request of the president or any two directors. A person or persons authorized to call special meetings of the Board of Directors may fix any place within Texas as the place for holding a special meeting. The person or persons calling a special meeting shall notify the secretary of the information required to be included in the notice of the meeting. The secretary shall give notice to the directors as required in the Bylaws.

Notice

2.10. Written or printed notice of any special meeting of the Board of Directors shall be delivered to each director not less than seven (7) nor more than 30 days before the date of the meeting. The notice shall state the place, day, and time of the meeting, who called the meeting, and the purpose or purposes for which the meeting is called.

Quorum

2.11. A majority of the number of directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The directors present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough directors leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of directors required to constitute a quorum. If a quorum is present at no time during a meeting, a majority of the directors present may adjourn and reconvene the meeting one time without further notice.

Duties of Directors

2.12. Directors shall exercise ordinary business judgment in managing the affairs of the Foundation. In acting in their official capacity as directors of this Foundation, directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Foundation and that are not unlawful. In all other instances, the Board of Directors shall not take any action that they should reasonably believe would be opposed to the Foundation's best interests or would be unlawful. A director shall not be liable if, in the exercise of ordinary care, the director acts in good faith relying on written financial and legal statements provided by an accountant or attorney retained by the Foundation.

Actions of Board of Directors

2.13. The Board of Directors shall try to act by consensus. However, the vote of a majority of the Board of Directors present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the Board of Directors unless the act of a greater number is required by law or the Bylaws. A director who is present at a meeting and abstains from a vote is not considered to be present and voting for the purpose of determining the decision of the Board of Directors. For the purpose of determining the decision of the Board of Directors, a director who is represented by proxy in a vote is considered present.

Proxies

2.14. A director may vote by proxy executed in writing by the director. No proxy shall be valid after three (3) months from the date of its execution.

Compensation

2.15. Directors shall not receive salaries for the their services. The Board of Directors may adopt a resolution providing for payment to directors of a fixed sum and expenses of attendance, if any, for attendance at each meeting of the Board of Directors. A director may serve the Foundation in any other capacity and receive compensation for those services. Any compensation that the Foundation pays to a director shall be commensurate with the services performed and reasonable in amount.

Removal of Directors

2.16. The Board of Directors at any time may recommend to the Addison City Council that a director be removed, with or without cause. Upon such recommendation or on its own initiative at any time, the Addison City Council may vote to remove a director with or without cause. The director who is the subject of the removal shall have the right to present evidence at the meeting of the Board of Directors or City Council as to why he or she should not be removed. At the meeting, the City Council shall consider possible arrangements for resolving the problems that are in the mutual interest of the Foundation and the director. A director may be removed by the affirmative vote of a majority of the City Council.

ARTICLE 3

OFFICERS

Officer Positions

3.01. The officers of the Foundation shall be a president, vice-president, a secretary, and a treasurer. The Board of Directors may create additional officer positions, define the authority and duties of each such position, and elect or appoint staff members of the Town

of Addison to fill the positions. Any two or more offices may be held by the same person, except the offices of president and secretary.

Election and Term of Office

3.02. The officers of the Foundation shall be elected annually by the Board of Directors at the first meeting of the Board following the annual meeting. If the election of officers is not held at this meeting, the election shall be held as soon thereafter as conveniently possible. Each officer shall hold office until a successor is duly selected and qualified. An officer may be elected to succeed himself or herself in the same office.

Removal

3.03. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors for any reason and with or without cause. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer.

Vacancies

3.04. A vacancy in any office may be filled by the Board of Directors for the unexpired portion of the officer's term.

President

3.05. The president shall be the chief executive officer of the Foundation. The president shall supervise and control all of the business and affairs of the Foundation. The president shall preside at all meetings of the members and of the Board of Directors. The president may execute any deeds, mortgages, bonds, contracts, or other instruments that the Board of Directors have authorized to be executed. However, the president may not

execute instruments on behalf of the Foundation if this power is expressly delegated to another officer or agent of the Foundation by the Board of Directors, the Bylaws, or statute. The president shall perform other duties prescribed by the Board of Directors and all duties incident to the office of president.

Vice President

3.06. When the president is absent, is unable to act, or refuses to act, a vice president shall perform the duties of the president. When a vice president acts in place of the president, the vice president shall have all the powers of and be subject to all the restrictions upon the president. If there is more than one vice president, the vice presidents shall act in place of the president in the order of the votes received when elected. A vice president shall perform other duties as assigned by the president or Board of Directors.

Treasurer

3.07. The treasurer shall:

- (a) Have charge and custody of and be responsible for all funds and securities of the Foundation from any source.
- (b) Receive and give receipts for moneys due and payable to the Foundation from any source.
- (c) Deposit all moneys in the name of the Foundation in banks, trust companies, or other depositories as provided in the bylaws or as directed by the Board of Directors or president.
- (d) Write checks and disburse funds to discharge obligations of the Foundation. Funds may not be drawn from the Foundation or its accounts for amounts greater than Five

Hundred and No/100 Dollars (\$500.00) without the signature of the president or a vice president in addition to the signature of the treasurer.

- (e) Maintain the financial books and records of the Foundation.
- (f) Prepare financial reports at least annually.
- (g) Perform other duties as assigned by the president or by the Board of Directors.
- (h) If required by the Board of Directors, give a bond for the faithful discharge of his or her duties in a sum and with a surety as determined by the Board of Directors.
- (i) Perform all of the duties incident to the office of treasurer.

Secretary

3.08. The Secretary shall:

- (a) Give all notices as provided in the bylaws or as required by law.
- (b) Take minutes of the meetings of the members and of the Board of Directors and keep the minutes as part of the corporate records.
- (c) Maintain custody of the corporate records and of the seal of the Foundation.
- (d) Affix the seal of the Foundation to all documents as authorized.
- (e) Keep a register of the mailing address of each director, officer, and employee of the Foundation.
- (f) Perform duties as assigned by the president or by the Board of Directors.
- (g) Perform all duties incident to the office of secretary.

ARTICLE 4

COMMITTEES

Establishment of Committees

4.01. The Board of Directors may adopt a resolution establishing one or more committees delegating specified authority to a committee, and appointing or removing members of a committee. A committee shall include two or more directors and may include persons who are not directors. If the Board of Directors delegates any of its authority to a committee, the majority of the committee shall consist of directors. The Board of Directors may establish qualifications for membership on a committee. The Board of Directors may delegate to the president its power to appoint and remove members of a committee that has not been delegated any authority of the Board of Directors. The establishment of a committee or the delegation of authority to it shall not relieve the Board of Directors, or any individual director, of any responsibility imposed by the Bylaws or otherwise imposed by law. No committee shall have the authority of the Board of Directors to:

- (a) Amend the Articles of Incorporation.
- (b) Adopt a plan of merger or a plan of consolidation with another corporation.
- (c) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Foundation.
- (d) Authorize the voluntary dissolution of the Foundation.
- (e) Revoke proceedings for the voluntary dissolution of the Foundation.
- (f) Adopt a plan for the distribution of the assets of the Foundation.
- (g) Amend, alter, or repeal the Bylaws.
- (h) Elect, appoint, or remove a member of a committee or a director or officer of the Foundation.

(i) Approve any transaction to which the Foundation is a party and that involves a potential conflict of interest as defined in paragraph 5.04, below.

(j) Take any action outside the scope of authority delegated to it by the Board of Directors.

Term of Office

4.02. Each member of a committee shall continue to serve on the committee until a successor is appointed. However, the term of a committee member may terminate earlier if the committee is terminated, or if the member dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy on a committee shall serve for the unexpired portion of the terminated committee member's term.

Chair and Vice-Chair

4.03. One member of each committee shall be designated as the chair of the committee and another member of each committee shall be designated as the vice-chair. The chair and vice-chair shall be elected by the members of the committee. The chair shall call and preside at all meetings of the committee. When the chair is absent, is unable to act, or refuses to act, the vice-chair shall perform the duties of the chair. When a vice-chair acts in place of the chair, the vice-chair shall have all the powers of and be subject to all the restrictions upon the chair.

Notice of Meetings

4.04. Written or printed notice of a committee meeting shall be delivered (whether by U.S. mail or otherwise) to each member of a committee not less than seven nor more

than 30 days before the date of the meeting. The notice shall state the place, day, and time of the meeting, and the purpose or purposes for which the meeting is called.

Quorum

4.05. One half of the number of the members of committee shall constitute a quorum for the transaction of business at any meeting of the committee. The committee members present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough committee members leave the meeting so that less than quorum remains. However, no action may be approved without the vote of at least a majority of the number of committee members required to constitute a quorum. If a quorum is present at no time during a meeting, the chair may adjourn and reconvene the meeting one time without further notice.

Actions of Committees

4.06. Committees shall try to take action by consensus. However, the vote of a majority of committee members present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the committee unless the act of a greater number is required by law or the bylaws. A committee member who is present at a meeting and abstains from a vote is [not] considered to be present and voting for the purpose of determining the act of the committee.

Proxies

4.07. A committee member may vote by proxy executed in writing by the committee member. No proxy shall be valid after 3 months from the date of its execution.

Compensation

4.08. Committee members shall not receive salaries for their services. The Board of Directors may adopt a resolution providing for payment to committee members of a fixed sum and expenses of attendance, if any, for attendance at each meeting of the committee. A committee member may serve the Foundation in any other capacity and receive compensation for those services. Any compensation that the Foundation pays to a committee member shall be commensurate with the services performed and shall be reasonable in amount.

Rules

4.09. Each committee may adopt rules for its own operation not inconsistent with the Bylaws or with rules adopted by the Board of Directors.

ARTICLE 5

TRANSACTIONS OF THE FOUNDATION

Contracts

5.01. The Board of Directors may authorize any officer or agent of the Foundation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the Foundation. This authority may be limited to a specific contract or instrument or it may extend to any number and type of possible contracts and instruments.

Deposits

5.02. All funds of the Foundation shall be deposited to the credit of the Foundation in banks, trust companies, or other depositories that the Board of Directors selects.

Gifts

5.03. The Board of Directors may accept on behalf of the Foundation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Foundation. The Board of Directors may make gifts and give charitable contributions that are not prohibited by the bylaws, the articles of incorporation, state law, and any requirements for maintaining the Foundation's federal and state tax status.

Potential Conflicts of Interest

5.04. The Foundation shall not make any loan to a director or officer of the Foundation. A director, officer, or committee member of the Foundation may lend money to and otherwise transact business with the Foundation except as otherwise provided by the Bylaws, Articles of Incorporation, and all applicable laws. Such a person transacting business with the Foundation has the same rights and obligations relating to those matters as other persons transacting business with the Foundation. The Foundation shall not borrow money

from or otherwise transact business with a director, officer, or committee member of the Foundation unless the transaction is described fully in a legally binding instrument and is in the best interests of the Foundation. The Foundation shall not borrow money from or otherwise transact business with a director, officer, or committee member of the Foundation without full disclosure of all relevant facts and without the approval of the Board of Directors, not including the vote of any person having a personal interest in the transaction.

Prohibited Acts

5.05. As long as the Foundation is in existence, and except with the prior approval of the Board of Directors, no director, officer, or committee member of the Foundation shall:

- (a) Do any act in violation of the Bylaws or a binding obligation of the Foundation.
- (b) Do any act with the intention of harming the Foundation or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the Foundation.
- (d) Receive an improper personal benefit from the operation of the Foundation.
- (e) Use the assets of this Foundation, directly or indirectly, for any purpose other than carrying on the business of this Foundation.
- (f) Wrongfully transfer or dispose of Foundation property, including intangible property such as good will.

(g) Use the name of the Foundation (or any substantially similar name) or any trademark or trade name adopted by the Foundation, except on behalf of the Foundation in the ordinary course of the Foundation's business.

(h) Disclose any of the Foundation business practices, trade secrets, or any other information not generally known to the business community to any person not authorized to receive it.

ARTICLE 6

BOOKS AND RECORDS

Required Books and Records

6.01. The Foundation shall keep correct and complete books and records of account. The Foundation's books and records shall include:

(a) A file-endorsed copy of all documents filed with the Texas Secretary of State relating to the Foundation, including, but not limited to, the Articles of Incorporation, and any Articles of Amendment, Restated Articles, Articles of Merger, Articles of Consolidation, and Statement of Change of Registered Office or Registered Agent.

(b) A copy of the Bylaws, and any amended versions or amendments to the Bylaws.

(c) Minutes of the proceedings of the Board of Directors, and committees having any of the authority of the Board of Directors.

(d) A list of the names and addresses of the directors, officers, and any committee members of the Foundation.

(e) A financial statement showing the assets, liabilities, and net worth of the Foundation at the end of the three most recent fiscal years.

(f) A financial statement showing the income and expenses of the Foundation for the three most recent fiscal years.

(g) All rulings, letters, and other documents relating to the Foundation's federal, state, and local tax status.

(h) The Foundation's federal, state and local information or income tax returns for each of the Foundation's three most recent tax years.

Inspection and Copying

6.02. Any director, officer, or committee member of the Foundation may inspect and receive copies of all books and records of the Foundation required to be kept by the Bylaws. Such a person may inspect or receive copies if the person has a proper purpose related to the person's interest in the Foundation and if the person submits a request in writing. Any person entitled to inspect and copy the Foundation's books and records may do so through his or her attorney or other duly authorized representative. A person entitled to inspect the Foundation's books and records may do so at a reasonable time no later than five working days after the Foundation's receipt of a proper written request. The Board of Directors may establish reasonable fees for copying the Foundation's books and records by members. The fees may cover the cost of materials and labor, but may not exceed twenty-five (\$.25) cents per page. The Foundation shall provide requested copies of books or records no later than five working days after the Foundation's receipt of a proper written request.

ARTICLE 7

FISCAL YEAR

The fiscal year of the Foundation shall begin on the first day of October and end on the last day in September of each year.

ARTICLE 8

INSURANCE

The Foundation may purchase and maintain insurance on behalf of any person who is or was an Board Member, officer, employee, or agent of the Foundation, or on behalf of any person serving at the request of the Foundation as a Board Member, officer, partner, venturer, proprietor, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, against any liability asserted against that person and incurred by that person in such a capacity, or arising out of his status as such a person, whether or not the Foundation has the power to indemnify that person against liability for any of those acts.

ARTICLE 9

INDEMNIFICATION

When Indemnification is Required, Permitted, and Prohibited

9.01. (a) The Foundation shall indemnify a director, officer, committee member, employee, or agent of the Foundation who was, is, or may be named defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Foundation. For the purposes of this article, an agent includes one who is or was serving at the request of the Foundation as a director, officer, partner, venturer, proprietor, trustee, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise. However, the Foundation shall indemnify a

person only if he or she acted in good faith and reasonably believed that the conduct was in the Foundation's best interests. In a case of a criminal proceeding, the person may be indemnified only if he or she had no reasonable cause to believe that the conduct was unlawful. The Foundation shall not indemnify a person who is found liable to the Foundation or is found liable to another on the basis of improperly receiving a personal benefit. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted.

(b) The termination of a proceeding by a judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent does not necessarily preclude indemnification by the Foundation.

(c) The Foundation may pay or reimburse expenses incurred by a director, officer, committee member, employee, or agent of the Foundation in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the Foundation when the person is not a named defendant or respondent in the proceeding.

(d) In addition to the situations otherwise described in this paragraph, the Foundation may indemnify a director, officer, committee member, employee, or agent of the Foundation to the extent permitted by law. However, the Foundation shall not indemnify any person in any situation in which indemnification is prohibited by the terms of paragraph 9.01(a), above.

(e) Before the final disposition of a proceeding, the Foundation may pay indemnification expenses permitted by the Bylaws and authorized by the Foundation. However, the Foundation shall not pay indemnification expenses to a person before the final

disposition of a proceeding if: the person is a named defendant or respondent in a proceeding brought by the Foundation; or the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

(f) If the Foundation may indemnify a person under the Bylaws, the person may be indemnified against judgment, penalties, including excise and similar taxes, fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. However, if the proceeding was brought by or on behalf of the Foundation, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

Procedures Relating to Indemnification Payments

9.02. (a) Before the Foundation may pay any indemnification expenses (including attorney's fees), the Foundation shall specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in paragraph 9.02(c), below. The Foundation may make these determinations and decisions by any one of the following procedures:

- (i) Majority vote of a quorum consisting of directors who, at the time of the vote, are not named defendants or respondents in the proceeding.
- (ii) If such a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding.
- (iii) Determination by special legal counsel selected by the Board of Directors by vote as provided in paragraph 9.02(a)(i) or 9.02(a)(ii), or if such a quorum

cannot be obtained and such a committee cannot be established, by a majority vote of all directors.

(b) The Foundation shall authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination of reasonableness of expenses shall be made in the manner specified by paragraph 9.02(a)(iii), above, governing the selection of special legal counsel. A provision contained in the Articles of Incorporation, the Bylaws, or a resolution of members or the Board of Directors that requires the indemnification permitted by paragraph 9.01, above, constitutes sufficient authorization of indemnification even though the provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

(c) The Foundation shall pay indemnification expenses before final disposition of a proceeding only after the Foundation determines that the facts then known would not preclude indemnification and the Foundation receives a written affirmation and undertaking from the person to be indemnified. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment shall be made in the same manner as a determination that indemnification is permissible under paragraph 9.02(a), above. The person's written affirmation shall state that he or she has met the standard of conduct necessary for indemnification under the Bylaws. The written undertaking shall provide for repayment of the amount paid or reimbursed by the Foundation if it is ultimately determined that the person has not met the requirements for indemnification. The undertaking shall be an unlimited general obligation of the person, but

it need not be secured and it may be accepted without reference to financial ability to make repayment.

ARTICLE 10

NOTICES

Notice by Mail or Telegram

10.01. Any notice required or permitted by the Bylaws to be given to a director, officer, or member of a committee of the Foundation may be given by mail, hand-delivery, facsimile or telegram. If mailed, a notice shall be deemed to be delivered when deposited in the United States mail addressed to the person at his or her address as it appears on the records of the Foundation, with postage prepaid. If given by facsimile, notice shall be deemed delivered upon the sending of the same to the telephone facsimile number that appears on the records of the Foundation. If given by telegram, a notice shall be deemed to be delivered when accepted by the telegraph company and addressed to the person at his or her address as it appears on the records of the Foundation. A person may change his or her address by giving written notice to the secretary of the Foundation.

Signed Waiver of Notice

10.02. Whenever any notice is required to be given under the provisions of the Act or under the provisions of the Articles of Incorporation or the Bylaws, a waiver in writing signed by a person entitled to receive a notice shall be deemed equivalent to the giving of the notice. A waiver of notice shall be effective whether signed before or after the time stated in the notice being waived.

Waiver of Notice of Attendance

10.03. The attendance of a person at a meeting shall constitute a waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of any business because the meeting is now lawfully called or convened.

ARTICLE 11

SPECIAL PROCEDURES CONCERNING MEETINGS

Meeting by Telephone

11.01. The Board of Directors, and any committee of the Foundation may hold a meeting by telephone conference-call procedures in which all persons participating in the meeting can hear each other. The notice of a meeting by telephone conference must state the fact that the meeting will be held by telephone as well as all other matters required to be included in the notice. Participation of a person in a conference-call meeting constitutes attendance by that person at the meeting.

Decision Without Meeting

11.02. Any decision required or permitted to be made at a meeting of the Board of Directors, or any committee of the Foundation may be made without a meeting. A decision without a meeting may be made if a written consent to the decision is signed by all of the persons entitled to vote on the matter. The original signed consents shall be placed in the Foundation's minute book and kept with the Foundation's records.

Voting by Proxy

11.03. A person who is authorized to exercise a proxy may not exercise the proxy unless the proxy is delivered to the officer presiding at the meeting before the business of the meeting begins. The secretary or other person taking the minutes of the meeting shall

record in the minutes the name of the person who executed the proxy and the name of the person authorized to exercise the proxy. If a person who has duly executed a proxy personally attends a meeting, the proxy shall not be effective for that meeting. A proxy filed with the secretary or other designated officer shall remain in force until the first of the following occurs:

- (a) An instrument revoking the proxy is delivered to the secretary or other designated officer.
- (b) The proxy authority expires under the terms of the proxy.
- (c) The proxy authority expires under the terms of the Bylaws.

ARTICLE 12

AMENDMENTS TO BYLAWS

The Bylaws may be altered, amended, or repealed, and new bylaws may be adopted by the Board of Directors. The notice of any meeting at which the Bylaws are altered, amended, or repealed, or at which new bylaws are adopted shall include the text of the proposed bylaw provisions as well as the text of any existing provisions proposed to be altered, amended, or repealed. Alternatively, the notice may include a fair summary of those provisions.

ARTICLE 13

MISCELLANEOUS PROVISIONS

Legal Authorities Governing Construction of Bylaws

13.01. The Bylaws shall be construed in accordance with the laws of the State of Texas. All references in the Bylaws to statutes, regulations, or other sources of legal authority shall refer to the authorizes cited, or their successors, as they may be amended from time to time.

Legal Construction

13.02. If any Bylaw provision is held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision and the Bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the Bylaws.

Headings

13.03. The headings used in the Bylaws are used for convenience and shall not be considered in construing the terms of the Bylaws.

Gender

13.04. Whenever the context requires, all words in the Bylaws in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

Seal

13.05. The Board of Directors may provide for a corporate seal. Such a seal would consist of two concentric circles containing the words "Addison Parks Foundation," "Texas,"

in one circle and the word "Incorporated" together with the date of incorporation of the Foundation in the other circle.

Power of Attorney

13.06. A person may execute any instrument related to the benefit of the directors, officers, committee members, employees, and agents of the Foundation and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as otherwise provided in the Bylaws.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting secretary of Addison Parks Foundation and that the foregoing Bylaws constitute the Bylaws of the Foundation. These Bylaws were duly adopted at a meeting of the Board of Directors held on _____, 1995.

DATED: _____, 1995.

Foundation

CHRIS TERRY, Secretary of the

Council Agenda Item: #R6

SUMMARY:

This item is to award a contract to Jim Bowman Construction Co. LP. for Sidewalk, Ramp, Curb & Gutter Construction, Bid 09-14.

FINANCIAL IMPACT:

Budgeted Amount: \$92,115

Contract Amount: \$41,990

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

Project Manager: Robin Jones

BACKGROUND:

This project, otherwise known as the Quorum Drive Pedestrian Improvement Project, is designed to improve safety and mobility for pedestrians on Quorum Drive south of Belt Line Road. The main components of the project are three pedestrian crosswalks and pavement markings designed to enable pedestrians to cross Quorum Drive at locations other than at existing vehicle median openings.

On June 1, 2009 bids were opened for Sidewalk, Ramp, Curb & Gutter Construction Bid # 09-14. The Town received four bids. The low bid (\$36,030) was from Reliable Paving, Inc. The second bid (\$41,990) was from Jim Bowman Construction, LP.


The specifications for this project state “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 30 days or less)”. On the bid form submitted by Reliable Paving the calendar day line contained 45 days. Jim Bowman Construction submitted 21 calendar days, making his bid the lowest responsible bid. Additionally, staff believes that cutting construction time on Quorum Drive from 45 days to 21 days better serves the needs of the community.

RECOMMENDATION:

Staff recommends awarding this contract in the amount of \$41,990 for Sidewalk, Ramp, Curb & Gutter Construction to Jim Bowman Construction Co. LP.



1. INSTALL CROSSWALK WITH MEDIAN CUT THROUGH (OR RAMPS TO SIDEWALK ACROSS MEDIAN)
2. [REDACTED]
3. INSTALL NEW PAVEMENT MARKINGS, CURB RAMPS,
4. WATER VALVE PROTRUSION FROM SURFACE OF SIDEWALK ADJACENT TO BUS STOP.
5. [REDACTED]
6. BUS STOP BENCH SHOULD BE RELOCATED FURTHER FROM CURB TO INCREASE EFFECTIVE SIDEWALK WIDTH.
7. WATER METER VALVE COVER HAS BEEN DAMAGED. REPAIR TO MINIMIZE POTENTIAL FOR BIKE TIRE TO FALL INTO CREVICE.
8. [REDACTED]


 3030 LBJ FREEWAY
 SUITE 300
 DALLAS TEXAS 75204
 972-248-3008 FAX 972-248-3855

QUORUM DRIVE PEDESTRIAN STUDY
 OBSERVATIONS AND RECOMMENDATIONS

MAY 2009

Sidewalk, Ramp, Curb and Gutter

BID NO 09-14

DUE: June 1, 2009

10:00 AM

BIDDER	Signed	Bid Total
Encino Landscape, Inc	Y	\$ 56,000.00
Nations Environmental Services, Inc	Y	\$ 61,070.00
Jim Bowman Construction, LP	Y	\$ 41,990.00
Reliable Paving, Inc	Y	\$ 36,030.00

Matthew E. McCombs

Matt McCombs, Management Analyst

Jason Cooley

Witness

Council Agenda Item: #R7

SUMMARY:

This item is to authorize the City Manager to execute a water easement agreement with King Aerospace.

FINANCIAL IMPACT:

None

PROJECT MANAGER:

Clay Barnett, P.E.

BACKGROUND:

The owner of the tract of land located at 16400 Midway Road (Maxilift) has requested permission from the owner of 16500 Midway Road (King Aerospace) to connect to the existing water line located within the limits of this parcel. In order to insure that the Town of Addison has rights to maintain the water line in the future, a water easement must be dedicated by King Aerospace to the Town of Addison. This item would authorize the city manager to execute the water easement agreement with King Aerospace.

RECOMMENDATION:

It is recommended that the Council authorize the City Manager to execute a water easement agreement with King Aerospace.

Council Agenda Item: #R8

SUMMARY:

Council approval of a resolution is requested authorizing the City Manager to enter into an agreement with the City of Dallas to serve as the fiscal agent for the management and disbursement of grant funds in the amount of \$12,901.00 from the Edward Byrne Memorial Justice Assistance Grant Program (JAG) FY 2009 Local Solicitation which were awarded to the Town of Addison. This is a yearly stand alone grant awarded by the Department of Justice. In return for serving as the fiscal agent for the Town, the Town agrees to transfer 7% of its grant award (\$632.15) to the City of Dallas for its administration of the grant, along with 30% (\$3870.30) to Dallas County, which is the normal allocation.

FINANCIAL IMPACT and BACKGROUND:

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) FY 2009 Local Solicitation is a non-competitive grant. There are no matching requirements on the part of the Town for accepting the money. For the purposes of simplifying the application process, the JAG Program permits the chief executive officer of one of the eligible units of local government in the disparate jurisdiction to submit a joint application for JAG Funds on behalf of the other eligible units of local governments in administering the JAG Funds. In Dallas County the fiscal agent selected is the City of Dallas.

The amount available to the Town is \$8,398.55 after deducting the administrative fee for the City of Dallas, and the allocation to Dallas County. Our plan is to use the money to purchase additional equipment for the Patrol officers.

Recommendation:

Staff recommends approval.

TOWN OF ADDISON, TEXAS

RESOLUTION NO. R09-_____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT FOR JUSTICE ASSISTANCE GRANT PROGRAM GRANT FUNDING BETWEEN THE TOWN AND OTHER LOCAL GOVERNMENTAL ENTITIES LOCATED IN DALLAS COUNTY, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Part E of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Edward Byrne Memorial Justice Assistance Grant (“JAG”) Program FY 2009 Local Solicitation, a yearly stand alone grant awarded by the Department of Justice (the “JAG Program”), authorizes the Department of Justice to make funds (the “JAG Funds”) available to units of local government in order to support a broad range of activities to prevent and control crime and to improve the criminal justice system; and

WHEREAS, the Town of Addison, Texas (the “City”), together with Dallas County (the “County”) and other cities (the “Other Cities”) located in Dallas County, is eligible for additional JAG Funds pursuant to the JAG Program FY 2009 Local Solicitation.

WHEREAS, for purposes of allocation of the JAG Funds, the City is located in a “disparate jurisdiction,” such jurisdiction occurring where a city is scheduled to receive one and one-half times more than a county with concurrent jurisdiction, while that county bears more than 50 percent of the costs associated with prosecution or incarceration of the city’s Part 1 violent crime (including murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports); and

WHEREAS, for the purposes of simplifying the application process, the JAG Program permits the chief executive officer of one of the eligible units of local government in the disparate jurisdiction to submit a joint application for JAG Funds on behalf of the other eligible units of local governments within that jurisdiction and to act as the fiscal agent for those local governments in administering the JAG Funds; and

WHEREAS, the City, the County, and the Other Cities, for purposes of receiving and administering the JAG Funds, to enter into that agreement entitled “Fiscal Agency Agreement for Justice Assistance Grant (JAG) Program FY 2009 Local Solicitation” (the “Agreement”), a true and correct copy of which is attached hereto as Exhibit A and incorporated herein.

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

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

Section 2. Approval of Agreement; Authorization to Execute. The City Council does hereby approve the attached Fiscal Agency Agreement for Justice Assistance Grant (JAG) Program FY 2009 Local Solicitation. The City Manager is authorized to execute the Agreement on behalf of the City.

Section 3. This Resolution shall take effect upon its passage and approval.

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

Mayor Joe Chow

ATTEST:

By: _____
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

EXHIBIT A

**GMS Application # 2009-G9452-TX-DJ
2009 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FUNDS SHARING AND FISCAL AGENCY AGREEMENT**

THIS AGREEMENT (the "Agreement"), is made and entered into by and between the following parties:

The County of Dallas, Texas (the "County") located at County Administration Building, 2nd Floor, 411 Elm Street, Dallas, Texas 75202, a corporate and political body recognized as a legal subdivision of the State of Texas pursuant to Article XI, Section 1 of the Texas Constitution; and

The City of Addison, Texas ("Addison"), located at Town Hall, 5300 Belt Line Road, Dallas, Texas 75254, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Balch Springs, Texas ("Balch Springs"), located at City Hall, 3117 Hickory Tree Road, Balch Springs, Texas 75180, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Carrollton, Texas ("Carrollton"), located at City Hall, 1945 East Jackson Road, Carrollton, Texas 75006, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Cedar Hill, ("Cedar Hill"), located at City Hall, 285 Uptown Boulevard, Building 100, Cedar Hill, TX 75104, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Dallas, Texas ("Dallas"), located at City Hall, Room 7DN, 1500 Marilla Street, Dallas, Texas 75201, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of DeSoto, Texas ("DeSoto"), located at City Hall, 211 East Pleasant Run Road, Suite A, DeSoto, Texas 75115, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Duncanville, Texas ("Duncanville"), located at City Hall, 203 East Wheatland Road, Duncanville, Texas 75138, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Garland, Texas (“Garland”), located at City Hall, 200 North Fifth Street, 4th Floor, Garland, Texas 75046, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Grand Prairie, Texas (“Grand Prairie”), located at City Hall, 317 College Street, Grand Prairie, Texas 75050, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Irving, Texas (“Irving”), located at City Hall, 825 West Irving Boulevard, Irving, Texas 75060, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Lancaster, Texas (“Lancaster”), located at City Hall, 211 North Henry Street, Lancaster, Texas 75134, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Mesquite, Texas (“Mesquite”), located at City Hall, 1515 North Galloway Avenue, Mesquite, Texas 75149, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution; and

The City of Richardson, Texas (“Richardson”), located at City Hall, 411 West Arapaho, Richardson, Texas 75080, a home rule municipality pursuant to Section 5, Article 11 of the Texas Constitution.

The aforementioned cities shall be referred to collectively in this Agreement as the “Cities.”

W I T N E S S E T H:

WHEREAS, Part E of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Edward Byrne Memorial Justice Assistance Grant Program (the “JAG Program”) authorize the Department of Justice’s Bureau of Justice Assistance (the “BJA”) to make funds (the “JAG Funds”) available to units of local government in order to support a broad range of activities to prevent and control crime and to improve the criminal justice system; and

WHEREAS, the County and the Cities are eligible for 2009 JAG Program Funds and have been certified by the BJA as a disparate jurisdiction; and

WHEREAS, for the purposes of simplifying the application process, the JAG Program permits the chief executive officer of one of the eligible units of local government in the disparate jurisdiction to submit a joint application for JAG Funds on behalf of the other eligible

units of local governments within that jurisdiction and to act as the fiscal agent for those local governments in administering the JAG Funds; and

WHEREAS, certified disparate jurisdictions must reach an agreement regarding the sharing of JAG Funds prior to submission of the JAG Program application; and

WHEREAS, the County and the Cities agree and acknowledge that as a certified disparate jurisdiction, they must reach an agreement regarding the sharing of JAG Funds prior to submitting a JAG application with the BJA; and

WHEREAS, the County and the Cities hereby agree to name a fiscal agent to administer and distribute the JAG Funds and to designate a share of each jurisdiction's JAG Funds for administrative costs to be paid to the fiscal agent named below, prior to submission of the joint application for JAG Funds to the BJA; and

WHEREAS, the County and the Cities wish to name Dallas as the fiscal agent to administer and distribute the JAG Funds pursuant to the JAG Program; and

WHEREAS, a unit of local government may transfer up to ten percent (10%) of its allocation of JAG Funds for costs associated with administering the JAG Funds to the fiscal agent; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of the parties, that the undertaking will benefit the public, and that the share of the JAG Funds to each jurisdiction fairly compensates the parties for their respective functions under this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

SECTION 1. PURPOSE

This Agreement shall set forth the following: (A) the nature of the relationship between the County and the Cities and Dallas as fiscal agent for the County and the Cities; (B) the parties' reporting, legal, and audit obligations; (C) the amount of JAG Funds initially allocated by the BJA to the County and the Cities (the "Initial Allocations"); (D) the amount of the Initial Allocations of the JAG Funds to be transferred from the Cities to the County; (E) the allocation of JAG Funds for each jurisdiction *after* the transfer of a portion of the Initial Allocations of JAG Funds from the Cities to the County (the "Adjusted Allocations"); (F) the amount of the grant administration fees to be paid to Dallas as the fiscal agent for both the County and the Cities; (G) the allocation of JAG Funds for the County and the Cities *after* the grant administration fee has

been deducted from the Adjusted Allocations (the “Final Allocations”); and (H) other rights and responsibilities of Dallas, the County, and the Cities with regard to Dallas’ application for, administration of, and distribution of the JAG Funds on behalf of the County and the Cities.

SECTION 2. FISCAL AGENT

A. Dallas as Fiscal Agent. The County and the Cities do hereby agree that Dallas shall act as the fiscal agent for purposes of applying for, administering, and distributing the JAG Funds on behalf of both the County and the Cities. In consideration for Dallas acting as the fiscal agent for purposes of the JAG Program, the County and the Cities each agree to pay Dallas seven percent (7%) of their Adjusted Allocations for costs associated with administering the JAG Funds. Dallas further agrees to prioritize the expenditure of the grant administration fees to include the following activities: distributing the JAG Funds, monitoring the award, submitting reports to the BJA (including performance measures and program assessment data), and providing ongoing assistance to the County and the Cities as sub-recipients of the JAG Funds.

B. No Additional Funds. The County and the Cities agree that Dallas has no obligation to provide funds to the County and the Cities from any source other than the JAG Program and in any amount other than the Final Allocation of JAG Funds for each party as set forth in this Agreement regardless of whether the JAG Funds are sufficient to fully accomplish the priorities set forth in Section 2.A above. In the event a portion of the JAG grant administration fee remains upon completion of the project set forth in this Agreement, as determined by Dallas, Dallas may expend such funds on other eligible projects under the JAG Program at Dallas’s sole discretion.

SECTION 3. REPORTING, LEGAL, AND AUDIT REQUIREMENTS

A. Reports.

(1) Quarterly Reports. The County and the Cities agree to provide Dallas with quarterly financial and programming reports no later than seven (7) days after the last day of the calendar quarter that demonstrate the appropriate use and management of the JAG Funds in conformance with the JAG Program and the BJA guidelines.

(2) Annual Reports. The County and the Cities agree to provide Dallas with yearly performance reports in conformance with the JAG Program and the BJA guidelines.

B. Legal Requirements. The County and the Cities agree to act in accordance with all Office of Justice Programs financial guidelines and all of the requirements of the JAG

Program guidance, including but not limited to: Non-Supplanting of State and Local Funds; Civil Rights Compliance; Anti-Lobbying Act; Financial and Government Audit Requirements, includes Single Audit Act Requirements; National Environmental Policy Act (NEPA); DOJ Information Technology Standards; Compliance with Office of Justice Programs Financial Guide; and Government Performance and Results Act (GPRA); Federal Funding Accountability and Transparency Act (FFATA) of 2006.

C. Audit Requirements. The County and the Cities shall maintain records to demonstrate proper expenditure of JAG Program Funds and Dallas, as fiscal agent, has the right to review and audit any and all of such financial and programming records. The County and the Cities shall retain all such records for a minimum of three (3) years following completion of this Agreement. The County and the Cities must require that any of its contractors, subcontractors, vendors, or partner agencies allow Dallas to review and audit their financial records pertaining to any contracts they may have with the County or the Cities utilizing JAG Funds.

SECTION 4. INITIAL ALLOCATIONS

For 2009, the BJA has determined the Initial Allocations of JAG Funds for the parties to this Agreement as follows:

THE COUNTY	\$0.00
ADDISON	\$12,901.00
BALCH SPRINGS	\$18,995.00
CARROLLTON	\$30,313.00
CEDAR HILL	\$13,574.00
DALLAS	\$1,730,743.00
DESOTO	\$16,186.00
DUNCANVILLE	\$16,304.00
GARLAND	\$78,909.00
GRAND PRAIRIE	\$61,220.00
IRVING	\$98,498.00

LANCASTER	\$21,211.00
MESQUITE	\$63,436.00
<u>RICHARDSON</u>	<u>\$31,105.00</u>
TOTAL	\$2,193,395.00

SECTION 5. AMOUNT OF INITIAL ALLOCATIONS TO BE TRANSFERRED FROM THE CITIES TO THE COUNTY

The Cities shall transfer a portion of their Initial Allocations of JAG Funds to the County pursuant to this Agreement as follows:

THE COUNTY	\$0.00
ADDISON	\$3,870.30
BALCH SPRINGS	\$5,698.40
CARROLLTON	\$9,093.90
CEDAR HILL	\$4,072.20
DALLAS	\$519,222.90
DESOTO	\$4,855.80
DUNCANVILLE	\$4,891.20
GARLAND	\$23,672.70
GRAND PRAIRIE	\$18,366.00
IRVING	\$29,549.40
LANCASTER	\$6,363.30
MESQUITE	\$19,030.80

<u>RICHARDSON</u>	<u>\$9,331.50</u>
TOTAL	\$658,018.50

SECTION 6. ADJUSTED ALLOCATIONS

After the transfer of a portion of the Cities' Initial Allocations of JAG Funds to the County, the County and the Cities' Adjusted Allocations of JAG Funds are as follows:

THE COUNTY	\$658,018.50
ADDISON	\$9,030.70
BALCH SPRINGS	\$13,296.50
CARROLLTON	\$21,219.10
CEDAR HILL	\$9,501.80
DALLAS	\$1,211,520.10
DESOTO	\$11,330.20
DUNCANVILLE	\$11,412.80
GARLAND	\$55,236.30
GRAND PRAIRIE	\$42,854.00
IRVING	\$68,948.60
LANCASTER	\$14,847.70
MESQUITE	\$44,405.20
<u>RICHARDSON</u>	<u>\$21,773.50</u>
TOTAL	\$2,193,395.00

SECTION 7. FISCAL AGENT GRANT ADMINISTRATION FEES

GMS Application # 2009-G9452-TX-DJ
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FUNDS SHARING AND FISCAL AGENCY AGREEMENT

The County and the Cities agree to transfer grant administration fees equal to seven percent (7%) of each party's Adjusted Allocation of JAG Funds to Dallas, as fiscal agent for the County and the Cities as follows:

THE COUNTY	\$46,061.30
ADDISON	\$632.15
BALCH SPRINGS	\$930.76
CARROLLTON	\$1,485.34
CEDAR HILL	\$665.13
DALLAS	\$84,806.41
DESOTO	\$793.11
DUNCANVILLE	\$798.90
GARLAND	\$3,866.54
GRAND PRAIRIE	\$2,999.78
IRVING	\$4,826.40
LANCASTER	\$1,039.34
MESQUITE	\$3,108.36
<u>RICHARDSON</u>	<u>\$1,524.15</u>
TOTAL	\$153,537.65

SECTION 8. FINAL ALLOCATIONS

The Final Allocations of JAG Funds are the Initial Allocations (1) less the transfer of a portion of the Cities' Initial Allocations of JAG Funds to the County, which are the Adjusted Allocations and (2) less the transfer of the grant administration fees of seven percent (7%) of the

Adjusted Allocations to Dallas. Each jurisdiction shall include in its JAG Program application the following Final Allocations of JAG Funds:

THE COUNTY	\$611,957.21
ADDISON	\$8,398.55
BALCH SPRINGS	\$12,365.75
CARROLLTON	\$19,733.76
CEDAR HILL	\$8,836.67
DALLAS	\$1,280,251.34
DESOTO	\$10,537.09
DUNCANVILLE	\$10,613.90
GARLAND	\$51,369.76
GRAND PRAIRIE	\$39,854.22
IRVING	\$64,122.20
LANCASTER	\$13,808.36
MESQUITE	\$41,296.84
<u>RICHARDSON</u>	<u>\$20,249.36</u>
TOTAL	\$2,193,395.00

SECTION 9. APPLICATION OF COUNTY FUNDS

The County agrees to prioritize the expenditure of its Final Allocation of Six Hundred Eleven Thousand Nine Hundred Fifty-Seven Dollars and Twenty-One Cents (\$611,957.21) to continue the development and implementation of improvements to the criminal justice system. The Cities agree that the County has no obligation to provide any additional funds under this Agreement, even if the 2009 JAG Funds are insufficient to fully develop or implement the County's chosen improvements to the criminal justice system. In the event any JAG Funds

remain upon completion of the development and implementation of improvements to the criminal justice, the County may expend such funds on other eligible projects under the grant at the County's discretion, subject to the approval of the BJA, as required under the JAG Program.

SECTION 10. TERM

The term of this Agreement shall begin on the date the last signature of either the County or the Cities authorizing approving this Agreement is obtained and shall terminate upon final expenditure of the funds in accordance with the JAG Program.

SECTION 11. AGENCY

The County and the Cities agree and acknowledge that each entity is not an agent of any other entity and that each entity is responsible for its acts, forbearance, negligence, and deeds and each entity is responsible for those acts, forbearance, negligence, and deeds of its agents or employees in conjunction with performance under this Agreement.

SECTION 12. INDEMNIFICATION

The County agrees to be responsible for any liability or damages the County may suffer as a result of claims, demands, costs, or judgments, including all reasonable attorneys' fees, against the County arising out of any performance under this Agreement, or arising from any accident, injury, or damage, whatsoever, to any persons, or to the property of any persons or corporations occurring during the performance of this Agreement and caused by the sole negligence of the County, its agents, officers and employees.

Each City made a party to this Agreement agrees to be responsible for any liability or damages it may suffer as a result of claims, demands, costs, or judgments, including any reasonable attorneys' fees, against that respective City, arising out of any performance under this Agreement, or arising out of the performance of any services to be provided under this Agreement, or arising from any accident, injury, or damage, whatsoever, to any persons, or to the property of any persons or corporations occurring during the performance of the Agreement and caused by the sole negligence of that respective City, their agents, officers, and employees.

The Cities and County agree that any liability or damages as stated above occurring during the performance of this Agreement caused by the joint or comparative negligence of their employees or officers shall be determined in accordance with comparative responsibility laws of the State of Texas.

SECTION 13. FORMAL APPROVAL

This Agreement is expressly subject to and contingent upon formal approval by the governing bodies of the County and the Cities.

SECTION 14. NO THIRD-PARTY BENEFICIARY ENFORCEMENT

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and any right of action relating to such enforcement shall be strictly reserved to the Cities and the County and nothing contained in this Agreement shall be construed to create any rights for any third parties.

SECTION 15. NON-ASSIGNMENT

The parties shall not sell, assign, transfer, or convey this Agreement, in whole or in part, without the prior written consent of the parties.

SECTION 16. RESPONSIBILITY

Dallas, the County, and the Cities shall each be responsible for the sole negligent acts of their officers, agents, employees, or separate contractors. In the event of joint and concurrent negligence of the parties to this agreement, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the parties under Texas law and without waiving any defenses of the parties under Texas law.

SECTION 17. NOTICE

Any notice, payment, statement, communication, report, or demand required or permitted to be given under this Agreement by any party to the another may be effected by personal delivery in writing or deposited in the U.S. mail by certified letter, return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

To the County:

The County Judge
Judge Jim Foster

Administration Building
2nd Floor
411 Elm Street
Dallas, Texas 75202

To Addison: Chief of Police, Ron Davis
Addison Police Department
4799 Airport Parkway
Addison, Texas 75001

To Balch Springs: Chief of Police, Ed Morris
Balch Springs Police Department
12500 Elam Road
Balch Springs, Texas 75180

To Carrollton: Chief of Police, David James
Carrollton Police Department
2025 East Jackson Road
Carrollton, Texas 75006

To Cedar Hill: Chief of Police, Stephen Rhodes
Cedar Hill Police Department
285 Uptown Boulevard, Building 200
Cedar Hill, Texas 75104

To Dallas: Chief of Police, David Kunkle
Dallas Police Department
1400 South Lamar Street
Dallas, Texas 75215

To DeSoto: Chief of Police, W.M. Brodnax
DeSoto Police Department
714 East Belt Line Road
DeSoto, Texas 75115

To Duncanville: Chief of Police, Robert Brown
Duncanville Police Department
P.O. Box 380280
Duncanville, Texas 75138

To Garland: Chief of Police, Mitch Bates
Garland Police Department

1891 Forest Lane
Garland, Texas 75042

To Grand Prairie:

Chief of Police, Glen Hill
Grand Prairie Police Department
801 Conover
Grand Prairie, Texas 75051

To Irving:

Chief of Police, Larry Boyd
Irving Police Department
P. O. Box 152288
Irving, Texas 75015

To Lancaster:

Chief of Police, Keith L. Humphrey
Lancaster Police Department
1650 North Dallas Avenue
Lancaster, Texas 75134

To Mesquite:

Chief of Police, Derek Rohde
Mesquite Police Department
P.O. Box 850137
Mesquite, Texas 75185

To Richardson:

Interim Chief of Police, Jimmy L. Spivey
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083

SECTION 18. GOVERNING LAW AND VENUE

The obligations of the parties to this Agreement shall be performed in Dallas County, Texas, and venue for any legal action under this Agreement shall lie exclusively in Dallas County, Texas. In construing this Agreement, the laws and court decisions of the State of Texas shall control.

SECTION 19. LEGAL CONSTRUCTION

In the case that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this

Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

SECTION 20. COUNTERPARTS

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

SECTION 21. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

SECTION 22. AMENDMENTS; ENTIRE AGREEMENT

This Agreement (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Agreement. This Agreement may be modified or amended only by written agreement of the parties, to be attached to and made a part of this Agreement.

IN WITNESS WHEREOF, by their signatures hereon each of the undersigned represents and warrants that they are the duly authorized agents of each entity and have full right and authority to enter into this Agreement. This Agreement is to be effective upon the signature of both County and the Cities.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

The City of Addison, State of Texas, has executed the Agreement pursuant to duly authorized City Council Resolution _____, Minutes _____ Dated the _____ day of _____, 2009.

**APPROVED BY THE
CITY OF ADDISON:**

Ron Whitehead, City Manager

RECOMMENDED BY:

Ron Davis, Chief of Police

APPROVED AS TO FORM:

John Hill, City Attorney

Council Agenda Item: #R9

SUMMARY:

Staff recommends that the Council approve final payment to American Landscape Systems Inc. totaling \$4,899.80 for landscape renovation and tree replacement planting in various parts of town.

FINANCIAL IMPACT:

Funds Available:	<u>\$60,000.00</u>
Original Contract Sum:	<u>\$44,144.75</u>
Net Changes by Change Orders:	<u>\$4,853.25</u>
Final Contract Sum:	<u>\$48,998.00</u>
Project Manager:	<u>Ron Lee, Parks Operations Manager</u>

This project is a budgeted item in the 2009 parks operations budget. There were two Change Orders, which included adding sod to areas in Oaks North, Service Center front yard, jogging trail behind the Athletic Club and the Athletic Club outdoor pool area.

BACKGROUND:

The parks department establishes a budget each year to address refurbishment of old landscaping in town. Last year much of the work was focused on upgrading the landscaping in Addison Circle, particularly Beckert Park. The primary goal this year was to continue replacement of diseased and storm damaged trees in Addison Circle, Esplanade Park, as well as, re-establishment of plantings in the tree wells along Quorum Drive and the Addison Circle roundabout area. The following is a summary of the scope of work covered under this contract for each site.

1. **Addison Circle District – Quorum Drive/Roundabout** – Re-planted tree wells to create continuity in the street planting.
2. **Addison Circle District - McEntire Place** – Replaced diseased pear trees with live oaks. Staff plans to eventually have all pears in the Addison Circle District phased out by next year. The pear trees are dying due to cotton root rot, a soil born disease that is prevalent in this area. The replacements are ‘Highrise’ Live Oaks, which have proven to be ideal street trees that have an upright and tighter canopy to avoid interference with vehicles and buildings.
3. **Addison Circle Park** – Raised and replanted ground cover in the fountain area.
4. **Beckert Park** - Replaced dead ‘Athena’ Elm trees with Chinese Pistache trees, which are not susceptible to cotton root rot. The existing ‘Athena’ Elms died from cotton root rot.

5. **Proton Drive right-of-way** – Planted sod on sloped bare dirt areas with St. Augustine grass where erosion was occurring on the north and east sides of the greenbelt outside the perimeter masonry wall.
6. **North Midway Road Center Median** – Refurbished old landscaping on the center median north of the railroad tracks underneath the Arapaho Road Bridge to match the landscaping on the south side.

RECOMMENDATION:

American Landscape Inc. completed the project in a satisfactory and timely manner. Staff recommends approval.

Council Agenda Item: #R10

SUMMARY:

Staff recommends that the Council approve final payment to Schwartz Construction Company, Inc. totaling \$3,937.00 for painting and repairs to various park structures in town.

FINANCIAL IMPACT:

Funds Available:	<u>\$62,500.00</u>
Original Contract Sum:	<u>\$47,298.00</u>
Net Changes by Change Orders:	<u>\$1,835.00</u>
Final Contract Sum:	<u>\$49,133.00</u>
Project Manager:	<u>Ron Lee, Parks Operations Manager</u>

The majority of this contract was budgeted in the 2009 parks operations budget. The Addison Circle Park related painting was budgeted in the Special Events budget, which totaled \$13,093.

There was one Change Order totaling \$1,835.00, which involved replacement of decayed support beams on the base of the Winnwood gazebo and the bridge connecting to the gazebo.

BACKGROUND:

The following is a summary of the scope of work covered under this contract for each site.

1. **White Rock Creek Jogging Trail** – Repaired and painted the metal trail bollards.
2. **Winnwood Park Gazebo and Bridge** – Replaced the existing shake shingle roof and removed and replaced the bridge walkway.
3. **Addison Conference Centre** – Painted the bench seating along Addison Circle Drive in front of the Conference Centre and the Stone Cottage.
4. **Beltway Drive Right-of-way** – Painted the decorative metal fencing sections in the perimeter residential wall.
5. **Town Park** – Re-roofed the park pavilion next to the playground.
6. **Quorum Park** – Painted all metal park benches and trash receptacles.
7. **Les Lacs Park Pavilion** – Cleaned and sealed the pavilion ceiling.
8. **Easement Park Playground** – Cleaned and sealed the wood playground structures.
9. **Addison Circle Park** – Painted metal railings in the water gardens and six ticket kiosks.
10. **Service Center** – Replaced the wood on the entry way bench seat.

RECOMMENDATION:

Schwartz Construction Company completed the work in a satisfactory and timely manner. Staff recommends approval.

Council Agenda Item **#R11**

There are no attachments for this Item.

Council Agenda Item **#ES1**

There are no attachments for this Item.

Council Agenda Item **#R12**

There are no attachments for this Item.