



REGULAR WORK SESSION & MEETING OF THE CITY COUNCIL

February 28, 2017

**ADDISON TOWN HALL
5300 BELT LINE RD., DALLAS, TX 75254**

**5:00 PM DINNER & EXECUTIVE SESSION
6:30 PM WORK SESSION
7:30 PM REGULAR MEETING**

Executive Session

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1. Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **The ponds or lakes at Vitruvian Park located within the vicinity and east of the intersection of Vitruvian Way and Ponte Ave., and Farmers Branch Creek**
- **Candidate Qualifications**

Section 551.072, Tex. Gov. Code, to deliberate the purchase, exchange, lease, sale or value of real property

- **4460 Belt Line Road, Addison, TX 75001**
- **4500 Belt Line Road, Addison, TX 75001**

Section 551.074, Tex. Gov. Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal

of a public officer or employee, pertaining to:

- **Alternate Judge Interviews**
- **City Secretary Evaluation**
- **Planning & Zoning Appointment**

Reconvene from Executive Session

2. **RECONVENE INTO REGULAR SESSION:** In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matters discussed in Executive Session.
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WORK SESSION

3. Present And Discuss **The Distribution of Addison Library Cards.**
-

REGULAR MEETING

Pledge of Allegiance

Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

4. Public Comment.
The City Council invites citizens to address the City Council on any topic not on this agenda. Please fill out a **City Council Appearance Card** and submit it to a city staff member prior to Public Participation. Speakers are allowed **up to three (3) minutes per speaker** with **fifteen (15) total minutes** on items of interest or concern and not on items that are on the current agenda. In accordance with the Texas Open Meetings Act, the City Council cannot take action on items not listed on the agenda. The Council may choose to place the item on a future agenda.

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5. Recognition Of Donation To The Addison Police And Fire Relief Fund From The Addison Rotary Foundation.
-

6. Present A Proclamation Recognizing The Service Of Judge U.H. "Woody" Specht To The Town Of Addison.
-

Consent Agenda:

All items listed under the Consent Agenda are considered routine by the City Council and will be enacted by one motion with no individual consideration. If individual consideration of an item is requested, it will be pulled from the Consent Agenda and discussed separately.

7. Consider Action To Approve Meeting Minutes Of The February 14, 2017 Regular Council Meeting.
-

8. Consider Action On A Resolution To Approve The Naming And Recognition Elements For The Spruill Dog Park.
-

9. Consider Action On A Resolution To Approve A Conventional Hangar Lease Agreement Between The Town Of Addison And Wing Aviation Charter Services, LLC, For Commercial Aviation Use On Property Located At 4555 Glenn Curtiss And Authorize The City Manager To Execute The Agreement.
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10. Consider Action On An Award Of Bid To August Industries Inc., For The Purchase Of Two Self-Contained Breathing Apparatus (SCBA) Air Fill Cascade Equipment Systems For The Fire Department In An Amount Of \$68,470.
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11. Consider Action On A Purchase From Physio-Control, Inc., For The Replacement Of Two (2) LifePak Monitor-Defibrulators For The Fire Department In An Amount Not To Exceed \$79,840.02.
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12. Consider Action On A Resolution Accepting The Resignation Of Alternate Judge U.H. "Woody" Specht As Of February 28, 2017.
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13. Consider Action On A **Resolution To Approve A Lease Agreement With DCO Clipper Pointe LP For Approximately 1400 Square Feet Located At 4015 Vitruvian As An Addison Police Department Community Substation And Authorizing The City Manager To Execute The Agreement.**

Regular Items

14. Consider Action On An **Ordinance Appointing Cass Robert Calloway As Alternate Municipal Judge For The Addison Municipal Court Of Record No. 1 And Approving A Compensation Agreement To Perform Services As Alternate Municipal Judge And Administer Oath Of Office.**

15. Discuss And Consider Action On An **Ordinance Rezoning The Property Located At 4021 Belt Line Road, On The North West Corner Of Belt Line Road And Runyon Road, From LR, Local Retail, To PD, Planned Development District, Allowing All Local Retail Uses Plus Medical And Dental Offices And Establishing Modified Development Standards. Case 1751-Z/Belt Line Square.**

16. Present, Discuss And Consider Action On A **Resolution To Approve A Professional Services Agreement With Eikon Consulting Group LLC, For The Design Of A Vehicle Storage Building Located At The Kellway Lift Station Site And Authorize The City Manager To Execute The Agreement In An Amount Not to Exceed \$68,230.**

17. Present, Discuss And Consider Action On A **Resolution To Approve An Agreement For Professional Architectural Engineering Services With Page Southerland Page, Inc., For Addison Airport Customs And Border Protection Site And Alternatives Cost Analysis And Authorize The City Manager To Execute The Agreement In An Amount Not To Exceed \$80,300.**

18. Discussion And Possible Action Regarding A Review Of **Council Guidelines On Meeting Protocols And Decorum.**
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19. Discussion And Possible Action Regarding A Review Of Current Council Ethics Guidelines And The Need For Process And Sanctions.
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20. Discussion And Possible Action Regarding A Review Of The Current Transparency Policy And Practice.
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Adjourn Meeting

NOTE: The City Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (purchase, exchange, lease or value of real property); §551.074 (personnel or to hear complaints against personnel); §551.076 (deployment, or specific occasions for implementation of security personnel or devices); and §551.087 (economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

Posted:

Laura Bell, 02/23/2017, no later than 7:00 pm

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES.
PLEASE CALL (972) 450-7017 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

AI-2098

1.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **The ponds or lakes at Vitruvian Park located within the vicinity and east of the intersection of Vitruvian Way and Ponte Ave., and Farmers Branch Creek**
- **Candidate Qualifications**

Section 551.072, Tex. Gov. Code, to deliberate the purchase, exchange, lease, sale or value of real property

- **4460 Belt Line Road, Addison, TX 75001**
- **4500 Belt Line Road, Addison, TX 75001**

Section 551.074, Tex. Gov. Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, pertaining to:

- **Alternate Judge Interviews**
- **City Secretary Evaluation**
- **Planning & Zoning Appointment**

BACKGROUND:

N/A

RECOMMENDATION:

N/A

AI-2099

2.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

RECONVENE INTO REGULAR SESSION: In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matters discussed in Executive Session.

BACKGROUND:

N/A

RECOMMENDATION:

N/A

AI-2088

3.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

Present And Discuss **The Distribution of Addison Library Cards.**

BACKGROUND:

At the September 6, 2016 Regular Council Meeting, City Council directed staff to establish a library card policy that only allows one card per household, requiring residents to choose either the Farmers Branch or Dallas Public Library system, in an effort to reduce costs.

The Town of Addison does not have its own library. Residents are able to access these services, at no cost to the resident, at either a Farmers Branch or Dallas Public Library. Each time a resident receives a library card, the cost to the Town is as follows:

- \$250 for a Dallas Library Card
- \$200 for a Farmers Branch Library Card

Staff will provide an update to the Council on the implementation of the new process. The policy and interlocal agreements with Farmers Branch and Dallas will be brought back to Council for approval at a later date.

RECOMMENDATION:

Information only, no action required.

Attachments

Presentation - Library Cards



Library Card Update

Background

- The Town of Addison does not have its own library
- Residents can access these services, at no cost to the resident, at a Farmers Branch or Dallas Public Library
- The Town is charged:
 - \$250 for a Dallas library card
 - \$200 for a Farmers Branch library card

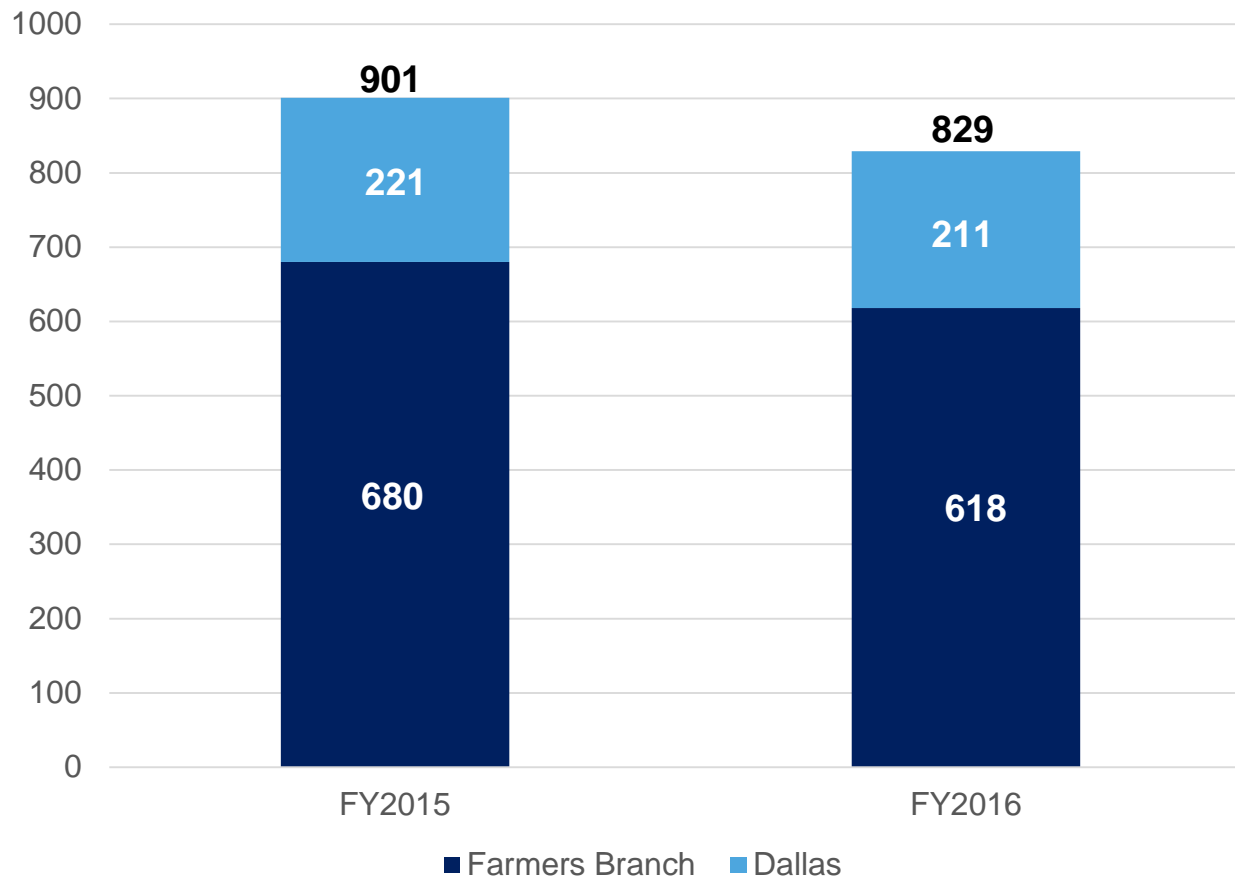


Process – prior to 10/31/16

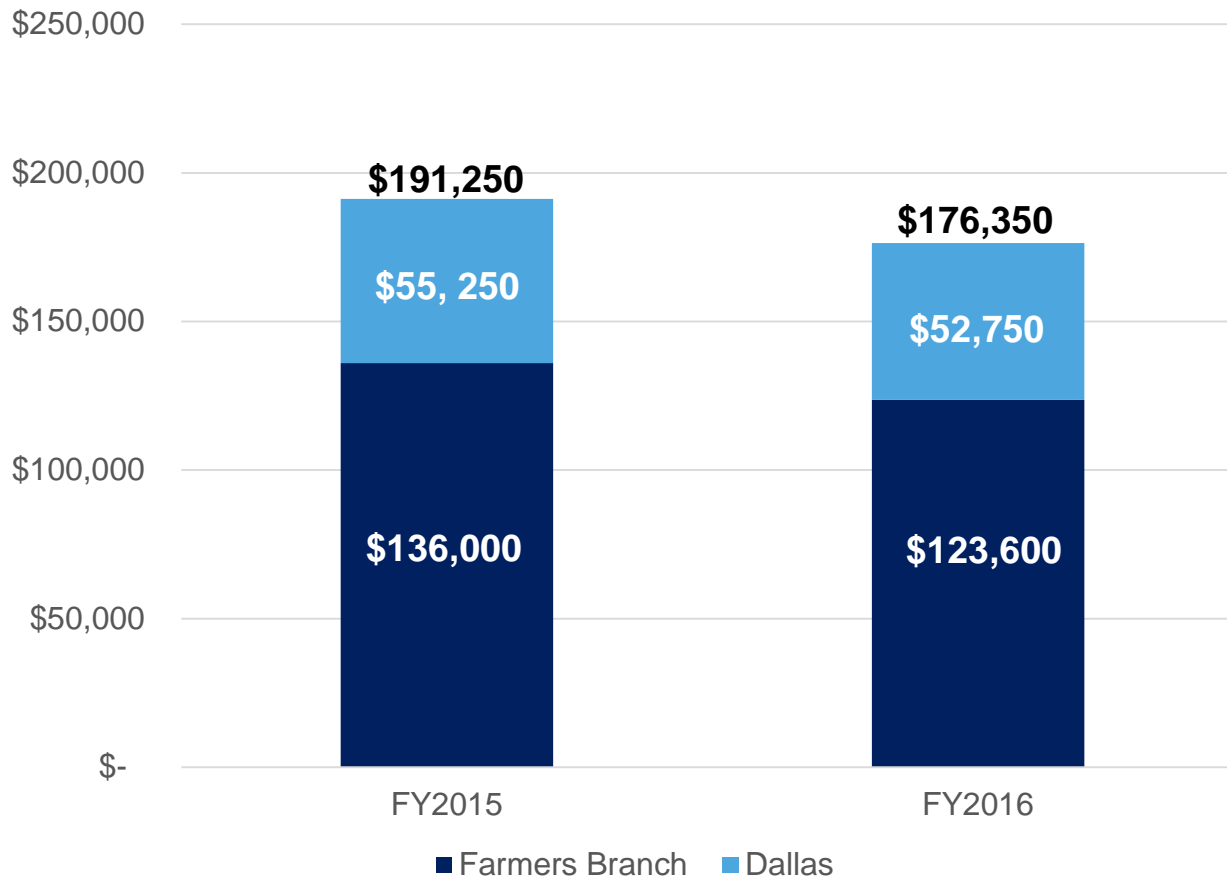
- Residents would obtain a library card at Town Hall with a driver's license or water bill to validate their Addison address
- Additional cards could be obtained by the same family for both Farmers Branch and Dallas



Number of Cards Issued



Past Expenditures



Council Direction

- At the September 6, 2016 Regular Council Meeting, Council directed staff to establish a library card policy in an effort to reduce costs

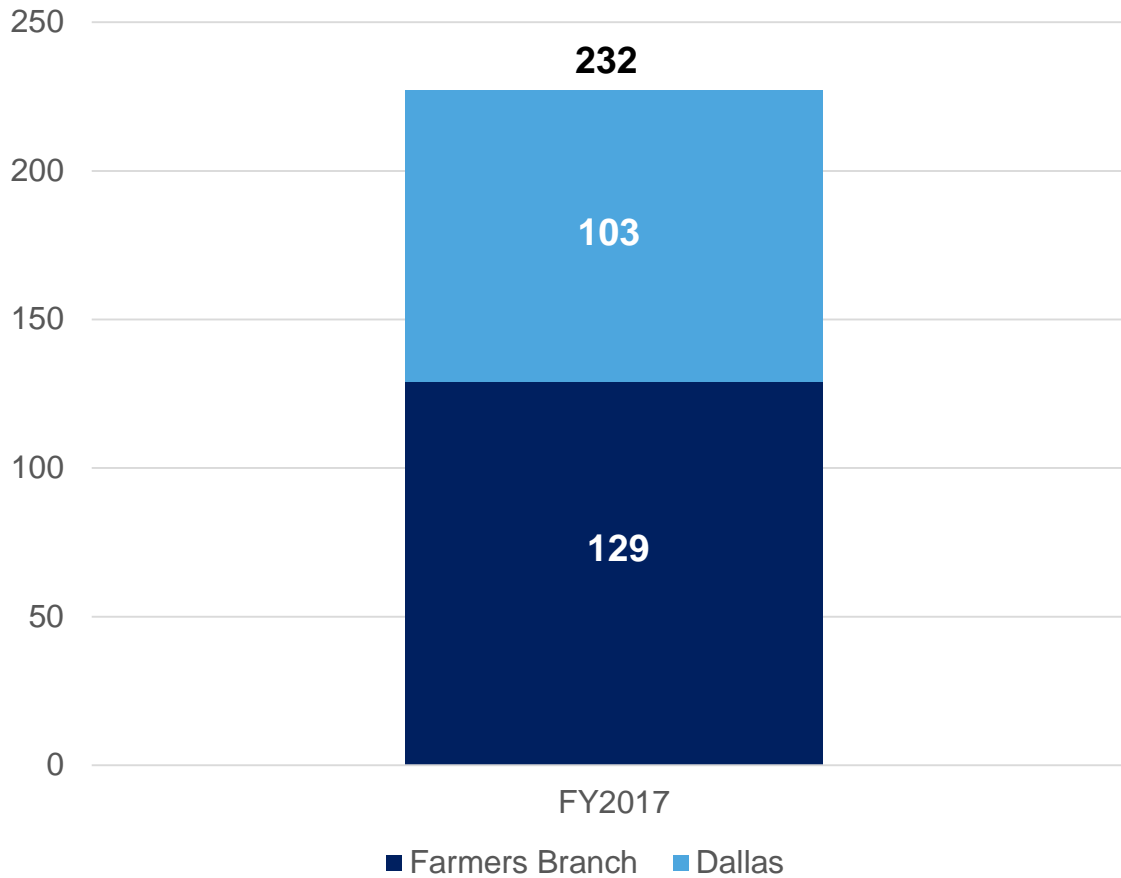


Process – as of 11/01/16

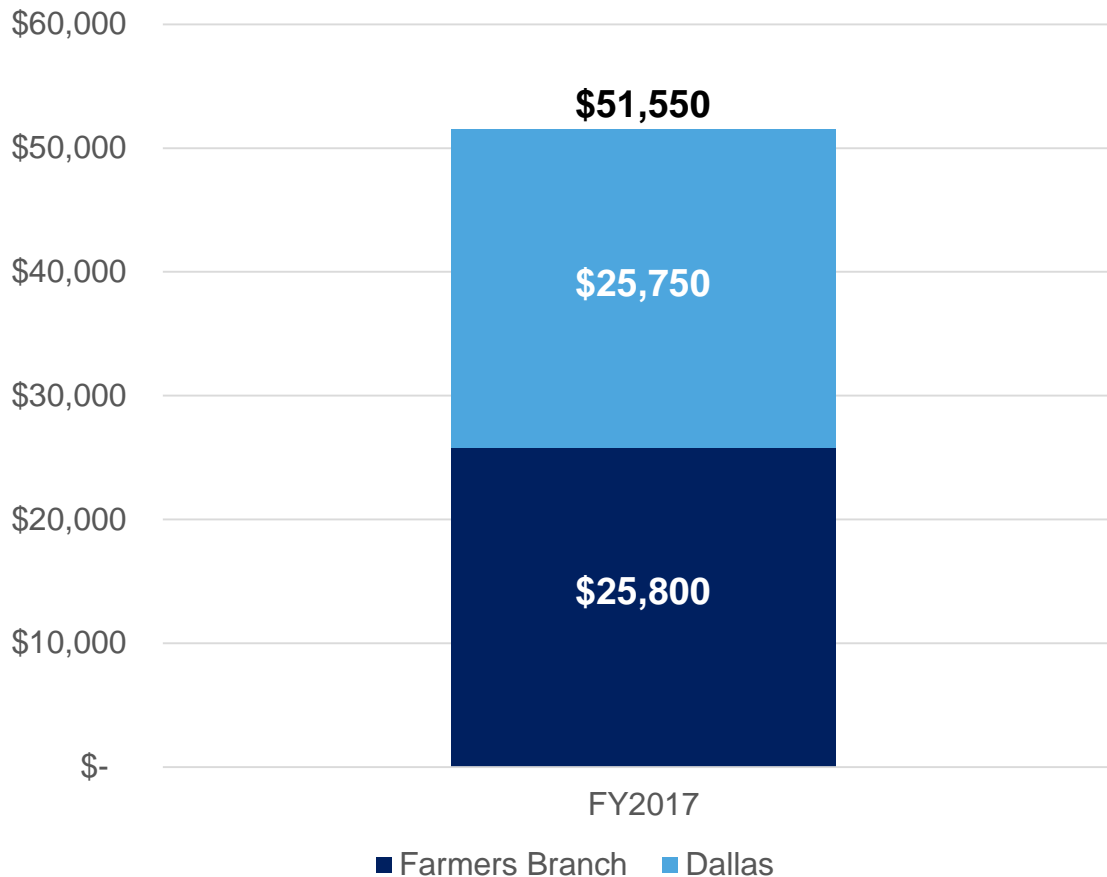
- Residents obtain a library card at the **Addison Athletic Club** with a driver's license, rental agreement or utility bill to validate their Addison address
- Only **one card** per household
- Residents must choose either Farmers Branch **or** Dallas
- The Athletic Club membership computer system is used to issue and track cards to eliminate the issuance of multiple cards per household



Number of Cards Issued (as of 02/01/2017)



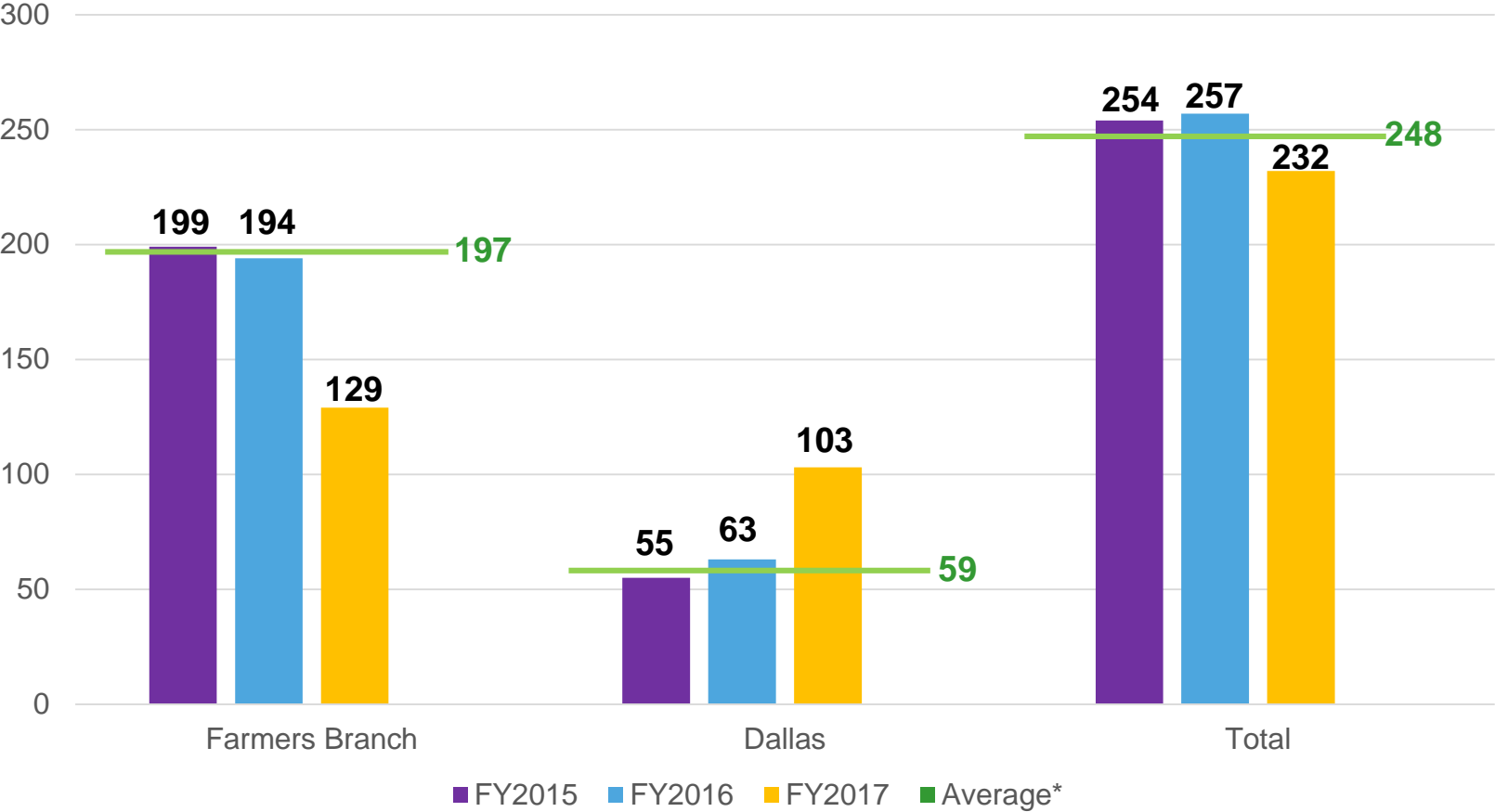
Value of Cards Issued (as of 02/01/2017)



*We pre-purchase cards from Dallas and then issue them. We had a surplus of purchased cards in FY2016 that were issued in FY2017. This explains the variance in current expenditures vs. value of cards issued.

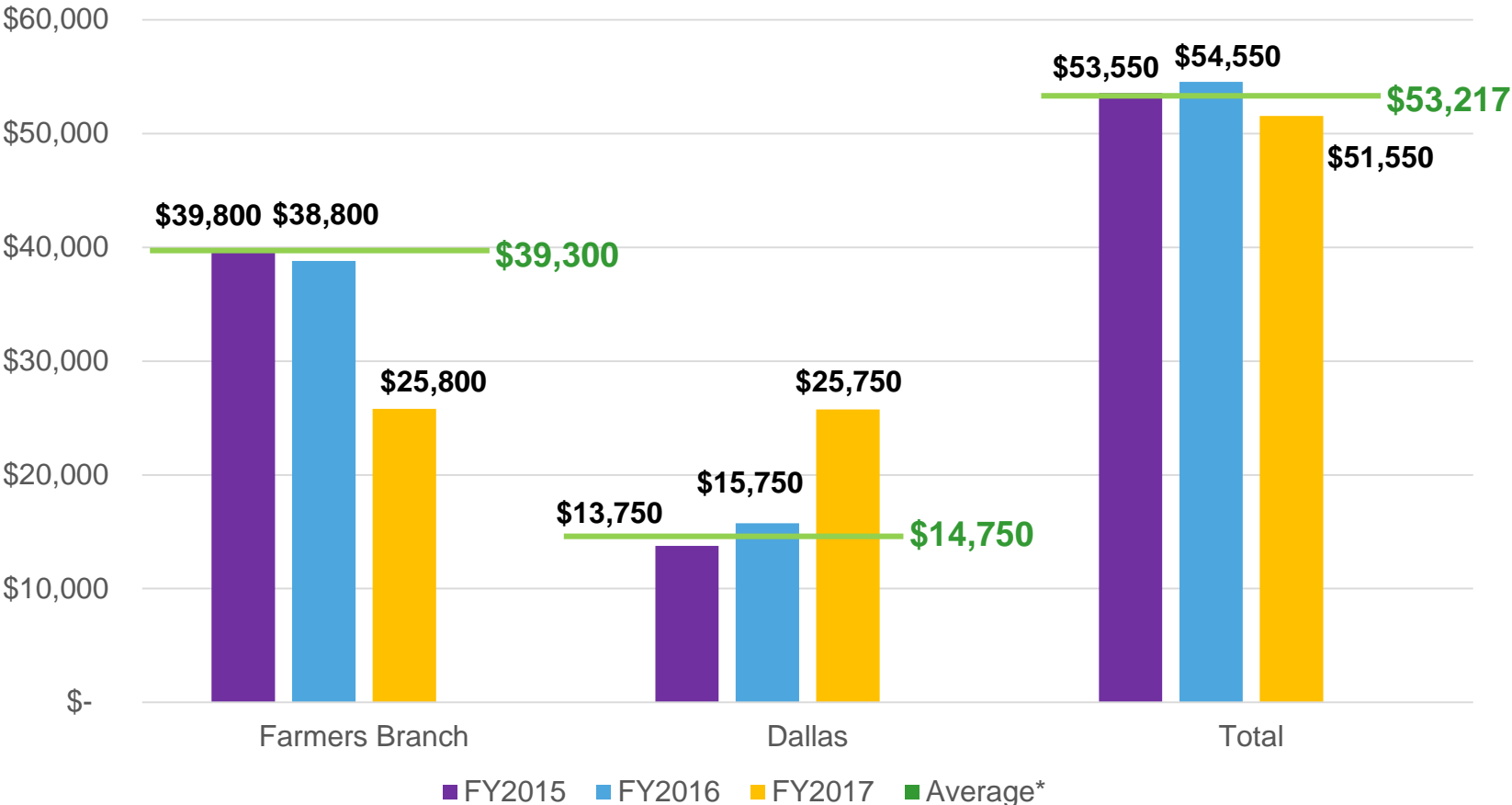


4 Month Comparison & Average (Oct/Nov/Dec/Jan)



*FY2015 & FY2016 Average 10

4 Month Comparison & Average (Oct/Nov/Dec/Jan)



*FY2015 & FY2016 Average

Budget Summary

FY2017 Budget



Total Spent
(as of 02/01/2017)



Remaining Budget



Next Steps

- Bring back a formal policy
- Bring back an Interlocal agreement with Dallas for Library Services
- Promote TexShare Card Program



Questions?



AI-2092

5.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Police

AGENDA CAPTION:

Recognition Of **Donation To The Addison Police And Fire Relief Fund From The Addison Rotary Foundation.**

BACKGROUND:

In 2016, the Addison Rotary Foundation held the Back Up the Badge event benefiting the Addison Police Department. In February 2017, the Foundation donated the remainder of the proceeds in the amount of \$7,151.19 to the joint Police and Fire Relief Fund to financially assist families that face a life changing event, such as an in-line-of-duty death.

RECOMMENDATION:

Information only, no action required.

AI-2102

6.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

Present A **Proclamation Recognizing The Service Of Judge U.H. "Woody" Specht To The Town Of Addison.**

BACKGROUND:

Judge Specht is retiring from the Town of Addison after over 20 years of service to the Town of Addison. Council would like to formally recognize Judge Specht for his service.

RECOMMENDATION:

Presentation only.

Attachments

Proclamation

WHEREAS, U. H. (Woody) Specht received his Juris Doctor Degree from University of Texas Law School in 1965; and

WHEREAS, U.H.(Woody) Specht began his career as a Special Agent with the Federal Bureau of Investigations in 1965. He retired from the FBI in 1990; and

WHEREAS, While with the FBI he received invaluable training with service as Chief Division Council in Dallas and Newark, spokesperson and media liaison in Dallas, hostage negotiator, all of which complimented his Judicial tenure at Addison; and

WHEREAS, In December of 1994 the Mayor and Council appointed U.H. (Woody) Specht as Alternate Judge with the Town of Addison Municipal Court; he served in that position until February, 2017; and

WHEREAS, Judge Specht has worked closely with the Municipal Court staff and Addison Police Department to ensure that the citizens that appeared before the Court were treated fairly and equally; and

WHEREAS, Judge Specht is known for his fairness, and has followed his principles according to the law when performing his duties; and

WHEREAS, The Town of Addison desires to extend its sincere gratitude to Judge Specht for his many years of service and commitment to the Town of Addison and to congratulate him on his well-deserved retirement as Alternate Municipal Judge.

Now therefore, I, Todd Meier, Mayor of the Town of Addison on behalf of the City Council, do hereby recognize February 28, 2017 as

U. H. (Woody) Specht Day

Dutifully executed this February 28, 2017

Mayor, Town of Addison, State of Texas

AI-2096

7.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Secretary

AGENDA CAPTION:

Consider Action To **Approve Meeting Minutes Of The February 14, 2017 Regular Council Meeting.**

BACKGROUND:

The City Secretary has prepared the minutes for review and approval.

RECOMMENDATION:

Administration recommends approval.

Attachments

DRAFT Minutes

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL WORK SESSION

February 14, 2017

Addison Town Hall, 5300 Belt Line Rd., Dallas, TX 75254

5:00 PM Executive Session

6:30 PM Work Session

7:30 PM Regular Meeting

Present: Mayor Meier; Mayor Pro Tempore Arfsten; Deputy Mayor Pro Tempore Hughes; Councilmember Angell; Councilmember Duffy; Councilmember Walden; Councilmember Wilcox

Executive Session

1. Closed (executive) session of the Addison City Council pursuant to:

Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, pertaining to:

- **Open Meetings Act**
- **The ponds or lakes at Vitruvian Park located within the vicinity and east of the intersection of Vitruvian Way and Ponte Ave., and Farmers Branch Creek**

Section 551.074, Tex. Gov. Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, pertaining to:

- **Associate Judge Interviews**

Council convened into Executive Session at 5:00 pm.

Reconvene from Executive Session

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2. **RECONVENE INTO REGULAR SESSION:** In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session to consider action, if any, on matters discussed in Executive Session.

Council recessed from Executive Session at 6:45 pm.

Deputy Mayor Pro Tempore Hughes moved to authorize the City Manager and Mayor to both attend the TCEQ hearing tomorrow (2/15/17) in Austin as representatives of the Town of Addison. Mayor Pro Tempore Arfsten seconded the motion. The vote was cast 7-0 in favor of the motion.

WORK SESSION

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3. Present And Discuss **Hotels In Addison And Underperforming Hotels.**

Assistant Director of Development Services Charles Goff presented the item. Mr. Goff stated the item was intended to start the discussion that would continue after the special work session and tour on Monday, February 20, 2017. Mr. Goff reviewed the history of hotel types in Addison, when the hotels were built and the definition of a hotel as stated in the ordinance.

Council discussed the definition of non-conforming hotels, tax revenue from the hotels, crime statistics and areas of concern with the hotels.

Council agreed that more conversation and questions would come up after the tour on Monday. They requested staff work on collecting data from other cities regarding discrepancies seen in the hotel tax received. Council also requested staff look into best practices and pitfalls to avoid from other cities.

REGULAR MEETING

Pledge of Allegiance

Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

Public Comment.

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Juli Branson, 15600 Witt Place #3106, thanked the Council and staff for coordinating the effort to have citizens attend the DART meetings on the Cotton Belt project. She also suggested that a committee be put together to look at the opportunities surrounding the Cotton Belt area.

Judy Lindloff, 14891 Towne Lake Circle, thanked the staff for working hard to get the storage container removed at the Super 8. She also thanked staff and volunteers for the trash pick up efforts in the Towne Lake area.

Consent Agenda:

All items listed under the Consent Agenda are considered routine by the City Council and will be enacted by one motion with no individual consideration. If individual consideration of an item is requested, it will be pulled from the Consent Agenda and discussed separately.

Mayor Pro Tempore Arfsten moved to approve Items #5 & 6 as submitted. Deputy Mayor Pro Tempore Hughes seconded the motion. The vote was cast 7-0 in favor of the motion.

-
5. Consider **Action To Approve Meeting Minutes Of The January 24, 2017 Regular Council Meeting.**

 6. Consider Action On An **Ordinance Amending The Town's Financial Policies.**
-

Regular Items

7. Hold A Public Hearing, Present, And Discuss **The Future Of The Playground Located In The Oncor Easement Near Dome Drive.**

Parks and Recreation Director Michael Kashuba presented the item to Council. Mr. Kashuba gave a history of playground renovations and funding schedules for two of the playgrounds for the Town of Addison. Mr. Kashuba reviewed the correspondence between Oncor and the Town regarding the safety of the playground in the easement property. Mr. Kashuba also stated after researching the documents more, it was found that the removal of the playground was not contractually required until September 2017 rather than April 2017 as originally believed.

Mayor Meier opened the Public Hearing.

The following citizens spoke in favor of the item:

Tarea Doty, 4144 Towne Green Circle

Bianca Noble, 4008 Bobbin Lane

Lydia Chavez, Addison

Brooke Lynd, Addison

Dawn Webb, 3820 Canot Lane

Jon Birney, 4043 Rive Lane

Mary Carpenter, 4006 Winter Park

David Kilpatrick, 3910 Dome

Bate Bate, 3825 Azure Lane

David Chavez, 3841 Canot Lane

Mark Lynd, 14617 Lakecrest Dr

The following citizens wished to record their support of the item:

Sabina Bradbury, 4005 Bobbin

Mayor Meier closed the Public Hearing.

Councilmember Wilcox stated he felt the playground had to be rebuilt and he would like to see it done quickly before the demolition is complete.

Deputy Mayor Pro Tempore Hughes asked if staff had a specific next step or plan to receive proposals for the project.

Mr. Kashuba stated staff would go out with a proposal for a consultant to identify 3 possible sites. Mr. Kashuba stated from there, the location selection would be narrowed, a design put together for each option and then a discussion with Council

regarding the funding for the project. Mr. Kashuba stated the project from start to finish would take approximately 30 weeks if all goes according to plan.

Council discussed the possibility of narrowing the location selection to two immediately to help the process move more quickly.

Councilmember Angell asked if the plan was to move the equipment from the park to the new location or would this be a new playground construction.

Mr. Kashuba stated the playground equipment as it stood today would not meet the standards required and was not ADA compliant. The playground would have to be started from a design phase with new ideas and items.

City Manager Wes Pierson stated how fast the project moves is up to how deep into discussion Council wishes to get with the location and design aspects, as well as the amount of community input the Council wanted to receive.

Council discussed the possibility for citizens to make donations to the Addison Legacy Foundation that could be earmarked for the new playground. Council discussed how that could help a funding gap that may occur.

Mr. Pierson and Mr. Kashuba stated the proposal for the three sites and design work would go out to the consultant and the discussion would come back to Council in the near future for decisions to be made.

-
8. Hold A Public Hearing, Discuss, And Consider Action On An Ordinance Rezoning The Property Located At 4021 Belt Line Road, On The North West Corner Of Belt Line Road and Runyon Road, From LR, Local Retail, to PD, Planned Development District, Allowing All Local Retail Uses Plus Medical And Dental Offices And Establishing Modified Development Standards. Case 1751-Z/Belt Line Square.

Assistant Director of Development Services Charles Goff presented the item.

Council discussed the restriction of certain medical uses, in-patient and out-patient surgeries and drug and alcohol rehabilitation centers.

The applicant answered questions regarding medical uses. The applicant requested time to speak to his client regarding the uses they would agree to.

Mayor Meier opened the Public Hearing. There were no speakers. Mayor Meier closed the Public Hearing.

Council agreed to table the item to allow the applicant speak to his client.

After discussing Item #9 & #11, Mayor Meier resumed this item. The applicant wished to table the item for further discussion with his client.

Councilmember Duffy moved to table Item #8 until the next Council meeting on February 28, 2017. Councilmember Angell seconded the motion. The vote was cast 7-0 in favor of the motion.

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9. **Hold A Public Hearing, Discuss, And Consider Action On An Ordinance Rezoning The Property Located At 14345 Dallas Parkway By Amending Planned Development District Number O16-028 By Revising The Development Standards Relating To Building Height And Approving Development Plans For An Office Development. Case 1752-Z/Fourteen555 Dallas Parkway.**

Mayor Meier recused himself from the item to avoid potential conflict of interest concerns as his law firm has represented the land owner in the past.

Assistant Director of Development Services Charles Goff presented the item to Council.

Mayor Pro Tempore Arfsten opened the Public Hearing. There were no speakers. Mayor Pro Tempore closed the Public Hearing.

Council discussed the timing of each building phase with the applicants.

Councilmember Angell moved to approve Item #9 as submitted. Councilmember Walden seconded the motion. The vote was cast

6-0. Mayor Meier recused himself from the item.

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10. **Hold A Public Hearing, Discuss, And Consider Action On An Ordinance Rezoning The Property Lot Located At 5015 Spectrum Drive, On The South West Corner of Spectrum Drive and Edwin Lewis Drive, From C-1, Commercial-1, to a PD, Planned Development District, In Order To Provide A Maximum of 349 Multi-Family Residential Units and Approximately 5,500 Square Feet Of Future Retail Space, And Approving Development Plans. Case 1753-Z/AMLI Addison.**

Assistant Director of Development Services Charles Goff presented the item to Council. Mr. Goff reviewed the history of the land use, the proposed development, results of the Planning & Zoning Commission meeting and the staff recommendation.

Council discussed the soil remediation process for the site and the height restrictions for this site because of the airport.

The applicant, Mr. Taylor Bowen and Ms. Gia Bordt made their presentation.

Council asked questions regarding the development being pet-friendly, the sewer line upgrades proposed, the possibility for condos at the site and the possibility for the complex to be sold in the future.

Mr. Bowen stated the development would be pet-friendly for the residents, the sewer line upgrades would be fully funded by AMLI, not a possibility for condos at the site and that AMLI would be a long term owner for the development.

Mayor Meier opened the Public Hearing.

The following citizens spoke in favor of the item:

Sabina Bradbury, 4005 Bobbin
Kirk Williams, 2728 W. Harwood St Ste 500
Kent Dominique, 14818 Le Grande
Ralph Doherty, 14718 Celestial Place
Ron Crowell, 15725 N. Dallas Parkway Ste 230

The following citizens did not speak but recorded support for the item:

Tarea Doty, 4146 Towne Green Circle
Kent Hope, PO Box 427

The following citizens spoke in opposition to the item:

John Price, 4114 Leadville
Sheila Barkofske, 4130 Proton Drive #26B
Yvette Pelky, 3868 Ridgelake Ct
Karen Gassett, 4010 Winter Park
Gail Barth, 14612 Dartmouth
TJ Zsemba, 3791 Chatham Court Dr

Mayor Meier closed the Public Hearing.

Council began discussion and questions for the Mr. Bowen and Ms. Gia Bodt.

Discussion consisted of support letters from surrounding businesses, office owners and major employers, height selection for the development, type of construction materials, and the decision not to build the development as condos.

Mr. Bowen then answered questions regarding his conversations with Planning & Zoning Commission members and Councilmembers, AMLI involvement with other developments, the issues with TCEQ for the site in the past, lease terms for the residents, acceptance of housing assistance payments, and details regarding the cost of the project, additional tax revenue estimated and property value of the development.

Mayor Meier questioned Mr. Goff regarding the development and the Master Transportation Plan, the Comprehensive Land Use Plan and the highest and best use for the site.

Within the discussion with Mr. Bowen and Mr. Goff, Council requested opinions from the City Attorney as to Robert's Rules regarding Councilmembers making motions for approval and recognition from the chair (Mayor Meier).

Mayor Pro Tempore Arfsten moved to approve Item #10 as submitted. Councilmember Walden seconded the motion.

Deputy Mayor Pro Tempore Hughes stated the decision he had made regarding the project came after many hours of consideration, discussion with citizens and research into the project information itself.

Councilmember Wilcox stated he would not be in favor of the project. Councilmember Wilcox stated the decision is a 50 year

decision and he did not think the development was the highest and best use for the site.

Mayor Meier stated he would offer an amendment to the motion to pause the item, do a study area and include the community in the discussion and move forward from there. Councilmember Angell seconded the motion.

Discussion followed regarding the amendment, the time the applicant put into the presentation and project to this point, and the timeliness to make a decision on the project. Councilmember Angell withdrew his second. Councilmember Wilcox seconded the amendment.

The vote was cast 2-5 against the amendment. Mayor Meier and Councilmember Wilcox for and Mayor Pro Tempore Arfsten, Deputy Mayor Pro Tempore Hughes, Councilmembers Angell, Duffy and Walden against.

The original motion from Mayor Pro Tempore Arfsten and seconded by Councilmember Walden was brought forward for a vote. The vote was cast 5-2 in favor of the motion. Mayor Pro Tempore Arfsten, Deputy Mayor Pro Tempore Hughes and Councilmembers Angell, Duffy and Walden for and Mayor Meier and Councilmember Wilcox against.

11. Present, Discuss, And Consider Action On A **Resolution Approving A Municipal Court Collection Services Agreement With Municipal Services And Authorizing The City Manager To Execute The Agreement.**

Purchasing Manager Wil Newcomer presented the item to Council. Mr. Newcomer discussed the fines outstanding owed to the Town. These fines are hard to collect and the Town does not currently have the capacity in the Municipal Court staff to track down the offenders. Staff recommended to enter into a contract with a third party source to help collect the outstanding fines and recoup some of the money owed back to the Town. Council discussed the process in which the third part collection agency would attempt to contact the offender and collect the debt owed. Deputy Mayor Pro Tempore Hughes moved to approve Item #11 as presented. Councilmember Angell seconded the motion. The vote was cast 7-0 in favor of the motion.

12. Present And Discuss **The Distribution of Addison Library Cards.**

Due to the time, Council tabled this item to the February 28, 2017 meeting.

NOTE: The City Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (purchase, exchange, lease or value of real property); §551.074 (personnel or to hear complaints against personnel); §551.076 (deployment, or specific occasions for implementation of security personnel or devices); and §551.087 (economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

Adjourn Meeting

Mayor-Todd Meier

Attest:

City Secretary-Laura Bell

Work Session and Regular Meeting**Meeting Date:** 02/28/2017**Department:** Parks & Recreation**AGENDA CAPTION:**

Consider Action On A **Resolution To Approve The Naming And Recognition Elements For The Spruill Dog Park.**

BACKGROUND:

At the January 24, 2017, Regular Council Meeting, staff presented options for the Council to consider for Contributions from Individuals and Corporations. The current Naming and Recognition Policy states that staff would create a process to recognize individual and corporation contributions that did not meet the criteria for City-Owned Structures, Trails and Parks. In conjunction with the Spruill Dog Park Conversion, staff proposed the inclusion of the following naming and recognition elements for individuals that make donations to the Spruill Dog Park:

- Brick Pavers at \$100 donation level
- Stone Path at \$1,000 donation level
- Dog Silhouette at \$5,000 donation level
- Benches at \$10,000 donation level

Based on Council discussion and direction, staff is bringing this item back for approval of the following naming and recognition elements for individuals and dog-centric businesses:

- Brick Pavers at \$100 donation level (1,000 available)
- Flagstone at \$1,000 donation level (30 available)
- Benches at \$10,000 donation level (12 available)
- Naming of the Dog Park after individual or dog-centric business at \$250,000 donation level (1 available)

The naming elements will be limited to the dog's name, individual or family name, or dog-centric business name. A dog-centric business is defined as accommodating dogs or dog owners and/or provide supplies, services and care for dogs. The minimum donation for a dog-centric business is \$1,000.

The Town reserves the right to remove any name as outlined in the Town's Naming and Recognition Policy.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Dog Park Naming Elements

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS ADOPTING A NAMING AND RECOGNITION POLICY FOR CITY-OWNED IMPROVEMENTS AT SPRUILL DOG PARK, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison, Texas (“City Council”) recognizes the value of providing quality city-owned dog parks for the use of its citizens; and

WHEREAS, the Town of Addison, Texas has investigated and determined that a naming and recognition policy at Spruill Dog Park has the potential to increase funds available for the beautification and development of Spruill Dog Park; and

WHEREAS, the Town Council desires to adopt the naming and recognition policy provided herein for city-owned improvements at Spruill Dog Park.

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

Section 1. The findings set forth above are incorporated herein for all purposes.

Section 2. The Spruill Dog Park Naming and Recognition Policy provided below is hereby approved and adopted:

“NAMING AND RECOGNITION CRITERIA-SPRUILL DOG PARK:

- 1) Definitions:
 - a) Spruill Dog Park – that portion of property located within the existing Spruill Park located at 4936 Marcus Avenue, Addison, Texas, and identified on the Spruill Dog Park Construction Documents.
 - b) Elements – improvements within Spruill Park that are eligible for naming or recognition in a manner designed solely by the Town of Addison, Texas. Recognition elements will be limited to the project limits defined in the Spruill Dog Park Construction Documents.
 - c) A dog-centric business – a business that meets the following criteria: (i) accommodates dogs and dog owners; and/or (ii) provides supplies, services and care for dogs.
- 2) Criteria for naming and recognition on Spruill Dog Park elements:
 - a) Individuals who donate a minimum of \$100.00 in funds to the Spruill Dog Park are eligible for recognition on a brick paver. A total number of 1,000 Brick Pavers are available for recognition.
 - b) Individuals or dog-centric businesses who donate a minimum of \$1,000.00 in funds to the Spruill Dog Park are eligible for recognition on an individual

flagstone. A total number of 30 individual pieces of flagstone are available for recognition.

- c) Individuals or dog-centric businesses who donate a minimum of \$10,000.00 in funds to the Spruill Dog Park are eligible for recognition on a bench. A total number of 12 benches are available for recognition.
 - d) The Spruill Dog Park may be renamed after individuals or a dog-centric business who donate(s) a minimum of \$250,000.00 in a single gift to Spruill Dog Park.
- 3) Naming Nomenclature
- a) elements in Spruill Dog park may include the following types of recognition:
 - i) Dog Name
 - ii) Individual or Family Name
 - iii) Dog-Centric Business Name
 - (1) Minimum business donation is \$1,000
- 4) Donations for Spruill Dog Park are tax deductible and should be coordinated with the Addison Legacy Foundation. The Addison Legacy Foundation shall provide the Town with a quarterly fundraising summary for Spruill Dog Park.”

Section 3. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

Work Session and Regular Meeting**Meeting Date:** 02/28/2017**Department:** Infrastructure- Development Services**AGENDA CAPTION:**

Consider Action On A **Resolution To Approve A Conventional Hangar Lease Agreement Between The Town Of Addison And Wing Aviation Charter Services, LLC, For Commercial Aviation Use On Property Located At 4555 Glenn Curtiss And Authorize The City Manager To Execute The Agreement.**

BACKGROUND:

A Request For Proposal was posted on BidSync on November 3, 2016 for proposals to lease the Town-owned commercial hangar at 4555 Glenn Curtiss. Three responses were received; two from current Addison Airport tenants: Baker Aviation, an aircraft maintenance provider; and Atlantic Aviation, a Fixed Base Operator located on Addison Airport; and the third response received was from Wing Aviation Charter Services, LLC, which is based in Houston.

Wing Aviation Charter Services, LLC had the highest score of 98.7 due to their:

1. Well established reputation within the air charter industry
2. Introduction of an established aviation business that is new to the Airport
3. Proposed use is most compatible with the office/hangar facility
4. Proposal for a long-term commitment to Addison Airport

Wing Aviation Charter Services (Wing) is an aircraft management and jet charter operator headquartered at Hobby Airport in Houston. It serves clients worldwide with comprehensive private aviation services that include aircraft charter, management, and brokerage.

Wing anticipates generating approximately \$1.5 million in revenue per year at Addison Airport based on its management and charter operations and will base four to six aircrafts on the property. Wing plans to make 4555 Glenn Curtiss its Dallas-area headquarters and will consolidate its aviation assets and employees within the Metroplex to better serve its Dallas-based clients. They plan to have 14 Wing Aviation employees at the beginning of the lease with plans to grow to 30 employees.

The terms of the proposed agreement are:

1. The primary term of the agreement is 10 years with two 5-year extensions if the tenant is in good standing at the end of the 10-year term.

2. The base rent is \$218,313 annually (\$8.75/bsf) for the first three years; thereafter rent is subject to a biennial CPI adjustment.
3. The use of hangar and office space will be for the operating and subleasing of office and hangar facilities and parking used directly in support of and in connection with corporate flight operations, aircraft charter, and aircraft management operations.
4. The tenant is eligible for a proposed finish-out reimbursement allowance not to exceed \$30,000.00 that must be exercised within the first year of the lease term. This reimbursement is proposed because this hangar is a city-owned facility and the Airport, as the landlord, is responsible for tenant finish-out, such as that which is related to flooring, painting, sheet rock installation and improvement at its expense. This allowance provides reimbursement for certain out-of-pocket repairs and improvements. The tenant is required to submit all supporting documents to prove the expense that is to be reimbursed.

In order to improve taxiway access to the hangar, the Airport will construct, at its expense, a taxiway connector leading directly from the lease site to Taxiway Uniform within the first 18 months of the Lease. This capital improvement was already scheduled in the FY2017 Airport's capital improvement program, with a preliminary cost estimate of \$150,000. This project is eligible for TxDOT RAMP grant funding.

In addition to the \$218,313 in annual revenue to the airport (subject to adjustments), Wing projects purchasing 150,000 gallons of fuel at Addison Airport, with volumes increasing to as much as 250,000 once their operations grow as projected. These volumes represent \$21,000 to \$35,000 respectively in new annual fuel flowage fees to the Airport for at least the next ten years. The lease arrangement represents nearly \$2.5 million in direct revenue to the Airport over the 10-year primary lease term.

The lease will achieve the Town's strategic objectives for Addison Airport of upgrading and improving an existing airport facility; enhancing the overall value of the airport with the construction of a new taxiway connector; generating additional revenue on the airport; and creating both direct and indirect economic benefits to the airport and Town of Addison.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Wing Aviation

Memo - Wing Aviation

EXHIBIT A

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE CONVENTIONAL HANGAR LEASE BETWEEN THE TOWN OF ADDISON AND WING AVIATION CHARTER SERVICES, LLC FOR COMMERCIAL AVIATION USE ON PROPERTY LOCATED AT 4555 GLENN CURTISS ROAD, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Conventional Hangar Lease between the Town of Addison and Wing Aviation Charter Services, LLC for commercial aviation use on property located at 4555 Glenn Curtiss Road, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

Contract #4555-0102

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

ADDISON AIRPORT CONVENTIONAL HANGAR LEASE FOR COMMERCIAL AVIATION USE

This Addison Airport Conventional Hangar Lease For Commercial Aviation Use (hereinafter referred to as the "Hangar Lease," "Lease," or "Agreement") is made and entered into this ____ day of February, 2017 (the "Effective Date"), by and between the **Town of Addison, Texas**, a home-rule municipality (hereinafter referred to as the "City" or "Landlord") and **Wing Aviation Charter Services, LLC**, a Texas limited liability company ("Tenant") (Landlord and Tenant are sometimes referred to herein together as the "parties" and individually as a "party").

WITNESSETH:

WHEREAS, Landlord is the owner of the Addison Airport (hereinafter referred to as the "Airport") located in Dallas County, Texas; and

WHEREAS, the Airport is, as of the Effective Date, operated and managed for and on behalf of the City by AECOM (formally known as URS Energy & Construction, Inc.) Energy & Construction, Inc., an Ohio corporation and SAMI Management, Inc., a Texas corporation ("SAMI"), pursuant to their respective operating agreements, as amended or modified, with the City (AECOM and SAMI, individually and/or collectively, or any other person(s) or entity(ies) authorized by Landlord to operate and/or manage the Airport or any portion thereof or any function related thereto, being hereinafter referred to as "Airport Manager" or "Manager"); and

WHEREAS, Tenant desires to lease that certain hangar located within the Airport known as Property #4555, Bldg. U-4 with the public address known as 4555 Glenn Curtiss Drive., Addison, Texas 75001 (hereinafter referred to as the "Premises" and more fully described in Exhibits "A", "B" and "C" attached hereto and made a part hereof) and Landlord desires to lease the same to Tenant for the Term as defined below; and

WHEREAS, Landlord and Tenant hereby agree to enter into this Hangar Lease under the terms and conditions set forth hereinbelow.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, Landlord and Tenant hereby agree as follows:

1. Lease Grant. Subject to the terms of this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord.

This Hangar Lease is given and entered into subject to (i) all federal, state, and local laws, statutes, constitutional provisions, charters (including the City Charter), ordinances, codes (including building and building-related codes), rules, regulations, directives, policies, permits, standards, zoning requirements, orders, grant assurances, grant agreements, court orders, opinions and decisions, and all interpretations of the foregoing, of and/or by any governmental authority, entity, department, branch, or agency (including, without limitation, the Town of Addison, Texas, the State of Texas, the Federal Aviation Administration, the Texas Department of Transportation, the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality, and any successor entities thereto), that are applicable, imposed upon, or related to, whether directly or indirectly, this Lease, the Airport, the Premises, and the use and occupancy thereof, as the same are existing or as they may be amended, modified, enacted, adopted, imposed, or superseded, and including, without limitation, any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed (collectively, "Laws," and "Law" means any of the foregoing), (ii) all restrictive covenants affecting the Premises, (iii) all restrictions, mortgages, deeds of trust, liens, easements, licenses, leases, and any other encumbrance on or matter affecting the Premises, whether recorded or not, and (iv) and all of the terms, conditions, and provisions of this Hangar Lease.

2. Term:

A. Primary Term: The Term hereof shall commence on the Effective Date ("Commencement Date"), and shall end on the last day of the 120th calendar month following said Commencement Date, unless otherwise terminated as provided for herein (the "Primary Term").

B. Option to Extend Primary Term:

(1) Landlord hereby grants Tenant two (2) consecutive options (individually an "Option" and collectively the "Options") to extend the Primary Term of the Lease for an additional period of five (5) years per Option (such period may be referred to as the "Option Term"), as to the entire Premises as it may then exist, upon and subject to the terms and conditions of this subsection (the "Option To Extend"), and provided that at the time of exercise of each option: (i) Tenant must be occupying of at least seventy-five percent (75%) of the Premises; and (ii) there has been no material change in the ownership of Tenant or the voting control of Tenant; and (iv) there has been no adverse change in Tenant's financial position from such position as of the date of execution of the Lease.

(2) Tenant's election (the "Election Notice") to exercise the Option To Extend must be given to Landlord in writing no earlier than the date which is fifteen (15) months prior to, and no later than the date which is nine (9) months prior to, the then applicable Expiration Date of the Primary Term or the Option Term, as applicable. If Tenant either fails or elects not to exercise the then applicable Option To Extend by not timely giving its Election Notice, then such Option To Extend shall be null and void. Further, the second Option shall be void and of no force or effect if the first Option is not validly exercised or is waived, revoked or terminated as provided below after any exercise.

(3) Each Option Term shall commence immediately after the expiration of the preceding Primary Term or Option Term without any interruption, as applicable. Tenant's leasing of the Premises during the Option Term shall be upon and subject to the same terms and conditions contained in the Lease except for: (i) the Monthly Base Rent shall be amended to an amount equal to the "Option Term Rent", defined and determined in the manner set forth in Paragraph 3 below; (ii) the Performance Guarantee shall be adjusted pursuant to Paragraph 3.1 below after the Option Rent (defined below) has been determined; and (iii) Tenant shall accept the Premises in its "AS-IS" condition without any obligation of Landlord to repaint, remodel, repair, improve or alter the Premises or to provide Tenant any allowance for same. If Tenant timely and properly exercises the Option To Extend, references in the Lease to the Term shall be deemed to mean the initial Term as extended by the Option Term unless the context clearly requires otherwise.

(4) This Option To Extend is personal to the original tenant executing this Lease and may not be used by, and shall not be transferable or assignable (voluntarily or involuntarily) to any person or entity other than Tenant or an Affiliate of Tenant to which the Lease has been assigned pursuant to this Agreement.

3. Rental & Security Deposit:

A. Base Rent: Tenant agrees to pay to Landlord without notice, demand, offset, or deduction, an annual Base Rent of **Two Hundred and Eighteen Thousand Three Hundred Thirteen Dollars and No Cents** (\$218,313.00), payable in twelve equal monthly installments of **Eighteen Thousand One Hundred and Ninety Two Dollars and Seventy-Five Cents** (\$18,192.75) ("Monthly Base Rent"). The first such monthly installment shall be due and payable on or before the Commencement Date, and each monthly installment thereafter shall be due and payable on or before the first day of each calendar month throughout the Term. For the purposes herein, Landlord and Tenant hereby acknowledge and mutually agree the Base Rent is the product of multiplying the lease rate of **Eight Dollars and Seventy-Five Cents** (\$8.75) times Twenty-Four **Thousand Nine Hundred** (24,950) gross building square feet (24,950 gbsf x \$8.75= \$218,313.00).

B. Option Term Rent: the "Option Term Rent" shall mean the greater of:

(1) the product of multiplying the last monthly installment of the Adjusted Base Rent payable by Tenant under this Lease of the Primary Term with respect to determining Rent for the first Option Term, and for the last full month of the first Option Term with respect to determining Rent for the second Option Term (respectively, the "Preceding Rent") times twelve months (during the Option Term), or

(2) Landlord's Fair Market Rent. For purposes herein, "Fair Market Rent" shall mean the product of multiplying the gross rentable building area of 24,950 square feet times the net (being exclusive of expenses and taxes) "Fair Market Rental Rate" per gross rentable building square foot (expressed in dollars) which a tenant would annually pay and which a willing landlord would accept for comparable leased premises with similar permitted use at Addison Airport for the period for which such rental is to be paid and for a lease on terms substantially identical to those of the Lease, based on prevailing market conditions for comparable class properties at the time such determination is made ("Comparable Transactions").

(3) The determination of Fair Market Rent based upon the foregoing criteria shall be made by Landlord, in the good faith exercise of Landlord's business judgment. Within fifteen (15) business days after Tenant's Election Notice (for the purpose herein, business days are considered to be Monday through Friday, excluding the City's posted holidays) Landlord shall notify Tenant in writing of Landlord's determination of the Option Term Rent for the Premises. If Landlord notifies Tenant that the Option Term Rent shall equal the Preceding Rent, such determination shall be conclusive and binding to set the Preceding Rent as the Option Term Rent for the then applicable Option Term, and Tenant shall not be entitled or required to give further notice, and the extension shall be effective and binding (subject to subsection (7) below).

(4) Provided however, if Landlord notifies Tenant the Option Term Rent is greater than the Preceding Rent and that Landlord will require such Fair Market Rent as the Option Term Rent, Tenant may, within fifteen (15) days thereafter, deliver to Landlord written notice either accepting Landlord's Fair Market Rent as the Option Term Rent or Tenant's intent to withdraw its Election Notice within ten (10) business days of said written notice if the parties cannot reach a mutually agreed to Option Term Rent. Should Tenant effectuate the withdrawal of Tenant's Election Notice as provided for herein, such Option To Extend shall immediately become null and void. Further, the second Option shall be void and of no force or effect if the first Option is not validly exercised pursuant to this subsection. In no event shall the Option Term Rent be less than the Preceding Rent for either Option Term.

(5) Option Term Rent is subject to the adjustment of rental as provided for under Section 4 below except the first such adjustment for any Option Term shall be on the first anniversary of the Option Term. Option Term Rent is net of any Additional Rent and any other sums that Tenant may owe to Landlord or otherwise required to pay under this Lease. Tenant shall continue to pay directly the utility or service provider for all utilities or services which Tenant is to obtain directly pursuant to other provisions of the Lease, but such amounts shall not be counted as part of the Preceding Rent as used herein.

(6) Upon the occurrence of any of the following events, Landlord shall have the option, exercisable at any time prior to commencement of the Option Term, to terminate all of the provisions of this Section with respect to the Option To Extend, with the effect of canceling and voiding any prior or subsequent exercise so this Option To Extend is of no force or effect:

- (i) Tenant's failure to timely exercise the Option To Extend in accordance with the provisions of this Section; or
- (ii) Tenant has at any time during the Term been in default of this Agreement or any other agreement with Landlord;
- (iii) The existence at the time Tenant exercises the Option To Extend or any time prior to the commencement of the Option Term after such exercise of any Default (as defined in the Lease) on the part of Tenant under the Lease.

(7) Without limiting the generality of any provision of the Lease, time shall be of the essence with respect to all of the provisions of this Section.

C. **Prorated Rent.** If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord a prorated amount of Base Rent equal to the product of the monthly installment of Base Rent multiplied by a fraction, the (i) numerator of which is the number of days from (and including) the Commencement Date through (and including) the last day of the month that includes the Commencement Date and the (ii) denominator of which is the number of days in that month. The prorated portion

of the Base Rent is due on or before the Commencement Date. Payment of Base Rent for any fractional calendar month at the end of the Term shall be similarly pro-rated.

D. **Additional Rent:** In addition to the Base Rent or Option Term Rent as the case may be, Tenant will pay Landlord, as Additional Rent, the amounts set forth in the Utility Expense Reimbursement Addendum attached hereto and incorporated herein as **Exhibit "D"**.

E. **Rent:** For purposes of this Lease, "**Rent**" means Base Rent or Option Term Rent as the case may be, Additional Rent, and all other sums that Tenant may owe to Landlord or otherwise be required to pay under this Lease. Landlord shall have the same rights and remedies for non-payment of any Rent as for non-payment of Base Rent or Option Term Rent. The obligations of Tenant to pay Base Rent or the Option Term Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations.

F. **Place of Payment:** Tenant shall deliver all amounts due Landlord under this Lease to the following address or to such other person or place as Landlord may designate in writing:

Addison Airport
c/o Real Estate Manager
16051 Addison Road, Suite 220
Addison, Texas 75001

G. **Method of Payment:** Tenant must pay all Rent timely and without demand, notice, deduction, or offset, except as required by Law or as otherwise provided by this Lease. Tenant shall make payment of all Rent owed by personal or corporate check made payable to "Addison Airport" (or by credit card, electronic transfer or ACH (Automatic Clearing House), if acceptable to Landlord). Cash is not an acceptable form of payment of Rent. If Tenant fails to timely pay any amounts due under this Lease, or if any check of Tenant is returned to Landlord by the institution on which it was drawn for insufficient funds or for any other reason, or if Tenant's credit card is denied more than three times in any twelve-month period (if Landlord authorizes payment by credit card), Landlord, after providing written notice to Tenant, may require Tenant to pay subsequent amounts that become due under this Lease by cashier's check or money order only. Rent, and any other sums or amounts to be paid by Tenant to Landlord under this Lease, shall be deemed to have been paid when Landlord has actually received the negotiable payment.

H. **Late Charges:** If Landlord does not actually receive payment of Rent or any other sums due at the designated place of payment within ten (10) days after the date it is due, Tenant shall pay to Landlord a Late Charge equal to 5% of the amount due to reimburse Landlord for Landlord's cost and inconvenience incurred as a result of Tenant's delinquency. The Late Charge is a cost associated with the collection of Rent and Landlord's acceptance of a Late Charge does not waive Landlord's right to exercise its rights and remedies, including those under Paragraph 24 (Remedies of Landlord) herein.

I. **Security Deposit:** Tenant shall deposit with Landlord, upon Tenant's execution of this Lease, the sum of **One Hundred and Fifty Thousand Dollars and No Cents** (\$150,000.00) to be held by Landlord as Tenant's "**Security Deposit**." Such Security Deposit shall be equal to the Base Rent as adjusted (or Option Term Rent as the case may be) unless otherwise adjusted as provided for in 3.G. above.

(1) If at any time during this Agreement the Security Deposit then held on account by Landlord becomes less than the prevailing Base Rent as adjusted (or Option Term Rent as the case may be), Tenant will make an additional payment to Landlord upon written demand so that the Security Deposit held by Landlord is increased to equal the then prevailing annual rent, unless otherwise adjusted as provided for in 3.G. above. In no event shall the required Security Deposit held on account by Landlord be reduced from the highest required Security Deposit balance required over the Term or any Option Term.

(2) Landlord shall hold such Security Deposit without interest as security for the performance by Tenant of Tenant's covenants and obligations under this Lease. Landlord may commingle the Security Deposit with Landlord's other funds, and no trust relationship is created with respect to the Security Deposit. Tenant shall not assign, otherwise transfer, or encumber or attempt to assign, otherwise transfer, or encumber the Security Deposit, and Landlord and its successors and assigns shall not be bound by any actual or attempted assignment, other

transfer, or encumbrance. Regardless of any assignment, other transfer, or encumbrance of the Security Deposit by Tenant, Landlord may return the Security Deposit to the Tenant.

(3). The Security Deposit is not an advance payment of Rent or a measure of liquidated damages in case of default by Tenant. Upon the occurrence of any event of default, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by Law, use the Security Deposit to the extent necessary to make good any arrearages of Rent and any other damage, injury, expense or liability caused to Landlord by such event of default. Following any such application of the Security Deposit, Tenant shall pay to Landlord, on demand, the amount so applied in order to fully restore the Security Deposit to its required amount.

(4). If Tenant is not then in default hereunder, such Security Deposit, less any lawful deductions by Landlord, shall be returned by Landlord to Tenant with an accounting of said deductions taken no later than sixty (60) days following the termination or expiration of this Hangar Lease. Permitted deductions from the Security Deposit may include but not be limited to: unpaid Base Rent; unpaid utility charges incurred by Tenant; unpaid service charges; damages by Tenant to the Premises (beyond normal wear and tear) or repairs by Landlord, replacement cost of Landlord's property that was in or attached to the Premises and is missing; cost to replace unreturned keys; agreed reletting charges; Landlord's cost of cleaning the Premises to a broom-swept condition if required; Landlord's cost of removal of any trash or debris left in the Premises; Landlord's cost of the removal and storage of Tenant's personal property left or abandoned by Tenant or otherwise disposed of by Landlord; Landlord's cost of removal of unauthorized vehicles or aircraft left on the Premises; government fees or fines against Landlord because of Tenant; late fees and other costs of collection incurred by Landlord in connection with this Lease; interest that would have been earned by Landlord on unpaid balances; attorneys' fees, court costs and filing fees.

4. Adjustment of Rental: Effective on the third anniversary of the Commencement Date of the Primary Term or the first anniversary of any Option Term and then each and every anniversary thereafter over the Term or any Option Term (hereinafter referred to as the "Adjustment Date"), the Base Rent or Option Term Rent due under Section 3. above shall be adjusted as follows:

A. The Base Rent shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas-Fort Worth, Texas (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index - All Urban Consumers (CPI-U)* for the Dallas-Fort Worth, Texas area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The base index is the Consumer Price Index existing on the Commencement Date ("Base Index"). The current index is the Consumer Price Index on the first day of the calendar month preceding the then applicable Adjustment Date (the "Current Index").

B. Beginning with the year that includes the then applicable Adjustment Date, the Base Rent shall be adjusted so that it equals the product of the Base Rent during the first year of this Lease multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index ("Adjusted Base Rent"), but in no event shall the Adjusted Base Rent ever be decreased below the Base Rent set forth in Paragraph 3 A.

C. In the event that the Consumer Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Consumer Price Index as closely as feasible (as reasonably determined by Landlord) shall be substituted therefor.

5. Use of Premises: During the Term the Premises shall be used and occupied by Tenant and its Affiliates (defined below) as follows and for no other purpose without Landlord's prior written consent:

A. "Permitted Uses": The Premises is to be used for Commercial Aviation Uses limited to the following:

(1). Operating and subleasing office and hangar facilities including covered parking used directly in support of and in connection with corporate flight operations, FAA Part 135 and FAA Part 91 aircraft charter and aircraft management operations;

(2). The storage of corporate aircraft owned, leased or exclusively controlled (i.e. the right to fly or possession of the power to directly or indirectly sell or otherwise dispose of said aircraft) by Tenant;

(3). Incidental support (e.g. clerical and administrative) services, and materials in connection with the aircraft stored or based at the Premises, including maintenance and repair.

- (4) Special Events pursuant to City Code and Ordinances and the Airport's Rules & Regulations as may be amended and modified from time to time.

For purposes hereof, "Commercial Aviation Use" means the operation of a business enterprise providing aviation-related goods, services, or facilities for a commercial purpose (including, without limitation, any activity by the Tenant securing earning, income, compensation, [including exchange or barter of goods, and services], and/or profit from said activities, whether or not such objectives are accomplished). Tenant shall occupy and use the Premises only for the Permitted Use, and shall comply with all Laws relating to the use, condition, access to, and occupancy of the Premises. "Affiliates" means (i) all corporations or other entities, if any, controlled by Tenant's parent company Black Forest Ventures, a Texas corporation or (ii) its founder and president, Dr. Dirk Laukien individually. As used in this definition of Affiliate, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

B. Prohibited or Restricted Use of Demised Premises: Any use or occupancy of the Premises other than for the purposes set forth above is not permitted at any time without the prior written consent of Landlord. The following are expressly prohibited:

- (1) Third-party aircraft maintenance and repair, including but not limited to airframe, power plant and avionics;
- (2) As primarily an aircraft or aircraft parts sales center (however, the occasional brokerage or sale of aircraft or aircraft parts is permissible);
- (3) Primary flight school or training other than Part 145 training;
- (4) Ground transportation for rent or hire (including taxi and limousine service);
- (5) Retail services including food sales; barber and valet services; alcoholic beverage sales; sales of pilot supplies; newsstands and gifts;
- (6) Any illegal purpose or any other activity (federal, state, county and municipal laws, rules, regulations, standards and policies) that, in Landlord's reasonable opinion, would create a nuisance, unreasonably disturb other tenants of the Airport, or which may cause an increase in Landlord's insurance costs, whether or not such increased costs are actually incurred; and
- (7) Aviation fueling operations of any kind without a valid fuel dispensing permit issued by the Town of Addison.
- (8) The Tenant shall in good faith continuously throughout the Term of this Lease conduct and carry on in the entire Demised Premises the type of business for which the Demised Premises are leased, except during periods in which the Demised Premises may not be occupied as a result of fire or other casualty, or reasonable periods for repairs and alterations of the Building Improvements to the Demised Premises, all such repairs and alterations to be diligently pursued to completion.

C. Tenant acknowledges that Landlord is bound by, and this Lease is subject to, the terms and conditions of any and all Federal Aviation Administration, Texas Department of Transportation, and other grant agreements, grant assurances and regulations regarding the Airport, and the terms or any grant, loan, regulation, or agreement under Section 22.055 of the Texas Transportation Code, as amended or superseded, whether now existing or made in the future. Tenant agrees not to take any action or refrain from taking any action in relation to the Demised Premises that would cause Landlord to be in violation of such regulations or standards.

D. The Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities on the basis of race, creed, color, national origin, sex, age or handicap; (ii) that in the construction of any improvements on, over or under the Demised Premises and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities on the basis of race, creed, color, national origin, sex, age or handicap; (iii) that the Tenant shall use the Demised Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part

21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

E. The Tenant agrees to furnish all services on a fair, equal, and non-unjustly discriminatory basis to all users thereof and to charge fair, reasonable, and not unjustly discriminatory prices for such services, provided that the Tenant may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

F. Tenant agrees that no aircraft, vehicle or other equipment will be left unattended at any time outside the boundaries of the Premises or within any common area of the Airport ("common area" having the meaning set forth in Chapter 14 of the City's Code of Ordinances), including the safety areas, operating areas and/or non-obstruction areas of the Airport without the prior written consent of the Airport Manager. Tenant further agrees to cooperate and coordinate with adjacent tenants and the Airport Manager, when necessary (as determined by Landlord), to facilitate and not to obstruct aircraft movement along nearby taxiways, especially during periods of construction, maintenance and repair of Airport facilities.

The Premises shall not be used for any purpose or activity that (i) constitutes a violation of any Laws; (ii) in Landlord's opinion, creates or would create a nuisance or waste or unreasonably disturb, annoy or interfere with other tenants or users of the Airport, or (iii) increases insurance costs for Landlord.

6. Acceptance of Premises: Tenant acknowledges that Tenant has fully inspected the Premises and accepts the Premises as suitable for the purposes for which the same are leased in their present condition, "AS IS, WHERE IS, WITH ALL FAULTS AND PATENT AND LATENT DEFECTS". Without limiting anything in the foregoing, LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS, AND THERE ARE NO, REPRESENTATIONS, PROMISES, COVENANTS, AGREEMENTS, GUARANTYS OR WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, OF OR AS TO THE CONDITION, QUALITY, QUANTITY, SUITABILITY, MERCHANTABILITY, HABITABILITY OR FITNESS OF THE PREMISES FOR ANY PARTICULAR PURPOSE WHATSOEVER GIVEN IN CONNECTION WITH THIS LEASE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS OR ANY OTHER LAWS.

TENANT ALSO ACKNOWLEDGES AND AGREES THAT TENANT'S INSPECTION AND INVESTIGATION OF THE PREMISES HAVE BEEN ADEQUATE TO ENABLE TENANT TO MAKE TENANT'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PREMISES, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER LAWS.

TENANT ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6 ARE AN INTEGRAL PORTION OF THIS LEASE AND THAT LANDLORD WOULD NOT AGREE TO LEASE THE PREMISES TO TENANT AS SET FORTH HEREIN WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6. TENANT FURTHER ACKNOWLEDGES THAT TENANT IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO LANDLORD. TENANT ACKNOWLEDGES AND AGREES FURTHER THAT THIS LEASE IS SUBJECT TO ANY AND ALL CURRENTLY EXISTING TITLE EXCEPTIONS OR OTHER MATTERS OF RECORD OR VISIBLE OR APPARENT FROM AN INSPECTION AFFECTING THE PREMISES.

7. Securing Governmental Approvals and Compliance with Law; Noise Abatement:

A. Tenant, at Tenant's sole cost and expense, shall obtain any and all governmental licenses, permits and approvals required for the use and occupancy of the Premises, as set forth in Paragraph 5 above, including but not limited to the issuance of a valid Certificate of Occupancy prior to Tenant occupying the Premises pursuant to Paragraph 44 hereinbelow.

B. Tenant shall promptly comply with all governmental orders and directives and all other Laws for the correction, prevention and abatement of nuisances caused by Tenant and arising out of the use and occupancy of the Premises, as set forth in Paragraph 5 above

C. Tenant shall comply with noise abatement standards at the Airport and shall notify any aircraft operator using the Premises of such standards.

8. Assignment and Subletting:

A. Without the prior written consent of Landlord, Tenant shall have no power to and shall not, either voluntarily or involuntarily, by operation of law or otherwise, assign, sell, pledge, encumber, mortgage, license, transfer, or otherwise convey (together, "assign" or "assignment," and any person or entity to whom an assignment is made being an "assignee") this Lease or any rights or obligations of Tenant hereunder, or sublet the whole or any part of the Premises (except to any Affiliate of Tenant [as defined in Section 5 above], in which instance Landlord's consent shall not be required but written notice of a transfer to an Affiliate shall be given by Tenant to Landlord within ninety [90] days following such transfer). Tenant's transfer, assignment or subletting in violation of the foregoing or without the prior written consent of Landlord, shall be null and void and may be deemed by Landlord (in Landlord's sole discretion) an event of default under Paragraph 23 (Default by Tenant) of this Lease. For the purposes hereof, an assignment will be deemed to have also occurred if the person(s) who owns or has voting control of 51% or more of Tenant on the Effective Date of this Hangar Lease ceases to own or have voting control of 51% or more of Tenant at any time during the term of the Hangar Lease. From time to time as requested by Landlord, Tenant shall provide to Landlord, in a form acceptable to Landlord, a written certification as to the ownership of voting securities or voting control of Subtenant. For the purposes hereof, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

Any assignment or subletting shall be expressly subject to all the terms and provisions of this Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any Landlord-approved assignment or subletting, Tenant shall not assign this Lease or sublet the Premises without first obtaining a written agreement from each such assignee or sublessee whereby each such assignee or sublessee agrees to be bound by the terms and provisions of this Hangar Lease. No such assignment or subletting shall constitute a novation. In the event of the occurrence of an event of default while the Premises are assigned or sublet, Landlord, in addition to any other remedies provided herein or by Law, may, at Landlord's option, collect directly from such assignee or subtenant all rents becoming due under such assignment or subletting and apply such rent against any sums due to Landlord hereunder. No direct collection by Landlord from any such assignee or subtenant shall release Tenant from the payment or performance of Tenant's obligations hereunder. Landlord's consent to any assignment or subletting will not waive its rights or remedies, and it will not stop Landlord from exercising its rights or remedies, with respect to any other actual or proposed assignment or subletting, and Landlord's consent to any assignment or subletting will not relieve Tenant or any guarantor of Tenant hereunder of any liability to Landlord under this Lease or otherwise.

B. Notwithstanding the foregoing, Landlord hereby acknowledges and consents to Tenant's subletting of the Premises for the purpose of renting hangar space for aircraft storage only, provided that each sublease is 1) made available for Landlord's review and inspection during Tenant's normal business hours upon Landlord's written request, and 2) evidenced by written agreement, signed and executed by Tenant and the subtenant, and has incorporated therein and fairly states that:

1. each subtenant agrees to be bound by the terms and provisions of this Hangar Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any conflict between the terms of this Hangar Lease and the terms of the sublease, the terms of the Hangar Lease shall control;
2. no such subletting shall constitute a novation.
3. in the event of occurrence of an event of default while the Premises are sublet, Landlord, in addition to any other rights or remedies provided herein or by Law, in equity, or otherwise, may, at Landlord's option, collect directly from such subtenant all rents becoming due under such subletting and apply such rent against any sums due to Landlord under this Lease;
4. subtenant shall be obligated to obtain Landlord's consent to any action as to which Tenant is obligated to obtain such consent under this Hangar Lease;

5. any such sublease is to automatically terminate upon termination of this Hangar Lease notwithstanding any other provision of the sublease to the contrary;
6. Landlord shall have no responsibility or obligation for the performance by subtenant of its obligations under the sublease; and
7. neither this consent, the exercise by Landlord of its rights and/or remedies hereunder, nor the sublease or any other instrument shall give subtenant any rights, directly or indirectly, against Landlord or create or impose any obligation, duty, responsibility, or liability of Landlord in favor of or for the benefit of subtenant.

Further, Tenant agrees that in no way does any sublease release Tenant from any of its covenants, agreements, liabilities and duties under this Hangar Lease; that this consent does not constitute approval by Landlord of the terms of any such sublease; that nothing herein contained shall be deemed a waiver or release of any of the Landlord's rights under this Hangar Lease; that Tenant shall remain fully liable for the performance of each and every term, provision, covenant, duty and obligation of the Tenant under this Hangar Lease including, without limitation, the duty to make any and all payments of Rent. Any violation of any terms and conditions of this Hangar Lease by a subtenant will constitute a default by Tenant under this Hangar Lease.

Upon Landlord's written request, Tenant shall provide to Landlord the names and addresses of any subtenants, and the make, model, aircraft type and "N" number of any aircraft stored or located on or in the Premises by Tenant or any subtenant.

9. Property Taxes and Assessments: Tenant shall pay, before they become delinquent, any and all property taxes or assessments, and any other governmental charges, fees or expenses, levied or assessed on: (i) all improvements, fixtures, equipment or personal property comprising a part of or located upon the Premises; and (ii), the leasehold estate of Tenant created hereby (hereinafter referred to as "Tenant's Taxes"). Upon the request of Landlord, Tenant shall, from time to time, furnish to Landlord "paid receipts" or other written evidence that all of Tenant's Taxes have been paid by Tenant. If any of Tenant's Taxes are included in tax notices and, or statements delivered to Landlord, Tenant has the right to legally protest or appeal, as provided for by Law, any tax levy or assessment of Tenant's Taxes provided Landlord has not already filed or does not intend to file such protest or appeal of (i) the appropriateness of such tax and, or (ii) the taxable value as assessed by the respective taxing authority. If any of Tenant's Taxes are included in tax statements delivered to Landlord, Tenant shall pay to Landlord that portion representing Tenant's Taxes within ten (10) days after Tenant's receipt of an invoice from Landlord accompanied by evidence of Landlord's computation of the portion thereof representing Tenant's Taxes. In the event Tenant fails to pay any Tenant's Taxes, Landlord shall have the right (but not the obligation) to pay or cause to be paid such Tenant's Taxes, and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant on demand.

10. Maintenance and Repair of Premises:

A. Landlord shall, throughout the term hereof, except as otherwise expressly provided in this Lease and so long as Tenant is not in default of this Agreement beyond any applicable cure period, be responsible for those areas, items and matters identified in the "Landlord" column as set forth in Exhibit "E", Maintenance and Repair Responsibilities, to this Agreement, which Exhibit is attached hereto and incorporated herein by reference. Landlord shall not be responsible for Tenant's or any third party's equipment, fixtures, or personal property comprising a part of or located upon the Premises.

B. Except as provided by subparagraph A. of this Paragraph 10, Tenant shall, to the Landlord's satisfaction, maintain the Premises in good order, condition and repair throughout the term of this Lease including, but not limited to, those areas, items and matters identified under the "Tenant" column set forth in the attached Exhibit "E" to this Agreement. Tenant shall be responsible for any alterations, additions or improvements made by Tenant to the Premises and/or any improvements thereon or therein. Tenant shall, throughout the term hereof, be responsible for all consumable supplies and repair of plumbing and water damage caused as a result of Tenant's failure to reasonably protect water pipes from freezing temperatures or misuse by Tenant or by Tenant's owners, employees, agents, contractors, guests or invitees. Tenant shall be responsible for keeping the Premises free from waste and nuisance and shall, upon the expiration of the Lease Term, or any earlier termination of this Lease or any repossession of the Premises by Landlord, deliver the Premises clean and free of trash and in good condition and repair, with all fixtures and equipment situated in or upon the Premises in the same condition as same existed on the Commencement Date, with reasonable wear and tear excepted.

Notwithstanding anything in this Lease to the contrary, Tenant shall bear the risk of complying with the Americans With Disabilities Act of 1990, any other federal or any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such Laws, as amended from time to time, in or pertaining to the Premises.

C. In the event Tenant fails to so maintain or repair the Premises and/or the improvements, fixtures, equipment and personal property comprising a part of or located upon the Premises, and/or otherwise fails to comply with any of the provisions of subparagraph B. or D. of this Paragraph or any other provision of this Lease requiring Tenant to maintain or repair the Premises or keep them in a particular condition, Landlord shall have the right (but not the obligation) to cause all such repairs or other maintenance or work to be made, and the reasonable costs therefor expended by Landlord plus interest thereon as provided in Paragraph 40 shall be paid by Tenant to Landlord on demand.

D. If Tenant handles or stores flammable materials on the Premises, Tenant agrees to maintain proper safeguards with respect thereto and to comply with all requirements of Landlord's and Tenant's insurance companies and/or governmental authorities with respect to the storage, use and disposal of such materials, and with all applicable Laws.

11. Alterations, Additions and Improvements:

A. Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions or improvements to the Premises, without the prior written consent of Landlord. Landlord shall not unreasonably withhold its consent for non-structural alterations, additions or improvements. Tenant shall have the right to erect or install shelves, bins, machinery, and trade fixtures, provided that Tenant complies with all applicable Laws in connection therewith.

B. Any improvements constructed or caused to be constructed, including and finish-out of the interior space of the Premises, shall be at Tenant's sole cost, expense and risk, shall be in accordance to the Design Plans (as defined below) and subject to Landlord's prior approval and written consent (the "Building Improvements"). Except as provided for in this Agreement, Tenant may not construct, locate, install, place or erect any other improvements upon the Demised Premises without the prior written consent of Landlord.

C. The Building Improvements shall be constructed on the Demised Premises in accordance with plans and specifications prepared by an architect and/or engineer selected by Tenant (the "Design Plan"), which Design Plan shall be submitted to Landlord and approved in writing by Landlord by the issuance of a Building Permit or other means as determined by Landlord.

D. In consideration of the interior finish-out improvements Tenant intends to make to the Premises, including but not limited to improvements related to flooring, painting, sheet rock installation and improvement, Tenant shall be eligible for a finish-out allowance paid by Landlord to be applied toward the reimbursement of Tenant's out-of-pocket expenses in the amount of up to but not to exceed **Thirty Thousand and 00/100 Dollars (\$30,000.00)** ("Finish-Out Allowance") pursuant to the terms and conditions of that certain "Tenant Work Letter Agreement" attached hereto and incorporated herein by reference as Exhibit "C". Tenant's request or requests for reimbursement to Landlord of Tenant's out-of-pocket expenses pursuant the Tenant Work Letter Agreement must be made on or before the first anniversary of the Lease Term. Thereafter, Tenant shall not be eligible for the remaining Finish-Out Allowance proceeds, if any, and waives the right to any such future claim.

E. Any architect or engineer shall be duly licensed to practice architecture or engineering, as the case may be, in the State of Texas. Such construction shall be performed in a first class, workmanlike manner and in compliance with all applicable building codes, standards and ordinances, as set out in more detail, below. Tenant agrees to promptly pay and discharge all costs, expenses, claims for damages (including incidental, special, and consequential damages) or injury (including, without limitation, claims for personal injury or death, or property damage or destruction, or economic loss), liens and any and all other liabilities and obligations which arise in connection with such construction, and TENANT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS LANDLORD AND MANAGER, AND THEIR RESPECTIVE OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS (IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES) (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL SUCH COSTS, EXPENSES, CLAIMS, DAMAGES, PENALTIES, FINES, LIENS LIABILITIES, AND OBLIGATIONS (TOGETHER, FOR PURPOSES OF THIS SUBSECTION, THE "DAMAGES"), INCLUDING SUCH COSTS, EXPENSES, CLAIMS, DAMAGES, PENALTIES, FINES, LIENS LIABILITIES, AND OBLIGATIONS WHICH ARE ALLEGED OR FOUND TO HAVE BEEN CAUSED BY OR RESULT FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF ANY OF THE

INDEMNIFIED PARTIES (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES), OR CONDUCT BY THE INDEMNIFIED PARTIES THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND, OR THE VIOLATION OF ANY TERM OF THE LEASE WITHOUT LIMITATION. HOWEVER, TO THE EXTENT GROSS NEGLIGENCE AND/OR WILLFUL MISCONDUCT ARE ALLEGED SIMULTANEOUSLY WITH CLAIMS REQUIRING DEFENSE AND INDEMNITY HEREIN, TENANT SHALL DEFEND ALL CLAIMS ALLEGED AGAINST THE INDEMNIFIED PARTIES. TENANT'S LIABILITY UNDER THIS INDEMNITY OBLIGATION SHALL BE REDUCED BY THAT PORTION OF THE TOTAL AMOUNT OF THE DAMAGES (EXCLUDING DEFENSE FEES AND COSTS) EQUAL TO THE INDEMNIFIED PARTIES' PROPORTIONATE SHARE OF THE NEGLIGENCE, OR CONDUCT THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND, THAT CAUSED THE DAMAGES. LIKEWISE, TENANT'S LIABILITY FOR THE INDEMNIFIED PARTIES' DEFENSE COSTS AND ATTORNEYS' FEES SHALL BE REDUCED BY A PORTION OF THE DEFENSE COSTS AND ATTORNEYS' FEES EQUAL TO THE INDEMNIFIED PARTIES' PROPORTIONATE SHARE OF THE NEGLIGENCE, OR CONDUCT THAT WOULD GIVE RISE TO THE STRICT LIABILITY OF ANY KIND, THAT CAUSED THE DAMAGES.

F. Landlord's approval of the Design Plan or any other plans and/or specifications does not impose on Landlord any responsibility whatsoever, including, without limitation, any responsibility for the conformance of the plans and specifications with any governmental regulations, building codes, and the like, for which Tenant and its contractors shall have full and complete responsibility.

G. Construction of the Building Improvements shall commence within ninety (90) calendar days after Landlord gives its approval of the Design Plan and Tenant obtains all pre-construction permits and approvals being the "Construction Commencement Date"). Except for Force Majeure as defined in Section 46 herein, if Tenant fails to commence construction as required herein Landlord may by written notice withdraw its consent as provided for herein. In such event, Tenant shall, at its sole cost and expense, promptly restore the physical condition of the Demised Premises, if required, to its same condition found immediately prior to Landlord's consent.

H. Tenant shall complete construction of the Building Improvements with reasonable diligence, without material deviation from the Design Plan, and any deviation from the Design Plan shall be subject to the prior review and approval of Landlord.

I. Tenant agrees that any construction or modification of the Building Improvements or any other improvements which may be authorized by Landlord, which authorization, if any, shall be in writing, on or within the Demised Premises shall comply with all standards, codes, and rules adopted by Landlord or Manager, including, but not limited to, any rules relating to construction and maintenance standards and specifications, shall further comply with the Town of Addison, Texas building and related codes and zoning requirements, and will meet or exceed all applicable State and Federal standards (including, without limitation, Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time). Tenant recognizes that such construction/maintenance standards and specifications, Town of Addison building and related codes and zoning requirements, and all applicable State and Federal standards (including, without limitation, Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time) may be modified or amended from time to time and that compliance will be measured by such standards in effect at the time of a particular construction or modification of improvements after the initial construction of the Building Improvements pursuant to the approved Design Plan.

J. Tenant further agrees that the Landlord shall be authorized at all times during any project of construction to enter upon the Demised Premises, and all parts thereof, in order to observe the performance of such construction, and Tenant agrees to provide the Landlord a construction schedule setting out the time of commencement, final completion and completion of significant elements of the construction, which schedule shall be delivered to Landlord prior to the start of any construction project on the Demised Premises.

K. Failure of Tenant to observe and comply with the requirements of this Section shall be an Event of Default.

L. Landlord hereby reserves the right to require Tenant to restore, at its sole cost and expense, all or part of the Premises to the same condition as immediately prior to when the Landlord gave its written consent of same to the extent commercially reasonable to achieve. In such case, Landlord shall give Tenant written notice no later than one-

hundred twenty (120) days prior to the expiration or termination of this Agreement of what Building Improvements are required to be removed and to what condition the Premises are to be restored to its prior condition. Tenant's failure to comply with this subsection K, shall constitute a default of this Agreement.

M. As a condition for Tenant to accept and enter into this Agreement, within eighteen (18) calendar months (except for Force Majeure as provided for in Section 46 below) from the Commencement Date of this Agreement, Landlord hereby agrees, at its sole cost and expense, to construct or cause to construct a taxiway connector for the movement of aircraft and authorized vehicles from the existing aircraft apron on the Premises to Taxiway Uniform. Said taxiway connector shall be designed and constructed to meet or exceed the standards set forth in EAA Airport Design Advisory Circular 150/5300-13A. In the event Landlord fails to substantially complete construction of the taxiway connector within the first eighteen (18) months of this Agreement and provided Tenant is then not in default of this Agreement, Landlord shall to pay to Tenant an amount equal to One Hundred Dollars (\$100.00) for each and every day thereafter in the form of a credit to Base Rent until such substantial completion is achieved. For the purpose herein substantial completion means that level of completion where the taxiway connector can be used for its intended purpose of facilitating the movement of Tenant's aircraft to and from Taxiway Uniform.

12. Insurance:

A. Tenant shall procure and maintain throughout the Term, without interruption, a policy or policies of insurance, at Tenant's sole cost and expense, to meet or exceed the insurance requirements specified in the then prevailing Addison Airport Minimum Standards and Requirements for Commercial Aeronautical Service Providers (the "Airport Minimum Standards") which may be amended or modified by the City from time to time. At any time over the Term the Airport Minimum Standards are either suspended, repealed or otherwise modified to the extent Tenant's use and occupancy of the Premises no longer require such insurance policies under the Airport Minimum Standards, Tenant shall procure and maintain throughout the Term, without interruption, the following insurance policies:

1. Commercial General Liability insurance against claims for bodily injury, death or property damage or destruction occurring on, in or about the Premises, with limits of liability of not less than \$1,000,000 for each occurrence, CSL/\$1,000,000 general aggregate. Coverage shall include blanket contractual liability for liability assumed under this Lease.
2. Workers Compensation insurance and employer's liability with limits of liability of not less than \$1,000,000.
3. Hangar keepers Legal Liability insurance at limits of \$1,000,000 per occurrence is required if Tenant is engaged in maintenance, repair or servicing of aircraft belonging to any third party, or if Tenant is otherwise involved in any operation in which Tenant has care, custody or control of an aircraft that belongs to a third party.
4. Aircraft Liability insurance for all Tenant-owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 and \$1,000,000 for personal and advertising injury.

B. All insurance policies required under this Paragraph 12 shall be endorsed to provide the following, as applicable: (i) in all liability policies, name as additional insureds the Town of Addison, Texas, AECOM (formally known as URS Energy & Construction, Inc.), and SAMI Management, Inc. (a Texas corporation) (and/or such other person or entity that may be the Airport Manager) and their respective officials, officers, agents, and employees; (ii) in all liability policies, provide that such policies are primary insurance regardless of the application of any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted under this Lease, and that insurance applies separately to each insured against whom a claim is made or suit is brought, and (iii) a waiver of subrogation in favor of the Town of Addison, Texas, AECOM (formally known as URS Energy & Construction, Inc.) and SAMI Management, Inc. (a Texas corporation) (and/or such other person or entity that may be the Airport Manager), and their respective officials, officers, agents, and employees, must be included in all liability and Workers Compensation policies. All such policies shall be issued by an insurance company authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance, if required, and shall be endorsed to provide for at least 30 days' advance written notice to Landlord of a material change in, non-renewal, or cancellation of a policy. Certificates of insurance, satisfactory to Landlord, evidencing all coverage above, shall be furnished to Landlord prior to the Commencement Date,

with complete copies of policies furnished to the Landlord upon request. Landlord reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

C. In connection with any construction on the Demised Premises:

(1) During any period of construction where the total construction value is to be greater than **One Hundred Fifty Thousand Dollars** (\$150,000.00) Landlord reserves the right to require Tenant to provide Landlord, a Builder's Risk Completed Value policy with an all risks endorsement in an amount equal to the greater of the full-completed value or the amount of the construction contract including any amendments or change orders thereto. The policy shall provide "All Risk" Builder's Risk Insurance (extended to include the perils of wind, collapse, vandalism/malicious mischief, and theft, including theft of materials whether or not attached to any structure). The deductible shall not exceed \$5,000. Additionally where the total construction value is to be greater than **One Hundred Fifty Thousand Dollars** (\$150,000.00) Landlord reserves the right to require Tenant to obtain and keep in full force and effect at its sole cost and expense a Performance Bond and a Payment Bond guaranteeing, respectively, the faithful performance of all construction work and the payment of all obligations arising during the construction (including, without limitation, the payment of all persons performing labor or providing materials under or in connection with the Building Improvements), in the penal sum of one-hundred percent (100%) of the construction costs. Tenant shall pay or cause to have paid the premiums for such bonds. Bonds shall be issued by a surety company satisfactory to the Landlord, licensed by the State of Texas to act as a Surety, and listed on the current U.S. Treasury Listing of Approved Sureties. All forms shall be made on a form complying with the requirements of the laws of the State of Texas and satisfactory to Landlord. Such bonds shall be in conformance with the provisions of Chapter 2253, Tex. Gov. Code, and any successor statute thereto. Tenant and Landlord shall be named as joint obligees of all such bonds. Alternatively, and at Tenant's election, Tenant shall cause to be issued in favor of Landlord, at Tenant's sole cost and expense, and kept in full force and effect at all times during any period of construction, an irrevocable, standby letter of credit to secure the faithful performance of all construction work and the payment of all obligations arising during the construction (including, without limitation, the payment of all persons performing labor or providing materials under or in connection with the Building Improvements), in the amount of one hundred percent (100%) of the construction costs (the "Letter of Credit"), such Letter of Credit to be drawn upon by site draft conditioned only upon the certification of the Landlord that an event of default has occurred under this Lease with respect to the construction of the Building Improvements. The form of such Letter of Credit is attached hereto and incorporated herein as **Exhibit "F"**. Tenant shall cause the original executed Letter of Credit to be delivered to Landlord within thirty (30) days after the Effective Date of this Lease. Upon written approval by Landlord on not less than ten (10) days written notice to Landlord from Tenant, Tenant shall have the right to reduce the amount of the Letter of Credit on a calendar quarterly basis by an amount equal to the construction costs incurred and paid by Tenant during the immediately preceding calendar quarter as demonstrated by the Construction Value Evidence submitted to Landlord.

D. Landlord reserves the right to review the insurance requirements contained herein and to reasonably adjust coverages and limits when deemed necessary and prudent by Landlord.

13. Casualty Damage or Destruction:

A. In case of any damage to or destruction of the buildings, structures, fixtures and equipment, or any other improvements, on or at the Premises, or any part thereof, Tenant shall promptly give written notice thereof to Landlord, generally describing the nature and extent of such damage and/or destruction.

B. If the Premises (the hangar building or structure, excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any assignee, subtenant or other occupant of the Premises) should be substantially, totally, or partially destroyed or damaged by fire, tornado or other casualty, this Lease shall not terminate, but Landlord may, at Landlord's sole option and at Landlord's sole cost, expense and risk, proceed forthwith and use reasonable diligence to rebuild or repair the Premises (the hangar building or structure, but excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant or user of the Premises) to substantially the condition in which it existed prior to such destruction or damage, provided, however, that if Landlord elects not to rebuild or repair such damage or destruction and notifies Tenant in writing of such election, then this Lease shall terminate and rent shall be abated for the unexpired portion of this Lease, effective from the date of actual receipt by Landlord of the written notification of the damage or destruction from Tenant. If Landlord elects to rebuild or repair the Premises and the Premises are untenantable in whole or in part following such destruction or damage, during the period of such rebuilding or repair

the Rent payable hereunder shall be equitably adjusted for that period during which the Premises are untenable. However, if the destruction or damage was caused by the negligence, gross negligence, or willful or wanton act or omission of Tenant, or any of Tenant's officers, employees, agents, subtenants, licensees, contractors, subcontractors, or invitees, or any other person for whom Tenant is responsible, Rent shall not be abated and Tenant shall have the continuing obligation to pay Rent during the period of such rebuilding or repair.

If Landlord elects to rebuild or repair the Premises (the hangar building or structure) as set forth above, Tenant shall, immediately upon notice from Landlord, remove from the Premises its equipment and property as reasonably required by Landlord to complete such rebuilding or repair. Upon the completion of such rebuilding or repair, Tenant shall restore the Premises and Tenant's property and promptly reopen for business. Tenant shall use the proceeds from Tenant's insurance policies for restoration of improvements made by Tenant to the Premises, for restoration and/or replacement of Tenant's equipment, trade fixtures, and inventory, and to cover any business interruption loss.

C. Landlord's election to pay for the cost of the repair or rebuilding of the Premises (the hangar building or structure) or any part thereof may, at Landlord's option, not extend beyond or exceed the proceeds of any casualty or property damage insurance payable and actually collected in connection with such damage or destruction. All insurance proceeds, if any, payable on account of such damage or destruction shall be held and retained by Landlord (whether or not such repair or rebuilding occurs or this Lease terminates).

14. Condemnation:

A. If, during the term hereof, any part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, or is sold to a condemning authority under threat of condemnation, and after such taking by or sale to said condemning authority the remainder of the Premises is not susceptible to efficient and economic occupation and operation by Tenant, this Lease shall automatically terminate as of the date said condemning authority takes possession of the Premises, and Landlord shall refund to Tenant any prepaid but unaccrued rental less any sum then owing by Tenant to Landlord.

B. If, after such taking by or sale to said condemning authority, the remainder of the Premises is susceptible to efficient and economic occupation and operation by Tenant, this Lease shall not terminate but the Base Rent due hereunder shall be adjusted so that Tenant shall be required to pay for the remainder of the Term hereof the sum obtained by multiplying each monthly Base Rent installment due hereunder (as adjusted from time to time pursuant to Paragraph 4, above) by a fraction, the numerator of which shall be the number of square feet remaining in the Premises after the taking by or sale to said condemning authority and the denominator of which shall be the square footage originally contained in the Premises. The Base Rent adjustment called for herein shall either not commence or be suspended until said condemning authority actually takes possession of the condemned portion of the Premises. All other terms and provisions shall remain unchanged unless otherwise provided for herein.

C. Landlord shall receive the entire award or payment from any condemnation and Tenant shall have no claim to that award or for the value to Landlord of any unexpired term of this Lease; provided, however, that Tenant shall have the right to appear in any condemnation proceeding or action to negotiate, prosecute and adjust any claim attributable to loss or damage to Tenant's trade fixtures and removable personal property, removal or relocation costs, and any loss to Tenant resulting from the unexpired portion of the Lease Term. If this Lease is not terminated pursuant to subparagraph A of this Paragraph, Landlord shall repair damage to the Premises caused by the condemnation (excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant of the Premises), except that (i) Landlord shall not be obligated to repair any damage for which Tenant has been reimbursed by the condemning authority; and (ii) if the condemnation damages or payments received by Landlord are not sufficient to pay for such repair, Landlord shall have the right to terminate this Lease.

15. Utilities: Except where provided to the contrary below, Tenant shall be responsible, at Tenant's sole cost and expense, for obtaining all utility connections at or for the Premises and Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, impact fees, tap-in fees and services furnished to the Premises during the term hereof. Tenant agrees to contact all utility service providers prior to any excavation or digging on the Premises or the premises in and around the Premises.

A. Notwithstanding the foregoing, Landlord and Tenant hereby acknowledge and agree to the terms and conditions contained in Exhibit "D" – Utility Expense Reimbursement Addendum, attached hereto and incorporated

herein by reference wherein it sets forth which utility services will be provided and paid for by the Landlord and subsequently reimbursed by Tenant upon demand.

B. If Tenant is the responsible party for obtaining any of the utility connections at or for the Premises, any access or alterations to the Premises or to the Airport necessary to obtain any of such utility connections may be made only with Landlord's prior consent and at Tenant's sole expense.

C. In the event Tenant fails to pay any utility or connection charges for which Tenant is responsible, Landlord shall have the right (but not the obligation) to pay or cause to be paid such charges, fees or expenses, incurred by Tenant and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant upon written demand.

D. Prior to executing this Lease Tenant acknowledges that it has, at its sole costs and expense, determined that all necessary utilities are available to the Premises and are adequate for Tenant's intended commercial use, and that there are no other utility services needed or required by Tenant at the Premises in connection herewith.

E. Tenant acknowledges and agrees it is a requirement of this Lease for the fire alarm and fire suppression sprinkler system to be actively monitored at all times and routinely inspected by Landlord's service provider of choice. All commercially reasonable costs of third-party monitoring and maintenance of the system in a first-class workman like condition is a qualified pass-through cost to Tenant pursuant to this Section 15.

E. Landlord shall in no event be liable or responsible for any cessation or interruption in any utility services to the Premises.

16. Common Facilities:

A. So long as Tenant is not in default hereunder beyond any applicable cure period, Tenant and Tenant's owners, employees, agents, servants, customers and other invitees shall have the non-exclusive right to use all common facilities, improvements, equipment and services which may now exist or which may hereafter be provided by Landlord at the Airport for the accommodation and convenience of Landlord's customers and tenants, including landing and takeoff facilities, means of ingress and egress to the Premises, other Airport installations, and all other reasonable services which may be provided without charge from time to time by Landlord in operating the Airport ("Common Facilities"). All such Common Facilities shall at all times be under the exclusive control and management of Landlord and may be rearranged, modified, changed, restricted, closed, or terminated from time to time at Landlord's sole discretion.

B. **Access Gates, Access Easements:** *(Intentionally Left Blank)*

17. Special Events: Landlord may sponsor or hold certain special events, including, but not limited to, air shows and fireworks displays to be conducted on portions of the Airport, which may limit or obstruct access to the Premises and/or to the Airport ("Special Events"). As a material inducement to Landlord to enter into this Lease, and notwithstanding anything to the contrary contained herein, Tenant, on behalf of Tenant and on behalf of all directors, officers, shareholders, partners, principals, employees, agents, contractors, subtenants, licensees or concessionaires of Tenant, and on behalf of any other party claiming any right to use the Leased Premises by, through or under Tenant, hereby: (i) agrees that Landlord has the right to sponsor any or all Special Events and to allow use of portions of the Airport therefor even if the same limit or obstruct access to the Premises and/or to the Airport; (ii) releases, waives and discharges Landlord and Manager, and their respective officials, officers, employees and agents, from all liability for any loss, damage, cost, expense or claim arising or resulting from or pertaining to the limitation or obstruction of access to the Premises and/or to the Airport from the conduct of Special Events and/or activities relating or pertaining thereto, including, without limitation, death, injury to person or property or loss of business or revenue (the "Released Claims"); (iii) covenants not to sue the Landlord or Manager or their respective officials, officers, employees and agents (whether in their official or private capacities) for any Released Claims; (iv) agrees that the terms contained in this Paragraph are intended and shall be construed to be as broad and inclusive as possible under Law; and (v) agrees that if any portion of this Paragraph is held to be invalid or unenforceable, the remainder of this Paragraph shall not be affected thereby, but shall continue in full force and effect.

18. Rules and Regulations: Landlord has adopted the Airport Minimum Standards (as defined in Paragraph 12.A., above) and the "Addison Airport Rules and Regulations" (the "Rules and Regulations") which shall govern Tenant's use of and conduct on the Premises and all Common Facilities, a copy of which has been or will be

furnished to Tenant. The Airport Minimum Standards and the Rules and Regulations are incorporated by reference as if written verbatim herein, and Tenant agrees to comply fully at all times with them. Landlord shall have and reserves the right, in its sole discretion, to discontinue, amend, modify and alter the Airport Minimum Standards and the Rules and Regulations from time to time, and to adopt other rules, standards, or regulations applicable to the Airport, the Premises and Tenant as Landlord may deem necessary or appropriate, in its sole discretion, including for the purpose of assuring the safety, welfare and convenience of Landlord, Tenant and all other tenants, users, and customers of the Airport.

19. Signs and Equipment: After first securing Landlord's approval, Tenant shall have the right from time to time to install signs depicting Tenant's name and to operate radio, communications, meteorological, aerial navigation and other equipment and facilities in or on the Premises that may be reasonably necessary for the operation of Tenant's business, provided such signs and equipment are installed and maintained in compliance with all applicable governmental Laws, and all changes to such Laws, including the Town of Addison's sign ordinance, with the Airport Minimum Standards and the Rules and Regulations, with all provisions of this Lease, and do not interfere with the operation of any navigation facilities or Airport communications (including, without limitation, navigation facilities or Airport communications used or operated by the Federal Aviation Administration).

20. Landlord's Right of Entry: Landlord and Landlord's authorized representatives shall have the right, during normal business hours, to enter the Premises: (i) to inspect the general condition and state of repair thereof, (ii) to make repairs permitted under this Lease, (iii) to show the Premises to any prospective tenant, purchaser, or lender, or (iv) for any other reasonable and lawful purpose. Landlord and Landlord's authorized representatives have the right to enter the Premises at any time in the event of an emergency pertaining to the Premises. During the final one hundred eighty (180) days of the term hereof, Landlord and Landlord's authorized representatives shall have the right to erect and maintain on or about the Premises customary signs advertising the Premises for lease.

21. Indemnity and Exculpation and Release:

A. Exculpation. The Town of Addison, Texas and all other Addison Persons and the Manager Persons (for purposes of this subparagraph A, as the terms "Addison Persons" and "Manager Persons" are defined in subparagraph B below), shall not be liable to Tenant or to any Tenant Persons (for purposes of this subparagraph A, as the term "Tenant Persons" is defined in subparagraph B below), or to any other person whomsoever, for any death or injury to persons or damage to or destruction of property or any other harm on or about the Premises or any adjacent area owned by Landlord caused by or resulting from any act or omission of Tenant or any Tenant Persons or any other person entering the Premises under express or implied invitation of Tenant or any Tenant Persons, or arising out of the use or occupation of the Premises by Tenant or by any Tenant Persons, in the performance of Tenant's obligations hereunder.

B. Tenant's Indemnity Obligation. TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY AND HOLD HARMLESS (i) THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS EACH BEING AN "ADDISON PERSON" AND COLLECTIVELY THE "ADDISON PERSONS") AND (ii) AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS (AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS EACH BEING A "MANAGER PERSON" AND COLLECTIVELY THE "MANAGER PERSONS"), FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, PROCEEDINGS, CAUSES OF ACTION, DEMANDS, LOSSES, LIENS, HARM, DAMAGES, PENALTIES, FINES, LIABILITIES, EXPENSES, LAWSUITS, JUDGMENTS, COSTS, AND FEES (INCLUDING REASONABLE ATTORNEY FEES AND COURT COSTS) OF ANY KIND AND NATURE WHATSOEVER MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, (COLLECTIVELY FOR PURPOSES OF THIS SUBPARAGRAPH B, "DAMAGES"), THAT RESULT FROM, RELATE TO, OR ARISE OUT OF, IN WHOLE OR IN PART, (i) ANY CONDITION OF THE PREMISES CAUSED IN WHOLE OR IN PART BY TENANT OR BY ANY OF TENANT'S OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MANAGERS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, CONCESSIONAIRES, OR ANY OTHER PERSON OR ENTITY FOR WHOM TENANT IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, AND CONCESSIONAIRES, OR ANY

OTHER PERSON ACTING BY OR UNDER THE AUTHORITY OR WITH THE PERMISSION OF TENANT, TENANT'S TENANTS, OR ANY OTHER PERSON ENTERING THE PREMISES UNDER EXPRESS OR IMPLIED INVITATION OF TENANT DURING THE LEASE TERM (COLLECTIVELY, "TENANT PERSONS"), (II) ANY CONSTRUCTION ON OR REPAIR TO THE PREMISES, OR THE PREMISES BECOMING OUT OF REPAIR DUE TO THE FAULT OF TENANT OR ANY TENANT PERSONS, FOR ANY REASON INCLUDING BY FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNESS OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING, (III) REPRESENTATIONS OR WARRANTIES BY TENANT UNDER THIS LEASE, AND/OR (IV) ANY ACT OR OMISSION OF TENANT OR ANY TENANT PERSONS UNDER, IN CONNECTION WITH, OR IN THE PERFORMANCE OF, THIS LEASE. SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON, OR BY ANY ACT OR OMISSION BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT SHALL PROMPTLY ADVISE LANDLORD IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE TOWN OF ADDISON, ANY OTHER ADDISON PERSON, ANY MANAGER PERSON, OR TENANT OR ANY TENANT PERSON RELATED TO OR ARISING OUT OF TENANT'S ACTIVITIES UNDER THIS LEASE AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT TENANT'S SOLE COST AND EXPENSE. THE ADDISON PERSONS AND MANAGER PERSONS, AS THE CASE MAY BE, SHALL HAVE THE RIGHT, AT THE ADDISON PERSONS' OR MANAGER PERSONS' (AS THE CASE MAY BE) OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING TENANT OF ANY OF ITS OBLIGATIONS HEREUNDER.

C. **Release.** TENANT HEREBY RELEASES THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FROM, AND AGREES THAT THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS, AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS, SHALL NOT BE LIABLE TO TENANT OR ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FOR (I) ANY DEATH OR INJURY TO ANY PERSON OR PERSONS OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY KIND RESULTING FROM THE PREMISES BECOMING OUT OF REPAIR OR BY DEFECT IN OR FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNESS OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING OR FOR ANY OTHER REASON WHATSOEVER, AND FOR (II) ANY LOSS OR DAMAGE THAT MAY BE OCCASIONED BY OR THROUGH THE ACTS OR OMISSIONS OF OTHER TENANTS OF LANDLORD OR CAUSED BY OPERATIONS IN CONSTRUCTION OF ANY PRIVATE, PUBLIC OR QUASI-PUBLIC WORK.

D. **THE PROVISIONS OF THIS PARAGRAPH 21 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE AGREEMENT.**

22. Environmental Compliance:

A. **No Storage or Disposal.** Tenant shall not install, store, use, treat, transport, discharge or dispose (or permit, allow, or acquiesce in the installation, storage, use, treatment, transportation, discharge or disposal by Tenant or by any Tenant Persons) on the Premises or any portion of the Common Facilities, any: (a) asbestos in any form; (b) urea formaldehyde foam insulation; (c) transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or (d) any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq., as amended or superseded), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §9601 et seq., as amended or superseded), the Hazardous Materials Transportation Act (49 U.S.C. §5101 et seq., as amended or superseded), the Toxic Substances Control Act (15 U.S.C. §2601 et seq., as amended or superseded), the Clean Air Act (42 U.S.C. §7401 et seq., as amended or superseded), and/or the Clean Water Act (33 U.S.C. §1251 et seq., as amended or superseded) (and any regulations promulgated pursuant to the foregoing Laws), or any other federal, state, county, regional, local or other governmental Laws, or which, even if not so regulated may or could pose a hazard to the health and safety of the occupants

of the Premises and/or any portions of the Common Facilities, and which is either: (i) in amounts in excess of that permitted or deemed safe under applicable Law; or (ii) in any manner which is prohibited or deemed unsafe under applicable Law. (The substances referred to in the foregoing (a), (b), (c) or (d) are collectively referred to hereinafter as "Hazardous Materials").

B. Cleanup Laws; Tenant's Indemnity Obligation:

1. Tenant shall, at Tenant's sole cost and expense, comply with any presently existing or hereafter enacted Laws (including all rules, standards, regulations, or policies relating to Hazardous Materials (collectively, "Cleanup Laws"). In furtherance and not in limitation of the foregoing, Tenant shall, at Tenant's sole cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the Premises and/or any portion of the Common Facilities by (i) Tenant, or by (ii) any of Tenant's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and/or their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires, or by (iii) any person acting by or under the authority or with the permission of Tenant, Tenant's tenants, or any other person entering the Premises under express or implied invitation of Tenant during the Term of this Lease, Tenant shall, at Tenant's own cost and expense, prepare and submit the required plans and financial assurances and carry out the approved plans in accordance with such Cleanup Laws and to Landlord's satisfaction. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord for preparation of affidavits or other documents required by Landlord to determine the applicability of the Cleanup Laws to the Premises and/or any portion of the Common Facilities, as the case may be, and shall sign the affidavits promptly when requested to do so by Landlord.

2. **Tenant's Indemnity Obligation.** WITHOUT LIMITING ANY OTHER INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATION OF TENANT SET FORTH IN THIS LEASE, TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY, AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), AND THE MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), FROM AND AGAINST, AND REIMBURSE THE TOWN OF ADDISON, TEXAS, ALL OTHER ADDISON PERSONS, THE AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE CASE MAY BE) FOR, ANY AND ALL OBLIGATIONS, DAMAGES, INJUNCTIONS, FINES, PENALTIES, DEMANDS, CLAIMS, COSTS, FEES, CHARGES, EXPENSES, ACTIONS, CAUSES OF ACTION, JUDGMENTS, LIABILITIES, SUITS, PROCEEDINGS, HARM, AND LOSSES OF WHATEVER KIND OR NATURE (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS), AND ALL CLEANUP OR REMOVAL COSTS AND ALL ACTIONS OF ANY KIND, MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE INSTALLATION, STORAGE, USE, TREATMENT, TRANSPORTING, DISPOSAL OR DISCHARGE OF HAZARDOUS MATERIALS IN, ON, UNDER, ABOVE, OR TO THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES BY TENANT OR BY ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE); AND FROM ALL FINES, PENALTIES, SUITS, JUDGMENTS, PROCEDURES, PROCEEDINGS, CLAIMS, ACTIONS, AND CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING OUT OF TENANT'S OR ANY OF TENANT PERSONS' FAILURE TO PROVIDE ALL INFORMATION, MAKE ALL SUBMISSIONS AND TAKE ALL STEPS REQUIRED BY THE AUTHORITY UNDER THE CLEANUP LAWS OR ANY OTHER LAW, RULES, REGULATION, STANDARD, ORDER, OR POLICY (ENVIRONMENTAL OR OTHERWISE). SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS, OR BY ANY ACT OR OMISSION OF OR BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON

PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT'S OBLIGATIONS AND LIABILITIES UNDER THIS SUBPARAGRAPH SHALL CONTINUE (AND SURVIVE THE TERMINATION OR EXPIRATION OF THIS LEASE) SO LONG AS THERE MAY BE HAZARDOUS MATERIALS AT THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES, THAT WERE INSTALLED, STORED, USED, TREATED, TRANSPORTED, DISPOSED OF OR DISCHARGED DURING THE LEASE TERM BY TENANT OR ANY OF TENANT PERSONS. IN ADDITION TO AND NOT IN LIMITATION OF LANDLORD'S OTHER RIGHTS AND REMEDIES, TENANT'S FAILURE TO ABIDE BY THE TERMS OF THIS PARAGRAPH 22 SHALL BE RESTRAINABLE BY INJUNCTION.

C. Environmental Notices: Tenant shall promptly supply Landlord and Airport Manager with copies of any notices, correspondence and submissions made by Tenant to or received by Tenant from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the FAA, TxDOT, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

D. Survival: Tenant's obligations and liability pursuant to the terms of this Paragraph 22 shall survive the expiration or earlier termination of this Lease.

23. Default by Tenant: Each of the following shall be deemed to be an event of default by Tenant under this Lease:

A. Failure of Tenant to pay any installment of Rent, or to pay or cause to be paid taxes (to the extent Tenant is obligated to pay or cause same to be paid), utilities, insurance premiums, or any other sum payable to Landlord hereunder, on the date that same is due, and such failure shall continue thereafter for a period of ten (10) days (the "10-day Grace Period") and such failure shall not be cured within ten (10) days after written notice thereof (the "Cure Period") to Tenant (which Cure Period may overlap, in whole or in part, the 10 day Grace Period).

B. Failure of Tenant to comply with any term, condition or covenant of this Lease (other than the payment of Rent or other sum of money, or the payment of taxes, utilities or insurance premiums, or other payments Tenant is to make under this Lease) and such failure shall not be cured within thirty (30) days after written notice thereof to Tenant.

C. Tenant shall fail to deliver the Additional Deposit to Landlord within ten (10) days after the delivery by Landlord to Tenant of the Additional Deposit Notice.

D. Tenant, or any guarantor of Tenant hereunder, (i) becomes or is declared insolvent according to any Law, (ii) makes a transfer in fraud of creditors according to any applicable Law, or (iii) assigns or conveys all or a substantial portion of its property for the benefit of creditors.

E. Tenant or any guarantor of Tenant hereunder, files a petition for relief, or is the subject of an order for relief, under the United States Bankruptcy Code, as amended, or any other present or future federal or state insolvency, bankruptcy or similar Laws (collectively "Applicable Bankruptcy Law").

F. Appointment of a receiver or trustee for Tenant (or any guarantor of Tenant hereunder) or Tenant's (or any such guarantor's) property; or the interest of Tenant (or any such guarantor) under this Lease is levied on under execution or under other legal process; or any involuntary petition is filed against Tenant (or any such guarantor) under Applicable Bankruptcy Law (provided, however, that no action described in this subparagraph F. or in subparagraphs D. or E. shall constitute a default by Tenant if Tenant (or any guarantor of Tenant hereunder) shall vigorously contest the action by appropriate proceedings and shall remove, vacate or terminate the action within sixty (60) days after the date of its inception).

G. Abandonment by Tenant of any substantial portion of the Premises or cessation of use of the Premises for the purposes leased.

H. Tenant is in default of any other lease or agreement with, or any permit or license issued by, the Town of Addison, Texas.

24. Remedies of Landlord: Upon the occurrence of any of the events of default listed in Paragraph 23, Landlord, without prejudice to any legal, equitable, or other (including contractual) right or remedy to which it may be entitled, shall have the option to pursue any one or more of the following remedies without notice or demand whatsoever (and using lawful force if necessary or appropriate after providing written notice thereof, if any is required):

- A. Terminate this Lease or any of Tenant's rights under this Lease, with or without reentering or repossessing the Premises.
- B. Terminate Tenant's right to occupy all or any part of the Premises without terminating this Lease and with or without reentering or repossessing the Premises.
- C. Recover unpaid rent and any Breach Damages (as "Breach Damages" are defined in this Paragraph 24, below).
- D. Change or pick the locks, access codes, or other access control devices, and take any other self-help or judicial action to exclude Tenant and other occupants from the Premises.
- E. Remove and store (at Tenant's sole cost) any property on the Premises at Tenant's sole cost.
- F. Sue for eviction, specific enforcement, equitable relief, rent, damages, or any other available remedy.
- G. Apply the Security Deposit in any manner permitted by this Lease, and/or increase the amount of the Security Deposit.
- H. Cure Tenant's default, and if Landlord so elects, Tenant must reimburse Landlord within thirty (30) days after Landlord delivers an invoice for the cure amounts paid or to be paid plus any reasonable expenses Landlord incurred effecting compliance with Tenant's obligations.
- I. Withhold or suspend any payment that this Lease would otherwise require Landlord to make.
- J. Charge interest on any amount not paid when due through the date of its payment at the Default Interest Rate (as set forth in Paragraph 40).
- K. Recover, but only if Tenant fails to pay Rent and Landlord terminates this Lease or Tenant's right of possession with more than twelve (12) months remaining in the Term of this Lease, liquidated rental damages for the period after any such termination equal to twelve (12) times the monthly Rent due at the time of termination in lieu of any other contractual or legal measure of damages (including re-letting costs) for Tenant's non-payment of Rent, and the parties agree this is a reasonable estimate of Landlord's damages for such a breach given the uncertainty of future market rental rates and of the duration of any vacancy.
- L. Exercise all other remedies available to Landlord at Law, in equity, or otherwise (including, without limitation, injunctive relief and any other remedy available under applicable Law).

For purposes of this Paragraph 24, "Breach Damages" means and includes, without limitation, all actual, incidental, and consequential damages, court costs, interest, and attorneys' fees arising from Tenant's breach or default of this Lease, including, without limitation, the cost to or incurred by Landlord of (a) recovering possession of the Premises, (b) removing and storing the property of Tenant and any other occupant or user of the Premises, (c) re-letting of the Premises (including, without limitation, the costs of brokerage commissions and cleaning, decorating, repairing, or altering the Premises for a substitute tenant or tenants), (d) collecting any money owed by Tenant or a substitute tenant, (e) repairing any damage to the Premises caused by any Tenant or other occupant or user of the Premises, (f) performing any obligation of Tenant under this Lease, (g) any other loss or cost reasonably incurred by Landlord as a result of, or arising from, Tenant's breach of this Lease or Landlord's exercise of its rights and remedies for such breach, (h) any contractual or liquidated type or measure of damages, including but not limited to Rental Deficiency as such is defined below, and (i) any other type or measure of damages recoverable for any particular breach under applicable Law.

For purposes of this Paragraph 24, "Rental Deficiency" means a contractual measure of Breach Damages for Tenant's non-payment of Rent measured by either the (a) actual Rental Deficiency, which is the difference (never less than zero) between (i) the Rent due for, and other Rent allocable under this Lease to, each month beginning with the first month with respect to which Landlord receives Rent from re-letting the Premises, and (ii) the proceeds, if any, that Landlord actually collects from any substitute tenant for any part of the Premises in each corresponding month in which the Term and the term of the substitute tenant's lease overlap, or (b) market Rental Deficiency, which is the present value, discounted at 6% simple annual interest, of the difference (never less than zero) between (i) the rent otherwise due under this Lease during any period after Tenant's breach in which Landlord may elect to recover this damage measure, and (ii) the fair rental value of the Premises during that period, plus any costs incurred in connection with any actual or attempted re-letting and any other Breach Damages.

In determining the market Rental Deficiency, the fair rental value will be the total rent that a comparable tenant would pay for comparable space in a building of substantially equivalent quality, size, condition, and location, considering rental rates and concessions then prevalent in the marketplace, the remaining lease term, the expected vacancy, and any other relevant factors. An independent MAI appraiser selected by Landlord will determine the fair rental value of the Premises, and that determination will conclusively bind the parties in any computation of the market Rental Deficiency.

Unless Landlord delivers signed, written notice thereof to Tenant, no act or omission by Landlord or Airport Manager or their respective officials, officers, employees, or agents will constitute Landlord's acceptance of surrender of the Premises, termination of this Lease, or an actual or constructive eviction of Tenant (including, without limitation, Tenant's delivery of keys to any of Landlord's or Airport Manager's officials, officers, employees, or agents or Landlord's repossession, reentry, or re-letting of the Leased Premises).

Pursuit of any of the foregoing remedies or rights shall not preclude pursuit of any of the other remedies or rights herein provided or any other remedies or rights provided by Law, in equity, or otherwise; nor shall pursuit of any remedy or right herein provided constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions and covenants herein contained. If any of Tenant's property ("Tenant Property") remains upon the Premises upon the expiration of the Lease term or any earlier termination of this Lease or any repossession of the Premises by Landlord because of Tenant's default under this Lease, Landlord shall have the right to remove such Tenant Property from the Premises and store such Tenant Property, and Tenant shall be obligated to reimburse Landlord for all of the costs incurred by Landlord in removing and storing such Tenant Property. Landlord shall not be required to release any Tenant Property to Tenant until Tenant has paid Landlord all costs incurred by Landlord in removing and storing such Tenant Property and all other amounts owed by Tenant to Landlord pursuant to this Lease, including, without limitation, unpaid rental and costs incurred by Landlord to repair the Premises.

25. Default by Landlord: No default by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or render Landlord liable for damages, of any kind or nature, or entitle Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay Rent) or grant Tenant any right of deduction, abatement, set-off or recoupment, or entitle Tenant to take any action whatsoever with regard to the Premises or Landlord, until thirty (30) days after Tenant has given Landlord written notice specifically setting forth such default by Landlord, and Landlord has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period, then within an additional reasonable period of time so long as Landlord has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default.

In the event that Landlord fails to cure such default within the said thirty (30) day period, or within said the additional reasonable period of time, Tenant shall have the right, as its sole and exclusive remedy, to proceed to cure such default and deduct the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum from the next succeeding Base Rent installment(s) due by Tenant to Landlord hereunder.

If any mortgagee of Landlord has given Tenant its address for notices and specifically requests such notice, Tenant agrees to give the notice required hereinabove to such mortgagee at the time Tenant gives same to Landlord, and to accept curative action, if any, undertaken by such mortgagee as if such curative action had been taken by Landlord.

The liability of Landlord (and all other Addison Persons and all Manager Persons) for any default by Landlord under this Lease shall be limited to an amount equal to twelve (12) months of Base Rent (the amount of such Base Rent being the amount in effect at the time of such default), and Landlord (and all other Addison Persons and all Manager Persons) shall not be otherwise or personally liable for any deficiency, claim, harm, loss, judgment, liability, or for any

other matter whatsoever, and Tenant (for itself and all Tenant Persons) fully waives all other rights of recovery against Landlord (and all other Addison Persons and all Manager Persons) and any assets of Landlord (and all other Addison Persons and all Manager Persons).

26. Mitigation of Damages

A. Landlord and Tenant agree to the following criteria in connection with Landlord's mitigation of damages after a default by Tenant and abandonment of the Premises by Tenant under this Lease (such mitigation, being by means of marketing the Premises for lease, to commence not more than sixty (60) days after Tenant physically vacates the Premises and to continue until the Premises have been relet):

1. Landlord will have no obligation to solicit or entertain negotiations with any other prospective tenant of the Premises until and unless Landlord obtains full and complete possession of the Premises, including without limitation, the final and non-appealable legal right to relet the Premises free of any claim of Tenant.

2. Landlord will not be obligated to offer the Premises to a prospective tenant when other premises suitable for that prospective tenant's use are (or soon will be) available in any other premises located at Addison Airport.

3. Landlord will not have any obligation to lease the Premises for any rental less than the current rate then prevailing for similar space at Addison Airport (or if no similar space is available, the current fair market rental then prevailing for similar space in comparable buildings in the same market area as the Premises) nor shall Landlord be obligated to enter into a new lease under any terms or conditions that are unacceptable to Landlord.

4. Landlord will not be obligated to enter into any lease with any prospective tenant whose reputation is not acceptable to Landlord, in Landlord's sole judgment and opinion.

5. Landlord will not be obligated to enter into a lease with any prospective tenant: (i) which does not have, in Landlord's sole judgment and opinion, sufficient financial resources and operating experience to occupy and operate the Premises in a first class manner and meet its financial obligations; or (ii) whose proposed use of the Premises is not a permitted use under the terms of this Lease.

6. Landlord will not be required to expend any amount of money to alter, remodel or otherwise make the Premises suitable for use by any prospective tenant.

If Landlord makes the Premises available for reletting under the criteria set forth hereinabove, Landlord will be deemed to have fully satisfied Landlord's obligation to mitigate damages under this Lease and under any Law or judicial ruling in effect on the date of this Lease or at the time of Tenant's default, and Tenant hereby **waives and releases**, to the fullest extent legally permissible, any right to assert, in any action by Landlord to enforce the terms of this Lease, any defense, counterclaim, or rights of setoff or recoupment respecting the mitigation of damages by Landlord (or alleged failure by Landlord to adequately mitigate its damages), unless and to the extent Landlord maliciously or in bad faith fails to act in accordance with the requirements of this Paragraph.

No rent collected from a substitute tenant for any month in excess of the Rent due under the Lease for that month will be credited or offset against unpaid Rent for any other month or any other Breach Damages. Tenant stipulates that the mitigation requirements expressed in this Paragraph are objectively reasonable. **TO THE FULLEST EXTENT PERMITTED BY LAW, TENANT WAIVES ANY OTHER OBLIGATION BY LANDLORD TO MITIGATE ITS DAMAGES AFTER TENANT VACATES OR ABANDONS THE PREMISES**

B. Tenant's right to seek damages as a result of a default by Landlord under this Lease shall be conditioned on Tenant taking all actions reasonably required, under the circumstances, to minimize any loss or damage to Tenant's property or business, or to any of Tenant's officials, officers, employees, agents, invitees, or other third parties that may be caused by any such default of Landlord.

27. Waiver of Subrogation: Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during the term of this Lease for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of the Premises, which loss or damage is covered by

valid and collectible casualty, fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of casualty, fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

28. Title to Improvements: The Town of Addison, Texas, is the sole owner of the Premises. Any and all improvements made to the Premises by Tenant shall become the property of Landlord upon the expiration or termination of this Lease; provided, however: (i) if Tenant is not then in default hereunder, Tenant shall have the right to remove all personal property, equipment, or removable trade fixtures owned by Tenant from the Premises, but Tenant shall be required to repair any damage to the Premises caused by such removal in a good and workmanlike manner and at Tenant's sole cost and expense, and (ii) Landlord may elect to require Tenant to remove all improvements made to the Premises by Tenant and restore the Premises to the condition in which the same existed on the Commencement Date hereof, in which event Tenant shall promptly perform such removal and restoration in a good and workmanlike manner and at Tenant's sole cost and expense. If Tenant fails or refuses to remove any or all of Tenant's personal property, equipment, and trade fixtures from the Premises on or before the date of the termination of this Lease, the items which Tenant has failed or refused to remove: (i) shall be considered abandoned by Tenant, (ii) shall become the property of Landlord, and (iii) may be disposed of by Landlord in any manner desired by Landlord in Landlord's unfettered discretion.

29. Mechanics' and Materialmen's Liens: TENANT AGREES TO DEFEND, INDEMNIFY AND HOLD LANDLORD HARMLESS OF AND FROM ALL LIABILITY ARISING OUT OF THE FILING OF ANY MECHANICS' OR MATERIALMEN'S LIENS AGAINST THE PREMISES BY REASON OF ANY ACT OR OMISSION OF TENANT OR ANYONE CLAIMING BY, THROUGH, OR UNDER TENANT; AND LANDLORD, AT LANDLORD'S OPTION, MAY SATISFY SUCH LIENS AND COLLECT THE AMOUNT EXPENDED FROM TENANT TOGETHER WITH INTEREST THEREON AS PROVIDED IN PARAGRAPH 40 AS ADDITIONAL RENT; PROVIDED, HOWEVER, THAT LANDLORD SHALL NOT SO SATISFY SUCH LIENS UNTIL THIRTY (30) DAYS AFTER WRITTEN NOTIFICATION TO TENANT OF LANDLORD'S INTENTION TO DO SO AND TENANT'S FAILURE DURING SUCH THIRTY (30) DAY PERIOD TO BOND SUCH LIENS OR ESCROW FUNDS WITH APPROPRIATE PARTIES TO PROTECT LANDLORD'S INTEREST IN THE PREMISES.

30. Title: Tenant enters into this Lease and accepts the Premises subject to: (i) the Airport Minimum Standards and the Rules and Regulations as amended or modified from time to time; (ii) easements, rights-of-way, and other interests in or encumbrances on Property (whether or not recorded) that may affect the Premises; (iii) all Laws promulgated by any governmental authority having jurisdiction over the Premises, and (iv) all of the terms, conditions, and provisions of this Lease.

31. Quiet Enjoyment and Subordination: Landlord represents that Tenant, upon Tenant's payment of the Rent and other payments herein required and provided for, and Tenant's performance of the terms, conditions, covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the Premises during the full Term of this Lease; provided, however, that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust or other lien presently existing upon, or to any other matter affecting, the Premises. Landlord further is hereby irrevocably vested with full power and authority by Tenant to subordinate Tenant's interest hereunder to any mortgage, deed of trust, ground or other lease ("ground lease"), or other lien now existing or hereafter placed on the Premises or to declare this Lease prior and superior to any mortgage, ground lease, deed of trust or other lien now existing or hereafter placed on the Premises (and Tenant agrees upon demand to execute such further instruments subordinating this Lease as Landlord may request), provided such subordination shall be upon the express conditions that (i) this Lease shall be recognized by the mortgagee (or ground lessor or holder of such other lien or interest) and that all of the rights of Tenant shall remain in full force and effect during the full term of this Lease so long as Tenant attorns to the mortgagee, its successor and assigns (or ground lessor or holder of such other lien or interest, their successors and assigns) and pays timely all Rent and other payments due hereunder and performs all of the duties and obligations of Tenant under this Lease; and (ii) in the event of foreclosure or any enforcement of any such mortgage, deed of trust, ground lease, or other lien, the rights of Tenant hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect so long as Tenant shall fully perform all Tenant's obligations under this Lease and attorn to the mortgagee, its successor and

assigns (or ground lessor or holder of such other lien or interest, their successors and assigns). Tenant also agrees upon demand to execute further instruments declaring this Lease prior and superior to any mortgage, deed of trust, ground lease, or other lien and specifically providing that this Lease shall survive any foreclosure of such mortgage, deed of trust or other lien, or action to terminate a ground lease affecting the Premises. Upon any foreclosure of any mortgage, deed of trust or other lien now existing or hereafter placed on the Premises (or any sale in lieu thereof), or upon termination of a ground lease affecting the Premises, Tenant agrees to attorn to and recognize as landlord hereunder, the purchaser of Landlord's interest in the Premises at any foreclosure sale (or sale in lieu thereof) pursuant to any such mortgage, deed of trust or other lien, or the ground lessor (in the event of termination of a ground lease), if Tenant is required to do so by the applicable party (and Tenant agrees to execute an instrument to that effect as may be provided by such applicable party).

32. Access and Egress: Landlord reserves, and Tenant hereby grants to Landlord, the full and unrestricted access to and egress from that portion of the Premises on which buildings or improvements are not located for Landlord, its tenants, employees, guests, patrons, invitees, contractors, suppliers of materials, furnishers of services, its or their equipment, vehicles, machinery and other property, and Manager, its officers, employees and agents, without charge to Landlord or to said persons or entities.

33. Rent on Net Return Basis: It is intended that the rent provided for in this Lease shall be an absolutely net return to Landlord for the term of this Lease, free of any loss, expenses or charges with respect to the Premises including, without limitation, maintenance, repairs, replacement, insurance, taxes and assessments, and this Lease shall be construed in accordance with such intention.

34. Holding Over: Should Tenant, or any of Tenant's successors in interest fail to surrender the Premises, or any part thereof, on the expiration of the term of this Lease, such holding over shall constitute a tenancy from month to month only terminable at any time by either Landlord or Tenant after thirty (30) days' prior written notice to the other, at a monthly rental equal to one hundred fifty percent (150%) of the Base Rent paid for the last month of the Term of this Lease.

35. Waiver of Default: No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein. Landlord will not be deemed to have waived any right or remedy, or Tenant's breach of any obligation under this Lease, unless Landlord delivers a signed writing, addressed to Tenant and explicitly relinquishing that right, remedy or breach. No custom or practice arising during the Term of this Lease will waive, or diminish, Landlord's right to insist upon strict performance of Tenant's obligations. No restrictive endorsement or other statement on or accompanying any check or payment will be deemed an accord and satisfaction or novation, and Landlord will be entitled to accept any such check or payment, without prejudice, to Landlord's rights to recover the full amount due and to exercise its other remedies.

36. Release of Landlord Upon Transfer: All of Landlord's personal liability for the performance of the terms and provisions of this Lease (except for any liability accruing prior to such transfer) shall terminate upon a transfer of the Premises by Landlord, provided that the obligations of Landlord under this Lease are covenants running with the land and shall be binding upon the transferee of Landlord's interest in this Lease and the Premises.

37. Attorneys' Fees: If, on account of any breach or default by Landlord or Tenant of their respective obligations under this Lease, it shall become necessary for the other to employ an attorney to enforce or defend any of such party's rights or remedies hereunder, and should such party prevail, such party shall be entitled to collect reasonable attorneys' fees incurred in such connection from the other party.

38. Financial Information: Tenant agrees that Tenant will from time to time, upon the written request of Landlord during the term of this Lease furnish to Landlord such credit and banking references as Landlord may reasonably request including but not limited to corporate and/or personal financial statements certified by Tenant's independent certified public accountant and three (3) most recent filed federal and state tax returns.

39. Estoppel Certificates:

A. Tenant agrees that from time to time, upon not less than thirty (30) days' prior written request by Landlord, Tenant will deliver to Landlord a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the

modifications); (ii) the dates to which rent and other charges have been paid; (iii) Landlord is not in default under any term or provision of this Lease or, if then in default, the nature thereof in detail in accordance with an exhibit attached thereto; (iv) that, if requested by Landlord, Tenant will not pay Rent more than one (1) month in advance; (v) that this Lease will not be amended without notice to Landlord's mortgagee (or such other person as Landlord may identify); and (vi) that this Lease will not be terminated by Tenant without the same notice required by this Lease to be furnished by Tenant to Landlord also being furnished by Tenant to Landlord's mortgagee (or such other person as Landlord may identify); and Landlord's mortgagee (or such other person as Landlord may identify) shall have the same opportunity to cure such default within the curative period as allowed Landlord under this Lease; and (vii) any other information pertaining to Landlord, Tenant, this Lease or the Premises reasonably requested by Landlord.

B. Landlord agrees that from time to time, upon not less than thirty (30) days' prior written request by Tenant, Landlord will deliver to Tenant a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which Rent and other charges have been paid; and/or (iii) Tenant is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

40. Interest on Tenant's Obligations and Manner of Payment: All monetary obligations of Tenant to Landlord under this Lease remaining unpaid ten (10) days after the due date of the same (if no due date has been established under other provisions hereof, the "due date" shall be the date upon which Landlord demands payment from Tenant in writing) shall bear interest per annum at the lesser of ten percent (10%) or the highest non-usurious rate then allowed by Law (the "Default Interest Rate"), from and after said tenth (10th) day until paid. If more than twice during the term of the Lease Tenant's personal or corporate check is not paid by the bank on which it is drawn for whatever reason, Landlord may require by giving written notice to Tenant that the payment of all future monetary obligations of Tenant under this Lease are to be made on or before the due date by cashier's check, certified check or money order, and the delivery of Tenant's personal or corporate check will no longer constitute payment of such monetary obligations. Any acceptance by Landlord of a personal or corporate check after such notice shall not be deemed or construed as a waiver or estoppel of Landlord to require other payments as required by said notice.

41. Landlord's Lien: In addition to the constitutional and statutory Landlord's liens, **TENANT HEREBY GRANTS TO LANDLORD A SECURITY INTEREST TO SECURE PAYMENT OF ALL RENT DUE HEREUNDER FROM TENANT, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE AND OTHER PERSONAL PROPERTY OWNED BY TENANT AND SITUATED IN OR UPON THE PREMISES, TOGETHER WITH THE PROCEEDS FROM THE SALE OR LEASE THEREOF.**

Such property shall not be removed without the consent of Landlord until all arrearages in rent then due to Landlord hereunder shall have been paid and discharged. Upon a Tenant event of default (after all applicable notice and cure period(s)), Landlord may, in addition to any other remedies provided herein or by Law, enter upon the Premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property owned by Tenant and situated on the Premises without liability for trespass or conversion, and sell the same at public or private sale with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any such sale. Landlord has no right to and has no security interest in and may not take possession of any property which may be situated on the Premises but which is not owned by Tenant, including but not limited to property which may be owned by another and leased and/or loaned to Tenant. Unless otherwise required by Law, notice to Tenant of such sale shall be deemed sufficient if given in the manner prescribed in this Lease at least thirty (30) days before the time of the sale. Any public sale made under this Paragraph shall be deemed to have been conducted in a commercially reasonable manner if held in the Premises or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Dallas County, Texas, for five (5) consecutive days before the date of the sale. Landlord or Landlord's assigns may purchase at a public sale and, unless prohibited by Law, at a private sale. The proceeds from any disposition dealt with in this paragraph, less any and all expenses connected with the taking of possession, holding and selling of the property including reasonable attorneys' fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted herein. Any surplus shall be paid to Tenant or as otherwise required by Law, and Tenant shall pay any deficiency forthwith.

Upon request by Landlord, Tenant agrees to execute, as debtor, and deliver to Landlord financing statements in form sufficient as may be necessary to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Texas Business and Commerce Code. Landlord may at its election at any time file in the appropriate County records a copy of this Lease as a Financing Statement. Landlord, as Secured Party, has all of the

rights and remedies afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the landlord's liens and rights provided by Law or by the other terms and provisions of this Lease. The constitutional and statutory liens for rent are expressly reserved; the security interest herein granted is in addition and supplementary thereto.

42. Corporate Execution: If Tenant is a corporation or if this Lease shall be assigned by Tenant to a corporation or if Tenant sublets all or a portion of the Premises to a corporation, such corporation hereby agrees to execute and deliver to Landlord from time to time during the Term of this Lease such instruments as Landlord may reasonably request to evidence: (i) the authority of such corporation to transact business good standing with the State of Texas; and (ii) the authority of the officers of such corporation to execute this Lease or other documents in connection with this Lease.

43. Joint and Several Liability: If more than one person or entity is defined as Tenant in this Lease, all of the duties, obligations, promises, covenants and agreements contained in this Lease to be paid and performed by Tenant shall be the joint and several obligations of all persons or entities defined as Tenant. Each person or entity defined as Tenant agrees that Landlord, in Landlord's sole discretion, may: (i) institute or bring suit against them, jointly and severally, or against any one or more of them; (ii) compromise or settle with any one or more of them for such consideration as Landlord may deem proper; and (iii) release one or more of them from liability hereunder, and that no such action by Landlord shall impair or affect Landlord's rights to collect costs, expenses, losses or damages incurred or suffered by Landlord from the other persons or entities defined as Tenant, or any of them, not so sued, compromised, settled with or released.

44. Certificate of Occupancy: Tenant may take possession of the Premises pursuant to the terms and conditions of this Hangar Lease, however may not occupy the Premises without first being issued a valid Certificate of Occupancy pursuant to the Town of Addison, Texas Code of Ordinances, Part II, Chapter 18, Article II, Division 2, Section 18-53. Tenant may apply for a Certificate of Occupancy any time after the Effective Date of this Agreement. If for any reason, beyond the reasonable control of Tenant, Tenant is unable to secure a Certificate of Occupancy within thirty (30) days prior to the Commencement Date, Tenant may terminate this Lease provided Tenant has given Landlord written notice of all deficiencies preventing the issuance of said Certificate of Occupancy in favor of Tenant and Landlord fails to cure or otherwise resolve the deficiency(ies) within ten (10) business days of Landlord's receipt of Tenant's written notice. Nothing herein contained shall obligate Landlord to install any additional electrical wiring, plumbing or plumbing fixtures, or other fixtures or equipment or any other improvements whatsoever which are not presently existing in the Premises, or which have not been expressly agreed upon by Landlord in writing.

45. Independent Contractor: It is understood and agreed that in leasing, occupying, and operating the Premises, Tenant is acting as an independent contractor and is not acting as agent, partner, joint venturer or employee of Landlord.

46. Force Majeure: In the event performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by an Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or hindered.

47. Exhibits: All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

48. Use of Language; No Third Party Beneficiaries: Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires. For purposes of this Lease, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Where Landlord consent or approval is required in this Lease, such consent or approval may be given by the City Council of the Town of Addison, Texas or by the City Manager of the Town of Addison.

Except as otherwise set forth in this Lease, this Lease and each of its provisions are solely for the benefit of the parties hereto and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

49. Captions: The captions or headings or paragraphs in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

50. Successors: The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of Landlord under this Lease including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder may, at Landlord's option, be exercised or performed by Landlord's agent or attorney.

51. Severability: The terms and provisions of this Lease are severable, and if any term or provision in this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby, and the invalid or unenforceable term or provision will be reformed to give effect (to the fullest extent possible) to the parties' intentions in a manner that is legal, valid, and enforceable. It is the parties' intent that the term of this Lease not exceed any statutory limit; if it should be determined that the term of this Lease exceeds such period of time, the term hereof shall be reformed so as to make the term hereof not exceed such period of time.

52. Notices: Any notice or document required to be delivered or given hereunder may be delivered in person or shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid as registered or certified mail (return receipt requested is optional by sender), addressed to the parties at the addresses indicated below, or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

Intentionally Left Blank

TO LANDLORD:

Town of Addison, Texas
c/o Airport Manager
16051 Addison Road, Suite 220
Addison, Texas 75001
Attn: Real Estate Manager

and

Town of Addison, Texas
c/o City Attorney
P.O. Box 9010
5300 Beltline Road
Dallas, TX 75001-9010

TO TENANT:

Wing Aviation Charter Services, LLC
c/o Jonathan Hitchcock
Chief Financial Officer
Black Forest Ventures, LLC
24 Waterway Ave., Suite 225
The Woodlands, TX 77380

53. Fees or Commissions: Each party hereto hereby covenants and agrees with the other that such party shall be solely responsible for the payment of any brokers', agents' or finders' fees or commissions agreed to by such party arising from the execution of this Lease or the performance of the terms and provisions contained herein, **AND THE TENANT AGREES TO INDEMNIFY AND HOLD THE CITY AND/LANDLORD HARMLESS FROM THE PAYMENT OF ANY SUCH FEES OR COMMISSIONS.**

54. Counterparts: This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

55. Governing Law and Venue: This Lease and all of the transactions contemplated herein shall be governed by and construed in accordance with the Laws of the State of Texas, without regard to conflict of Law provisions

of any jurisdiction; and Landlord and Tenant both irrevocably agree that venue for any dispute concerning this Lease or any of the transactions contemplated herein shall be in any court of competent jurisdiction in Dallas County, Texas, and the parties submit themselves to the jurisdiction of such courts.

56. **No Recording:** Tenant agrees that Tenant will not record this Lease in the real property records of Dallas County, Texas, without first securing the prior written consent of Landlord, which may be withheld at Landlord's sole discretion. However, Tenant agrees upon the written request of Landlord to execute, acknowledge and deliver to Landlord a short-form lease in recordable form.

57. **Diagram:** The diagram of the Premises attached hereto as **Exhibit "C"** merely evidences existing or contemplated improvements. By attaching such diagram as an exhibit to this Lease, Landlord is in no way contracting or bound to maintain or construct improvements exactly as shown thereon or prohibited from making additional or different improvements.

58. **Time of Essence:** Time is of the essence in the payment and performance of the duties and obligations imposed upon Tenant by the terms and conditions of this Lease.

59. **Survival:** All duties and obligations imposed upon Tenant by the terms and conditions of this Lease shall survive the termination or expiration of this Lease until paid or performed.

60. **Special Conditions:** Intentionally Left Blank

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

62. **Entire Agreement and Amendments:** This Lease, consisting of sixty-two (62) Paragraphs and Exhibits "A" through "G" attached hereto and made a part hereof, together with the premises and recitals to this Lease set forth above which are incorporated herein, and any other documents incorporated herein (including, without limitation, the Rules and Regulations), embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or on behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

EXECUTED as of the day, month and year first above written,

TENANT:

WING AVIATION CHARTER SERVICES, LLC
A Texas limited liability company

By: David Riddle, President
Title: Wing Aviation Charter Services, LLC

LANDLORD:

TOWN OF ADDISON, TEXAS
A home-rule municipality

By: _____
Wesley S. Pierson, City Manager

Disclosure of Representation by SAMI Management, Inc.: SAMI and its brokers and salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). SAMI is performing professional services pursuant to a written agreement with the Town of Addison and, among other things, represents the Town of Addison as the owner's agent for Addison Airport in Addison, Texas. SAMI is available to help and assist any prospective tenant and is obligated to treat them ethically and fairly. By law and by contract it cannot represent tenants or prospective tenants and must place the

interests of the Town of Addison first. A tenant or prospective tenant should not tell the owner's agent anything the tenant or prospective tenant would not want the Town of Addison to know because the owner's agent must disclose to the owner any material information known to the owner's agent. Furthermore, in respect of the relationship of the parties, SAMI and its brokers and salespersons decline to serve as an intermediary between owner and tenant or prospective tenant. For further information, contact SAMI Management, Inc. at bill.dyer@samimgmt.com or 972-392-4856. A copy of *Information about Brokerage Services* as approved by Texas Real Estate Commission is available upon request.

EXHIBIT "A"

Legal Description of the Premises

Lot 3, Block 1 of the 4.904 acre Addison Jet Center Re-plat of Lot 1, 2 & 3 Tract 1 Wolfe
Subdivision situated in the William Lomax Survey Abstract No. 796
Town of Addison, Dallas County, Texas

Recorded in Dallas County, Texas Official Public Records Instrument #201600298616

With the public address known as 4555 Glenn Curtiss Drive., Addison, Texas 75001

&

Property #4555, Bldg. U-4 in the Addison Airport archives

EXHIBIT "B"
Property Survey



CONVENTIONAL HANGAR LEASE

PROPERTY: 10000 S. 100th Ave., Suite 100, Omaha, NE 68148

LESSOR: [Signature] [Name]

LESSEE: [Signature] [Name]

TERMS: This lease shall be in full force and effect from the date hereof for a term of 12 months, commencing on the date hereof and continuing until the date of the expiration of the term hereof.

RENT: The monthly rent for this lease shall be \$1,000.00, payable in advance on the 1st day of each month.

USE: The premises shall be used for the purpose of a hangar for the storage of aircraft.

MAINTENANCE: The Lessee shall be responsible for the maintenance and repair of the premises, including the roof, walls, and floor.

INSURANCE: The Lessee shall be responsible for obtaining and maintaining liability insurance and property damage insurance.

ASSIGNMENT: The Lessee shall not assign or sublease the premises without the prior written consent of the Lessor.

ENTIRE AGREEMENT: This lease constitutes the entire agreement between the parties and supersedes all other agreements, oral or written.

IN WITNESS WHEREOF: The parties have hereunto set their hands and seals on the day and date first above written.

LESSOR: [Signature] [Name]

LESSEE: [Signature] [Name]

WITNESSES: [Signatures]

NOTARIZATION: [Notary Seal]

ADDENDUM: [Text]

EXHIBITS: [List]

REVISIONS: [List]

APPROVALS: [Signatures]

ADDISON JET CENTER
10000 S. 100th Ave., Suite 100
Omaha, NE 68148
Phone: (402) 426-1000
Fax: (402) 426-1001

APPROVED: [Signature] [Name]

DATE: 3-2-2020

EXHIBIT "C"

Aerial Depiction of the Premises

Below is a depiction of the proximity of the Premises for informational purposes only and is not to be construed as accurate in area or dimension.



EXHIBIT "D"

Utility Expense Reimbursements

Addendum to the Conventional Hangar Lease for Commercial Aviation Use with the Effective Date of _____, concerning the Premises located at 4555 Glenn Curtiss Dr., Addison Airport, Addison, Dallas County, Texas 75001

A. The party designated below will pay for the following utility charges serving the Premises including any related connection/disconnection charges assessed by the service provided:

(Check or mark once per line. Note: if a check is omitted or not made for any one line item or, if more than one check or mark is made per any one line item, Tenant is the responsible party to procure and pay for such service).

(1)	(2) N/A	(3) Landlord	(4) Tenant	(5) Provided by Landlord & Reimbursed By Tenant (See Exhibit "D")	(6) Further Description If Any
1. Water		<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	Water Meter # _____
2. Sewer		<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	
3. Storm Water Fee	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	
4. Electric		<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	Electric Meter # 115175256LG
5. Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	if available to the Premises – Meter # 042010992C
6. Telephone/Data	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	
7. Trash		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Trash service is a shared expense with 4553 & 4551 Glenn Curtiss
8. Cable		<input type="checkbox"/>	<input checked="" type="checkbox"/>	No	
9. Fire Alarm & Sprinkler Active Monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Required pursuant to Section 15 of Lease

The responsible party so designated above (i) may select or change the utility service provider from time to time over the term of the Lease, and (ii) shall be responsible, at its sole cost and expense, for obtaining and maintaining said utility connections at or for the Premises.

B. All utilities to be provided by Landlord and reimbursed by Tenant as indicated above (Column 5) shall be paid as follows:

- In addition to the Base Rent, Tenant will pay Landlord as Additional Rent the costs for the utility services indicated herein and directly attributable or reasonably allocable to the Premises and associated with the referenced accounts (where each account is an account of or for Landlord).
- Each month Landlord shall submit to Tenant an invoice for all such utility costs, including taxes, fees and other related costs, billed to Landlord for the preceding billing cycle. Tenant shall pay, as Additional Rent, the amount of each such invoice no later than the first day of the month following the date of the invoice (and the obligation to pay the invoice for the last month (or partial month) of this Hangar Lease shall survive the expiration

or termination of this Hangar Lease). Landlord agrees to reasonably cooperate with Tenant in the event Tenant, at Tenant's sole cost, should desire to inquire about, or to protest or appeal, the charges being assessed by the utility service provider. To this end, Tenant shall give Landlord prior written notice of any such protest or appeal, and resolution thereof.

3. Landlord agrees not to assess any rebilling or administrative service fees for utility costs covered under this addendum.

4. Tenant's failure to timely pay said utility costs as Additional Rent shall be deemed to be an event of default by Tenant under the Lease. Landlord reserves all rights and remedies available to it under the Lease and by Law to collect all Rent due.

Utility Expense Reimbursement Addendum Initialed By Tenant: *DR*

EXHIBIT "E"

4555 Glenn Curtiss Drive
Addison, Texas

Maintenance and Repair Responsibilities

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Ground Maintenance			
Building & Gate Locksmithing & Security	Maintains all public access gates. Main entry gate to property is Landlord's responsibility to maintain and repair unless abuse by Tenant or its invitees.	All, as required by Tenant's use and all Laws, including ordinances, rules and regulations. All doors and gates leading to Airport Operations Area are to be kept secured at all times.	
Fencing	Landlord maintains Airport perimeter fence (damage to such fence caused by or resulting from any of Tenant's, or its guests' and invitees, acts or omissions shall be paid for by Tenant)	All other fencing upon the Premises, if any, is Tenant's responsibility.	
Landscape & Lawn Care	All turf, beds and planters within the Premises		
Landscape Irrigation	Minimum requirements by City ordinance		
Pavement - Parking	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use or required by ordinance or otherwise by Landlord with Landlord's prior written consent.	
Pavement - Ramp	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use, safe operations or as	

	Landlord	Tenant	Comment
		required by Landlord and with Landlord's prior written consent.	
Trash Dumpster	Dumpster location or location changes at the sole discretion and direction of the Landlord. Change of service provider at sole discretion of Landlord.	Tenant to manage and maintain and pay for service as pass-thru expense from Landlord (See Exhibit "D"). Must be kept on Premises unless otherwise approved in advance by Landlord.	Trash service is a shared service with 4551 & 4553 Glenn Curtis Drive. Paid by Landlord and assessed 50%/50% between tenants.
Trash Dumpster screening, if required	Landlord is responsible for constructing screening, if required.	Maintained at Tenant's sole cost and expense.	
Building Shell			
Gauge Overhead & Service Doors	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance and basic service and repair. Examples of general preventive maintenance and basic service and repair would be servicing, maintaining or repairing springs, cables, rollers, latch & lock.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Doors	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance and basic service – including cleaning floor tracks.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Floor	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, sweeping, cleaning and safety markings as required by Landlord. Examples include cleaning floors of oils and chemical materials that may cause permanent damage to floor surface such as stains or peeling of floor coating.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.

	Landlord	Tenant	Comment
Backing & Hangar Insulation, if existing	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting and cleaning of building exterior	Performed by Landlord at Landlord's sole expense and discretion.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Repairs to exterior siding building, fascia, trim, etc.	Performed by Landlord at Landlord's sole expense and discretion.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Window and Glass Curtain Walls	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Roof	Major repairs and replacement when required at sole discretion of Landlord.	No penetrations without Landlord's prior written approval.	
Roof rain-gutters and downspouts	Major repair and replace as required.	General preventive maintenance, repair and replacement where required.	
Interior - Finish-out			

	Landlord	Tenant	Comment
Interior Doors	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
All Interior and Exterior door locks (electronic or keyed)	Any lock changes or lock system changes must be approved by Landlord in advance. Maintain copies of access keys provided by Tenant. Landlord must be given 24 hour access to building due to fire alarm system and reset.	General preventive maintenance, repair and replacement where required. Copies of access keys to be provided to Landlord with instruction and codes provided for any electronic locking systems.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Office/shop space flooring and floor cover	Major repairs and replacement at sole discretion of Landlord.	Major repair and replacement with Landlord's prior consent. General preventive maintenance, cleaning of all floor surfaces (carpet, tile and tile grout...) repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior - Office and shop space		Repainting similar to existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior - Hangar space	Repainting similar to existing condition at sole discretion of the Landlord.	Any change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Walls & Ceilings	Major repairs and replacement at sole discretion of Landlord.	Repainting or repairing similar to existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance,	Damage caused by or resulting from Tenant, Tenant's employees, or its

	Landlord	Tenant	Comment
		cleaning, repair and replacement where required. Applicable to office area only.	guests' and invitees, acts or omissions shall be paid for by Tenant.
Building Systems			
Air Compressor		Tenant's full responsibility.	
Electrical Systems	Major repairs, replacement or modifications at sole discretion of Landlord. General maintenance and repair.	Replacement or material change only with Landlord's prior written consent. Inform Landlord of any electrical issues or needed modifications.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Door Motors	General maintenance and repairs and replacement at sole discretion of Landlord. General preventive maintenance and basic service.	Replacement or material change only with Landlord's prior written consent.	
Exterior Lighting & maintenance	Major repairs and replacement at sole discretion of Landlord. Landlord to replace bulbs as necessary.	Replacement or material change only with Landlord's prior written consent.	
Office and interior lighting	Major repairs and replacement of fixtures at sole discretion of Landlord.	Tenant to replace bulbs and lamps as necessary with similar bulb and lamp types.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar light repair and replacement	Major repairs and replacement at sole discretion of Landlord.	Replacement or material change only with Landlord's prior written consent. Tenant to replace bulbs as necessary.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or

	Landlord	Tenant	Comment
			omissions shall be paid for by Tenant.
HVAC	Major repairs and replacement at sole discretion of Landlord Filter changes and major repair of equipment.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent. Examples of general maintenance and repair are, routine services, preventive maintenance, thermostat battery replacement and additional refrigerant as needed.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Window a/c units, if any	Major repairs and replacement at sole discretion of Landlord	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Plumbing systems	Major repairs and replacement at sole discretion of Landlord	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Water heater	Replacement at Landlord's sole discretion.	General maintenance and repair. Replacement with Landlord's prior written consent.	
Storm water drains	Major repairs and replacement and general maintenance.	Damage caused by or resulting from acts of Tenant, Tenant's employees, guests or invitees shall be paid for by Tenant.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Grease Traps	Landlord to have inspected and serviced upon tenant move-in	Tenant's full responsibility.	If any

	Landlord	Tenant	Comment
Fire Alarm Systems	Landlord to maintain and monitor and provide routine inspections. Cost for active monitoring is a pass-thru expense to Tenant.	Tenant to perform day-to-day minor maintenance and notify landlord of any known conditions needing attention. Tenant shall not obstruct, alter, impair, or prevent, in any way, the efficiency of fire alarm systems.	The active alarm monitoring and inspections are shared expenses with 4551 & 4553 Glenn Curtis Drive and treated by landlord as a shared pass-thru expense on a 50%/50% basis.
Tapping into Fire Main for fire suppression systems	Must be approved by Landlord in advance.	Tenant's full responsibility with Landlord's prior written consent.	

Exhibit "F"

Form of Irrevocable Standby Letter of Credit
(Construction of Building Improvements)

[Lender Letterhead]

_____, 2017

Town of Addison, Texas
c/o City Manager
5300 Belt Line Road
Dallas, Texas 75254
Email: wpierson@addisontx.gov

Dear Mr. Pierson:

At the request of _____ [TENANT] _____, we have established in your favor the enclosed Irrevocable Standby Letter of Credit # _____, in an amount not to exceed _____ and ____/100 Dollars (\$ _____ .00).

Please examine this instrument carefully. If you are unable to comply with the terms and conditions, please communicate with the applicant to arrange for an amendment.

All drawings under this credit must be accompanied by the original Letter of Credit for endorsement.

If we can be of further assistance, please do not hesitate to call us at _____.

Sincerely,

_____ [LENDER]

By: _____
Name: _____
Title: _____

Enclosure

cc: _____ [TENANT]

Attention: _____

[Lender Letterhead]

IRREVOCABLE LETTER OF CREDIT # _____

Date: _____, 2017

Beneficiary:

Town of Addison, Texas
c/o City Manager
5300 Belt Line Road
Dallas, Texas 75254
Email: wpierson@addisontx.gov

Applicant:

[TENANT]

Attention: _____

Gentlemen:

We hereby issue our Irrevocable Standby Letter of Credit # _____ in favor of Beneficiary. This Letter of Credit is effective up to the aggregate amount of _____ and No/100 Dollars (\$ _____ .00) available by draft drawn on Issuer at sight, marked "Drawn under Irrevocable Standby Letter of Credit # _____" accompanied by the following:

1. Beneficiary's written statement purportedly signed by its authorized representative reading as follows: "The undersigned is authorized to make the following statement on behalf of Town of Addison, Texas ("Beneficiary"). Beneficiary hereby certifies that an event of default has occurred under that certain Ground Lease Agreement dated _____, 2017, between Beneficiary and Applicant (the "Lease") with respect to the construction of the Building Improvements, as defined therein, and that such default is ongoing. The amount of the draft presented represents the amount known by me to be required to complete construction of the Building Improvements under the Lease."
2. This original Letter of Credit and any amendments thereto (if any). In the event of a partial drawing the original Letter of Credit will be endorsed and returned to you, unless the Letter of Credit has expired or the amount available is reduced to zero.

Special Conditions:

1. Partial drawings are permitted under this Letter of Credit.
2. Other than Beneficiary's statement required above, the Issuer shall require no further substantiation of the occurrence of such an event of default, consent of Applicant, or proof of the necessity of the draw.
3. This Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.
4. Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification.

We hereby engage with you that documents drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented for payment to [LENDER], at _____, Attention: _____, prior to 5:00 pm on or before _____, 201__.

This Letter of Credit is subject to and governed by the Uniform Customs and Practice for Documentary credits of the International Chamber of Commerce (Publication 600, 2007 Revision).

[LENDER]

By: _____
Name: _____
Title: _____

Exhibit "G"



Jonathan Hitchcock
Chief Financial Officer
Black Forest Ventures, LLC
24 Waterway Ave., Suite 225
The Woodlands, TX 77380

Re: Tenant Finish-out and Reimbursement Work Letter

Dear Mr. Hitchcock:

As a condition for Wing Aviation Charter Services, LLC to enter into the Conventional Hangar Lease for Commercial Aviation Use entered into and made effective _____, 2017 ("Lease"), Landlord agrees to extend to Tenant a finish-out allowance for the total sum amount not to exceed Thirty Thousand Dollars (\$30,000.00) (the "TFA"). The TFA proceeds shall only be used to reimburse Tenant for certain qualifying out-of-pocket repairs and improvement expenditures incurred by Tenant necessary to repair and/or improve the Demised Premises, as defined in the Agreement, to suit Tenant's use and enjoyment under the Lease.

The following are considered by Landlord to be qualifying out-of-pocket tenant repairs and improvement expenditures (or "Tenant Repairs") eligible for "TFA Reimbursement" when made directly to the Demised Premises by Tenant or caused to be made by Tenant, or are of expenditures incurred by Tenant in connection with making the Tenant Repairs (e.g. architect or engineering services) and not otherwise unless specifically approved in advance by Landlord in writing:

Qualifying Tenant Repairs and Improvement Expenditures:

- 1) **Cleaning & Repair:**
 - a) Office area carpet cleaning and repair, if any;
 - b) Office area wood flooring repair and replacement of similar material, grade of quality finish and being complementary to visually contiguous areas;
 - c) Interior office wall sheetrock repairs, painting, texturing, wall covering, etc.;
 - d) Interior office doors and door closure repairs, refinishing and hardware (to be of similar finish, style and grade of material as existing doors and hardware);
 - e) HVAC system service and repairs;
 - f) Hangar floor cleaning and finish touchup/repair;
 - g) Hangar re-painting;

- h) Office ceiling tiles;
 - i) Electrical and plumbing repairs and reconditioning.
- 2) **Replacement:**
- a) Office area carpet replacement when made with similar material and grade of quality and of a color and/or pattern complementary to all visually contiguous areas;
 - b) Ceiling light fixtures (with Landlord's prior written consent);
 - c) Ceiling tile replacement and repair;
 - d) HVAC system components.
- 3) **Modification & Improvements:**
- a) Maintenance air compressor;
 - b) Office insulation and soundproofing;
 - c) Relocation of interior doors, walls and interior windows;
 - d) Electrical and plumbing additions and modifications;
 - e) Relocation and addition of ceiling light fixtures.
- 4) **Other:**
- a) Professional services (e.g. architect, engineering, and designer costs) directly attributed to Tenant Repairs made;
 - b) Locksmithing and rekeying of doors (electronic or manual);
 - c) Cost of building code permits.

Not qualified as Tenant Improvement Expenditures:

- 1) Costs not related directly related to approved Tenant Improvement Costs;
- 2) Repairs, modifications or improvements not performed in accordance with local building codes and ordinances;
- 3) Anything not itemized above as a qualifying Tenant Repair performed with Landlord's prior written consent;
- 4) Any work, services or material included in whole or in part of a TFA Reimbursement, which in Landlord's sole discretion, has been performed in a less than first-class workmanship manner or deemed to be of inferior or incompatible quality may be rejected for reimbursement by Landlord.

TFA Reimbursement Procedure:

- 1) Tenant may submit request for TFA Reimbursement no more frequently than once a month using Landlord's TFA Reimbursement Request form together with copies of all supporting receipts, material lists, material specifications and warranties and guarantees, if any.


- 2) All TFA expenditures must be completed within the first 12 months of the Lease Effective Date.
- 3) All TFA Reimbursement requests shall be delivered to Landlord for reimbursement within 60 days following the Lease Effective Date. Any TFA proceeds remaining after such date and after processing all eligible TFA Reimbursement Requests received shall become the sole property of Landlord and Tenant waives any and all claims to such remaining funds, if any.
- 4) Total TFA Reimbursement Requests shall not exceed the total sum of \$30,000. Any overages are solely the responsibility of Tenant.
- 5) Prior to authorizing any TFA Reimbursement Request for reimbursement, Landlord or its representative reserves the right to inspect (during Tenant's normal working hours with advance notice given to Tenant) all materials used and work completed in place subject to a TFA Reimbursement Request.
- 6) Landlord shall make reimbursement to Tenant within twenty (20) business days from the date of receipt of any TFA Reimbursement Request together with a detailed explanation of any adjustments made thereto, if any.

All repairs, modifications and improvements made pursuant to this letter agreement are procured and made at Tenant's sole risk and expense. All improvements made to the Demised Premises become the sole property of Landlord and shall not be removed by Tenant from the Demised Premises anytime during or upon the expiration of the Lease Term without Landlord's prior written consent. This Tenant Finish-out and Reimbursement Work Letter is subject to all terms and conditions of the Lease.

Sincerely

Wesley S. Pierson
Town of Addison City Manager

Acknowledged and Agree To as Tenant:


Wing Aviation Charter Services, LLC
By: DAVID RIDDLE
Its: PRESIDENT, WING AVIATION CHARTER SERVICES, LLC
Date: 2/15/2017



William M. Dyer
Real Estate Manager
16051 Addison Road
Suite #220
Addison, Texas 75001

Main: 972-392-4850
Direct: 972-392-4856
Fax: 972-788-9334
bill.dyer@addisonairport.net

- M E M O R A N D U M -

To: Lisa Pyles, Director of Infrastructure & Development Services

From: Bill Dyer, Airport Real Estate Manager

CC: Joel Jenkinson, Airport Director

Date: February 13, 2017

Re: A Request for the City Council's Consideration and Consent of a Conventional Hangar Lease with Wing Aviation Charter Services, LLC for Office and Hangar Space at 4555 Glenn Curtiss Drive (Taxiway Uniform) Formerly Referred to as the "Starbase Jet Hangar"

Requested Action

Wing Aviation Charter Services, LLC ("Wing") is requesting the City Council's consideration and consent for the Town to enter into and execute a Conventional Hangar Lease with Wing for the above-referenced, Town-owned, airport property.

Airport Management is recommending the City Council give its consent for the City Manager, on behalf of the Town, to enter into and execute the proposed Conventional Hangar Lease ("the Lease"), located in the Resolution. The City Attorney has reviewed the proposed lease agreement and finds it acceptable to form.

Background Information

With City Council approval, in 2014 the Town of Addison purchased the off-airport, fee-simple property commonly known as 4555 Glenn Curtiss Drive pursuant to Title 49, Code of Federal Regulations (CFR), Part 24, *Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs*, Section 21 of the Texas Property Code, and the U.S. Department of Transportation Federal Aviation Administration Advisory Circular No. 150.5100-17. The property was acquired by the Town to achieve certain strategic airport objectives as outlined in the 2013 Addison Airport Strategic Plan; specifically, to better protect the airport from encroaching non-compatible uses and to increase airport revenues.



4555 Glenn Curtiss Drive – Taxiway Uniform. ALP Property No. U-4

After the Town acquired the property, the then current tenant, Starbase Aviation, LLC, continued to lease the hangar and office space until its lease expiration of January 31, 2017. Starbase elected not to continue its occupancy of the premises because of a material change to their business operations making it necessary. Due to the extensive interest in commercial hangars on Addison Airport, and in the interest of treating all parties fairly and impartially under certain FAA grant assurance guidelines, Airport Management determined it was in the Town's best interest to advertise the property for lease through the Town's RFP (Request for Proposal) process using www.Bidsync.com with assistance from the Town's Purchasing Department.

Request for Proposal Review Process

The Request for Proposal was posted on www.Bidsync.com on November 3, 2016 with responses being accepted through November 30, 2016. Airport Management received three qualifying written responses. Two responses received were from current Addison Airport tenants: Baker Aviation, an aircraft maintenance provider; and Atlantic Aviation, one of two FBOs located on Addison Airport. The third response received was from Wing Aviation Charter Services, LLC.

Airport Management's RFP review committee included Joel Jenkinson, airport director; Darci Neuzil, deputy airport director; Joe McAnally, operations manager; and Bill Dyer, real estate manager. The review process was observed by Wil Newcomer, purchasing manager for the Town of Addison.

Each RFP response submitted was reviewed and scored independently by the review committee members based on criteria set forth in the RFP. Mr. Newcomer reviewed and tallied the scores that revealed Wing Aviation Charter Services, LLC had the highest score of 98.7 largely because of their (i) well established reputation within the air charter industry, (ii) representing a new established aviation business to the Airport, (iii) proposed use is most compatible with the office/hangar facility and, (iv) proposed long-term commitment to Addison Airport.

Wing Aviation Charter Services, LLC

Established in 2002, Wing Aviation Charter Services is an aircraft management and jet charter operator headquartered at Hobby Airport (HOU) in Houston, Texas. It serves discerning clients worldwide with a comprehensive array of private aviation services that encompass aircraft charter, management and brokerage. Wing currently employs 75 and manages 24 aircraft under its FAA Part 135 Charter Certificate.

Wing Aviation Charter Services, LLC's 2015 assets were in excess of \$20 million and liabilities were under \$6 million. Its founder and president, Dr. Dirk Laukien, is an active pilot and aircraft owner. He holds an FAA ATP certificate and is a certified flight instructor for fixed-wing and rotary aircraft. Much of Dr. Laukien's success is due to his commitment to maintaining a heightened level of safety and service throughout all his business ventures. Wing's parent company, Black Forest Ventures, holds over two million square feet of commercial real estate holdings including the following aviation-related real estate developments:

- Galaxy FBO – Phase I
In operation since 2013, this 15-acre fixed-base operation at Conroe-North Houston Regional Airport (KCXO) consists of a three-story 45,000 square-foot FBO facility, two 28,000 square-foot hangars and 12,000 square feet of additional storage space on nine acres of land.
- Galaxy FBO – Phase II
Currently under construction at KCXO, Phase II will add two new hangars totaling 35,000 square feet and 4.9 acres of ramp space.
- Wing Aviation Headquarters – Houston Hobby (HOU) Airport
Wing's proposed 19-acre, multi-million-dollar project has been approved by the City of Houston and is currently under FAA review and field studies. The project includes 20,000 square feet of office space, nine acres of ramp and two 38,000 square-foot hangar/aircraft storage facilities.

Wing anticipates generating approximately \$1.5 million in revenue per year at Addison Airport based on its management and charter operations, and will base four to six aircraft on the property. It plans on making 4555 Glenn Curtiss its Dallas-area headquarters and will consolidate its aviation assets and employees within the Metroplex to better serve its Dallas-based clients. In so doing, Addison Airport will become home to over a dozen Wing Aviation

employees including flight crews, dispatchers, maintenance and customer support and sales personnel. Plans include creating new employment opportunities to better support its expanded operations. In the short term, Wing will hire maintenance and line crews and a customer service representative. In the long term, it plans on doubling its Addison-based employee headcount to 30.

Current Property Description and Lease Status

Property Description		Proposed Lease Information	
Date of Report	2/8/2017	Lease #	4555-0102
Property Number	4555	Tenant Name	Wing Aviation Charter Services, LLC
Property Address	4555 Glenn Curtiss Dr.	Doing Business As	Wing Aviation
Ramp Address	U-4	Primary Contact:	Jonathan Hitchcock, CFO
Property Type	Commercial Hangar	Lease Commencement Date	Proposed 3/1/2017
Land Area (SFL)	49,005	Lease Expiration Date	2/29/2027
Hangar Area (BSF)	16,650	Years Remaining in Term	10 Yrs w/ two consecutive 5 Yrs Options
Office (BSF)	8,300	Proposed Monthly Rent	\$18,192.75
Total Building Area (BAF)	24,950	Proposed Annual Rent	\$218,313.00
Year Built	2005	Proposed Annual Net Rent PSF	\$8.75
Est. Economic Life	50	Est. Remaining Contract Rent	N/A
End of Proj. Eco. Life	2055	First Rent Adjustment Date	3 rd anniversary of commencement date; 1 st anniversary of Option Term
% Obsolescent	24%	Permitted Use:	General office, clerical and administrative purposes; aircraft storage, aircraft cleaning, aircraft charter and other hangar or business activities in compliance with the Conventional Lease
Aircraft Apron Area (SFL)	16,000		

Proposed Lease Terms

Presented herein as Exhibit 1 is the proposed Conventional Hangar Lease For Commercial Aviation Use Agreement by and between the Town of Addison and Wing Aviation Charter Services, LLC, which has been reviewed and approved by the city attorney. The following is a summary of the salient terms and conditions incorporated into the proposed agreement:

1. Commencement Date – as of the Effective Date (date of full execution of the agreement).
2. Primary Term - 10 years (120 consecutive calendar months)
3. Option to Extend – provided Tenant is (i) in good standing with the Landlord and not in default, (ii) occupies at least 75% of the premises and (iii) no adverse material change to the ownership or Tenant’s financial condition; Tenant may exercise option to extend the Lease Term two consecutive 60 month terms by giving landlord proper written notice. Landlord has the right not to allow Option to Extend under certain conditions

4. Base Rent – \$218,313 annually (\$8.75/bsf) for the first three years, thereafter rent is subject to a biennial CPI adjustment.
5. Option Rent – the greater of the product of multiplying the last monthly installment of the Adjusted Base Rent of the Primary Term times 12 months or, Landlord’s Fair Market Rent, as defined in the Lease.
6. Security Deposit – \$150,000.00 or the equivalent of 8.25 months or Base Rental as adjusted from time to time.
7. Use of Premises – Operating and subleasing office and hangar facilities and parking used directly in support of and in connection with corporate flight operations, FAA Part 135 and FAA Part 91 aircraft charter and aircraft management operations.

Proposed Concessions:

In consideration of Wing acceptance of the proposed Lease terms and conditions including those summarized above, Airport Management proposes the Town grant the two following concessions:

1. In lieu of Landlord incurring the cost of contracting various trades to complete an assortment of interior cleaning, repairs, restoration and limited remodeling of the floor plan necessitated by the Tenant’s use of the leased premises, Tenant has agreed to accept a tenant finish-out allowance of the amount not to exceed \$30,000 to be paid by Landlord subject to the terms of a Tenant Finish-out and Reimbursement Work Letter agreement attached as Exhibit “G” to the Lease.
2. Additionally, Landlord agrees to construct or cause to construct, at its expense, a taxiway connector leading directly from the leased premises to Taxiway Uniform within the first 18 months of the Lease. Currently the tenant must cross the adjacent property (Martinaire’s) aircraft apron for ingress/egress to Taxiway Uniform, which presents certain safety and operational hazards and inefficiencies. This capital improvement was already scheduled for FY-17 as an Airport’s CIP project with a preliminary cost estimate of \$150,000 and is eligible for TxDOT RAMP grant funding for FY17 & FY18 (\$100,000 in the aggregate) if so elected by the Town.

Economic Impact: The proposed lease represents the continuance of approximately \$225,000 in annual revenue to the airport for at least the next 10 years. Additionally Wing projects the purchase of 150,000 gallons of fuel at Addison Airport, with volumes increasing to as much as 250,000 gallons based upon their growth projections. These volumes represent \$21,000 to \$35,000 respectively in new annual fuel flowage fees to the Airport for the next ten years or longer. Wing intends to initially base 14 employees at the Glenn Curtiss facility with plans to increase their FTEs at the site to 30 as their operations grow. The lease arrangement represents nearly \$2.5 million in direct revenue to the Airport over the primary lease term.

Conclusion and Recommendation:

Wing Aviation Charter Services, LLC is requesting the City Council’s consideration and consent for the Town to enter into and execute a Conventional Hangar Lease with Wing for the Town-owned hangar and office facility located at 4555 Glenn Curtiss Drive.

The proposed lease will bring a first-class and successful commercial business to Addison Airport. This opportunity will achieve the Town’s strategic objectives for Addison Airport of upgrading and improving an existing airport facility; enhancing the overall value of the airport with the construction of a new taxiway connector; generating additional revenue on the airport; and creating both direct and indirect economic benefits to the airport and Town of Addison.

Airport Management is recommending the City Council give its consent for the City Manager, on behalf of the Town, to enter into and execute the proposed Conventional Hangar Lease (“the Lease”), which is attached hereto as Exhibit 1. The City Attorney has reviewed the proposed lease agreement and finds it acceptable to form.

AI-2075

10.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: General Services

AGENDA CAPTION:

Consider Action On An **Award Of Bid To August Industries Inc., For The Purchase Of Two Self-Contained Breathing Apparatus (SCBA) Air Fill Cascade Equipment Systems For The Fire Department In An Amount Of \$68,470.**

BACKGROUND:

This item will authorize the purchase of two Self-Contained Breathing Apparatus (SCBA) air fill cascade equipment systems. These system are used by firefighters to provide breathable air in an immediately dangerous life or health atmosphere. A cascade containment fill station is required to fill the SCBA tanks with compressed purified breathing air that meets the National Fire Protection Association requirements (NFPA).

The Town owns a cascade system that is 16 years old and is currently housed on a piece of apparatus located at Fire Station 1. The purchase of the new systems will allow for a cascade containment fill station at Fire Station 1 and provide new capabilities at Fire Station 2.

The Purchasing division solicited bids through BidSync for this equipment with one bid being received. The bid received meets the Fire Department's specifications and is within budget. This purchase is budgeted for in the Capital Equipment Replacement Fund (CERF).

RECOMMENDATION:

Administration recommends approval.

Attachments

Self Contained Breathing Apparatus Bid Tab



IT ALL COMES TOGETHER

High Pressure Air Compressor & Purification System for Breathing Air

Bid Number: 17-49

Bid Tabulation

Vendor Name	Total
August Industries, Inc.	\$68,470.00

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: General Services

AGENDA CAPTION:

Consider Action On A Purchase From Physio-Control, Inc., For The Replacement Of Two (2) LifePak Monitor-Defibulators For The Fire Department In An Amount Not To Exceed \$79,840.02.

BACKGROUND:

The Fire Department utilizes the Physio-Control LifePak 15 heart monitor/defibrillators on their apparatus as part of their emergency response equipment. These two (2) new units will replace two (2) units purchased in 2006 that have reached the end of their useful life.

The monitor/defibrillators are not the same as the automated external defibrillators (AED's) found in Town buildings. These AED's are only used for cardiac arrest situations and are designed to be used in life saving situations until emergency personnel can arrive.

The replacement monitor/defibrillators are highly technical, professional-use medical devices, with diagnostic capabilities and therapeutic options not found in AED's. While they do provide for defibrillation of patients in cardiac arrest, the paramedics manually select the defibrillation parameters delivered to the patient based off of the diagnosis of the patient's cardiac rhythm and medical treatment protocols. These devices are an integral part of our ability to provide advanced cardiac life support.

Physio Control is the manufacturer and sole source provider of the LifePak 15. We have an existing service contract with Physio-Control to maintain all of our monitor/defibrillators and Lucas Automated Chest Compression Device that includes battery replacement for the life of the contract. We are also receiving the cooperative purchasing agreement pricing which provides a discounted price for each unit purchased and includes the battery replacement for the life of the service contract.

These units are fully depreciated and will be traded as part of the replacement process. Funds for this expenditure are budgeted in the Capital Equipment Replacement Fund (CERF).

RECOMMENDATION:

Administration recommends approval.

Attachments

Sole-Source Letter

Defibrillators - Lifepack 15 Brochure



Physio-Control, Inc. | Lifesaving starts here.™

ADDRESS

11811 Willows Road NE
Redmond, WA 98052

PHONE

GENERAL
425 867 4000

TOLL-FREE
800 442 1142

www.physio-control.com

January 2016

Physio-Control, Inc. is the sole-source provider in the Hospital (hospitals and hospital-owned facilities), Emergency Response Services and Emergency Response Training markets for the following products:

- New LIFEPAK® 15 monitor/defibrillators
- New LIFEPAK 20e defibrillator/monitors
- New LIFEPAK 1000 automated external defibrillators
- New LUCAS® 2 Chest Compression System

Physio-Control, Inc. is the sole-source provider in **all** markets for the following products and services:

- RELISM (Refurbished Equipment from the Lifesaving Innovators) devices
- LIFENET® System and related software
- Factory-authorized inspection and repair services which include repair parts, upgrades, inspections and repairs
- PulsePoint Agency Services
- HealthEMS® Software
- HomeSolutions.NET® Software

Physio-Control is also the sole-source distributor of the following products for EMS customers in the U.S. and Canadian markets:

- McGRATH® MAC EMS Video Laryngoscope
- McGRATH® MAC Disposable Laryngoscope Blades
- McGRATH® X Blade™

Physio-Control does not authorize any resellers to sell these products or services in the markets listed above. We will not fulfill orders placed by non-authorized businesses seeking to resell our products. If you have questions, please feel free to contact your local Physio-Control sales representative at 800.442.1142.

Sincerely,

PHYSIO-CONTROL, INC.

Allan Criss, Vice-President, Americas Sales



LIFEPAK[®] 15 MONITOR/DEFIBRILLATOR
For Emergency Medical Services



LIFEPAK[®] 15 MONITOR/DEFIBRILLATOR

When you respond to emergencies,
you need the most advanced monitor/
defibrillator that sets the new standard
in innovation, operations and toughness.

The LIFEPAK 15 monitor/defibrillator delivers.

Physio-Control defibrillators have set the standard for over 55 years, and the latest version of the LIFEPAK® 15 monitor/defibrillator raises the bar. As our most advanced emergency response monitor/defibrillator, the LIFEPAK 15 device balances sophisticated clinical technologies and supreme ease of use in a device that's tough enough to stand up to your most challenging environments. Evolving from its original platform, the 15 adds new features—temperature monitoring and external power—to complement existing features which include 360J energy and 12-lead ECG transmission. And that means your team can be even more effective.

A LIFEPAK device never stands on its own—and the LIFEPAK 15 monitor is no different. Physio-Control is committed to providing innovative solutions for emergency response care, from first responders to throughout the hospital.

Our products have helped save tens of thousands of lives. We're proud to continue this work with new features in the LIFEPAK 15 monitor/defibrillator.

The new standard in clinical innovation.

The pioneer in portable defibrillation and monitoring technology, Physio-Control is committed to creating technologies and devices that change the way you provide emergency care. You can see the results in the latest version of the LIFEPAK 15 monitor/defibrillator, which sets a new standard in innovation — yet again.



Advanced monitoring parameters

With more monitoring capabilities than any other monitor/defibrillator, the 15 gives you EtCO₂ with continuous waveform capture*. Masimo® Rainbow® technology helps you detect hard-to-diagnose conditions and improve patient care with noninvasive monitoring of carbon monoxide, SpO₂ and methemoglobin. In addition, the 15 now offers temperature monitoring—and like other data, you can transmit it to other systems, trend it, or display for post-event review in CODE-STAT™ data review software.



Advanced support for treating cardiac patients

The 15 continuously monitors all 12 leads in the background and alerts you to changes using the ST-Segment trend monitoring feature, after acquiring the initial 12-lead. Additionally, STJ values are now included on the 12-lead printout to help you identify changes. The 15 also works seamlessly with the web-based LIFENET System 5.0, so you can automatically share critical patient data with multiple patient care teams.

Full energy up to 360 joules, for every patient who needs it

The LIFEPAK 15 monitor/defibrillator features 360J biphasic technology, which gives you the option of escalating your energy dose up to 360J for difficult-to-defibrillate patients. Why is this necessary? Recent studies have shown that refrillation is common among VF cardiac arrest patients and that defibrillation of recurring episodes of VF is increasingly difficult. Another recent randomized controlled clinical trial shows the rate of VF termination was higher with an escalating higher energy regimen of 200J and over.¹

Proven CPR guidance and post event review

The CPR Metronome in the LIFEPAK 15 monitor uses audible prompts to guide you without distracting vocal critique. A metronome has been a feature that has been demonstrated to help professionals perform compressions and ventilations within the recommended range of the 2010 AHA Guidelines. Post-event review of CPR data and delivering feedback to the team has been shown to be effective in improving CPR quality in both hospital and out-of-hospital.^{2,3,4} And by transmitting code data directly to CODE-STAT Data Review software, EMS personnel can review CPR statistics and provide training and feedback where it is most needed.

Post-event review of CPR data and delivering feedback to the team has been shown to be effective in improving CPR quality in both hospital and out-of-hospital.^{2,3,4}



LIFEPAK[®] 15 MONITOR/DEFIBRILLATOR



LIFEPAK 15 MONITOR/DEFIBRILLATOR

12:13:00

HR 87

SpO2 98

BP 107/70

12-LEAD

TRANSMIT

PRINT

...the product of pharmaceutical gases. For use only by qualified personnel.



The new standard in operational effectiveness.

Flexible, connected and easy to use, the LIFEPAK 15 monitor/defibrillator was designed based on the feedback and needs specific to working in the field.

Dual-mode LCD screen with SunVue™ display

Switch from full-color to high-contrast SunVue mode with a single touch for the best full-glare view in the industry. A large screen (8.4 inches diagonally) and full-color display provide maximum viewability from all angles.

Flexible power options

Choose between external worldwide AC or DC power, or use the latest Lithium-ion dual battery technology for up to six hours of power. The LIFEPAK 15 monitor's two-battery system requires no maintenance or conditioning, and allows you to charge batteries in the device. In addition, you can track the status and service life of your batteries using LIFENET[®] Asset, part of the LIFENET System data network.

Data connectivity

The 15 collects code summaries and equipment status data along with critical clinical information as you treat patients. Using LIFENET Connect, part of the LIFENET System data network, the code summaries can be sent directly to your quality improvement team for review with CODE-STAT Data Review Software. Your equipment manager can also view equipment status on the LIFENET System 5.0 using LIFENET Asset and alert you to any potential issues.

Upgradable platform

The 15 platform is flexible enough to adapt to evolving protocols and new guidelines, and can be upgraded as you're ready to deliver new capabilities. With more processing power and speed, the 15 is designed to grow as your needs change, helping you avoid costly premature replacements.

Attention to detail

The LIFEPAK 15 monitor is designed based on field feedback to make it a more effective tool. The 15 has a larger handle for easier handoffs, an easy to clean keypad, and a common interface to the LIFEPAK 12 defibrillator/monitor that helps reduce training.

Code summaries can be sent directly to your quality improvement team for review with CODE-STAT Data Review Software.

The new standard in toughness.

We believe LIFEPAK equipment should live up to the highest expectations of those working in the harshest settings. The 15 is LIFEPAK TOUGH, with improved ruggedness and durability you can rely on.

Works when dropped, kicked, soaked or dirty

The LIFEPAK 15 monitor/defibrillator passes 30-inch drop tests, which is equal to falling off a cot or dropping it in transit. And with an IP44 rating, it doesn't matter how wet or dirty it gets, so you can keep working in steady wind, rain and other harsh environments.

Toughened inside and out

We heard from emergency response teams that they wanted a tougher device—so we added a shock-absorbing handle, a double-layer screen that can take a beating from doorknobs and cot handles, and redesigned cable connections for confident monitoring and therapy delivery.

Unmatched field service

The unit's self-checking feature alerts our service team if the device needs attention. Our on site maintenance and repair, access to original manufacturer parts, and highly trained, experienced service representatives give you the peace of mind that your LIFEPAK 15 monitor will be ready when you need it.*



Data connectivity



LIFEPAK TOUGH™



Dual-mode LCD screen with SunVue display

* A variety of customized service options are available.

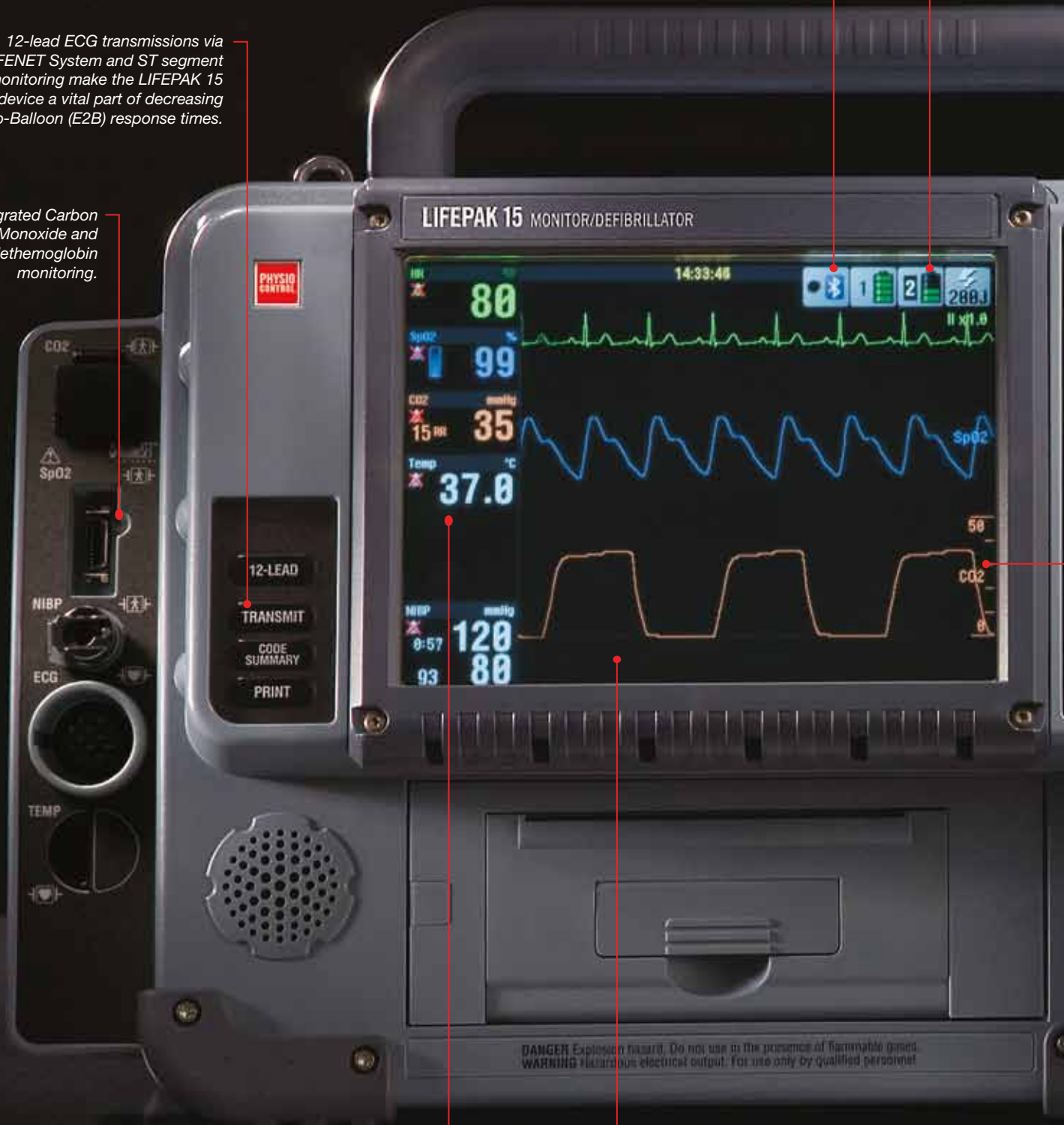
LIFEPAK¹⁵ MONITOR/DEFIBRILLATOR

The latest Lithium-ion battery technology and dual battery system allows for nearly six hour run time, automatic switching between external power and batteries, and an approximate two-year replacement cycle.

Easy one-touch Bluetooth[®] data transmission.

12-lead ECG transmissions via the LIFENET System and ST segment trend monitoring make the LIFEPAK 15 device a vital part of decreasing EMS-to-Balloon (E2B) response times.

Integrated Carbon Monoxide and Methemoglobin monitoring.



On-screen temperature display in either Celsius or Fahrenheit.

Large screen for better visibility and easy monitoring and one touch to switch from LCD color view to SunVue mode for best viewing in sunlight.

Ergonomically designed handle has built-in shock absorbers for cushion and fits two gloved hands for easy pass off.

CPR Metronome, a proven technology that actively guides users to a consistent compression rate without the need for extra external hardware.

Integrated Oridion EtCO₂ provides waveform ranges as low as 0–20 mmHg to help identify ROSC or gauge CPR quality, consistent with the AHA guidelines.


The LIFEPAK 15 monitor/defibrillator at a glance.

Redesigned cable connector gives you the confidence for secure therapy delivery.



LIFEPAK 15 MONITOR/DEFIBRILLATOR

For more than 55 years, Physio-Control has been developing technologies and designing devices that are legendary among first response professionals, clinical care providers, and the community.



A legacy of trust.

Since we were founded in 1955, Physio-Control has been giving medical professionals around the world legendary quality and constant innovation. Our LIFEPAK devices have been carried to the top of Mount Everest. They've been launched into orbit on the International Space Station. And you'll find more than half a million units in use today on fire rescue rigs, ambulances, and hospital crash carts worldwide.

We are inspired and informed by the rescuers who choose our products to save lives. The knowledge gained from working with some of the world's largest EMS organizations helps us constantly improve clinical standards and durability.

Today, we continue our legacy of innovation with leading new technologies that improve patient care. Our 360J biphasic technology gives patients the best chance at survival. Our secure, web-based flow of ECG data helps improve STEMI patient outcomes. And our carbon monoxide monitoring helps catch the number one cause of poisoning deaths.

From the streets to the emergency room to the administrative office, we offer a powerful suite of solutions that range from code response to quality control analysis. And even as we bring groundbreaking products to the market, some things don't change. As always, when you choose our products, you don't just get a device. You also get the most comprehensive warranty in the business, industry-leading technical service, and a partner with over 55 years of experience in emergency care.

For more information about the LIFEPAK 15 monitor/defibrillator—and how it can help you do what you do best—please contact your local Physio-Control representative or visit www.physio-control.com.

Physio-Control Continuum of Care

Defibrillators/Monitors



LIFEPAK CR® Plus
Automated External Defibrillator



LIFEPAK® 1000
Defibrillator



LIFEPAK® 20e
Defibrillator/Monitor

LIFEPAK CR® Plus Automated External Defibrillator

Featuring the same advanced technology trusted by emergency medical professionals—yet simple to use—the LIFEPAK CR Plus AED is designed specifically for the first person to respond to a victim of sudden cardiac arrest. Unlike AEDs with complex prompts and limited energy for defibrillation, the fully automatic LIFEPAK CR Plus AED combines an easy two-step operation, just the right level of guidance, and the capability to escalate to 360 joules when needed.

LIFEPAK® 1000 Defibrillator

The LIFEPAK 1000 Defibrillator is a powerful and compact device designed to treat cardiac arrest patients and provide continuous cardiac monitoring capabilities. Built-in flexibility allows the 1000 to be programmed for use by first responders or professionals and enables care providers to change protocols as standards of care evolve. A large, intuitive screen displays graphics and ECG readings that are clear and easy to read from any angle and in bright sunlight. The most rugged AED in the LIFEPAK fleet, you can carry the 1000 with confidence into the harshest environments.

LIFEPAK® 20e Defibrillator/Monitor

Building on the design of its predecessor, the LIFEPAK 20e defibrillator/monitor is compact, light-weight and easy to rush to the scene or use during transport. The 20e is highly intuitive to use, putting early, effective defibrillation into the hands of first responders. The 20e skillfully combines AED function with manual capability so that ACLS-trained clinicians can quickly and easily deliver advanced therapeutic care. Clinically advanced and packed with power, the 20e uses Lithium-ion battery technology that provides extended operating time for transporting patients from one area of the hospital to another and includes ADAPTIV™ biphasic technology up to 360 joules.

CPR Assistance



LUCAS™ Chest
Compression System

Information Management



LIFENET® System / CODE-STAT™ Data Review Software

LUCAS™ Chest Compression System

Designed to provide effective, consistent and uninterrupted compressions according to AHA Guidelines, LUCAS can be used on adult patients in out-of-hospital and hospital settings. Maintaining high-quality hands-free compressions frees responders to focus on other lifesaving therapies and enables them to wear seatbelts during transport. Available in both air-powered and the newer battery-powered version.

LIFENET® System

The LIFENET System provides EMS and hospital care teams with reliable, quick access to clinical information helping to improve patient care flow and operational efficiency. The LIFENET System provides a reliable and secure web-based platform linking care teams with critical information for emergent patient data and post-event review. From providing an advanced alert of an incoming patient, to reviewing post-event data, to tracking assets, the LIFENET System is the most comprehensive system on the market today.

CODE-STAT™ Data Review Software

CODE-STAT software is a powerful tool to improve your resuscitation system. Measuring performance, providing feedback, enabling peer-review and identifying areas for improvement make CODE-STAT software a critical component to improving EMS and Hospital care teams' performance. Features such as multiple continuous waveform capture and CPR interval reporting take post-event review to another level, helping to improve patient care and outcomes.

LIFEPAK[®] 15 MONITOR/DEFIBRILLATOR





SPECIFICATIONS

GENERAL

The **LIFEPAK 15 monitor/defibrillator** has six main operating modes:

AED Mode: for automated ECG analysis and a prompted treatment protocol for patients in cardiac arrest.

Manual Mode: for performing manual defibrillation, synchronized cardioversion, noninvasive pacing, and ECG and vital sign monitoring.

Archive Mode: for accessing stored patient information.

Setup Mode: for changing default settings of the operating functions.

Service Mode: for authorized personnel to perform diagnostic tests and calibrations.

Demo Mode: for simulated waveforms and trend graphs for demonstration purposes.

PHYSICAL CHARACTERISTICS

Weight:

Basic monitor/defibrillator with new roll paper and two batteries installed: 8.6 kg (18.9 lb)

Fully featured monitor/defibrillator with new roll paper and two batteries installed: 9.1 kg (20.1 lb)

Lithium-ion battery: 0.59 kg (1.3 lb)

Accessory Bags and Shoulder Strap: 1.77 kg (3.9 lb)

Standard (hard) Paddles: 0.95 kg (2.1 lb)

Height: 31.7 cm (12.5 in)

Width: 40.1 cm (15.8 in)

Depth: 23.1 cm (9.1 in)

DISPLAY

Size (active viewing area): 212 mm (8.4 in) diagonal; 171 mm (6.7 in) wide x 128 mm (5.0 in) high

Resolution: display type 640 dot x 480 dot color backlit LCD

User Selectable Display Mode: full color or SunVue™ display high contrast

Display: a minimum of 5 seconds of ECG and alphanumeric for values, device instructions, or prompts

Display: up to three waveforms

Waveform Display Sweep Speed: 25 mm/sec for ECG, SpO₂, IP, and 12.5 mm/sec for CO₂

DATA MANAGEMENT

The device captures and stores patient data, events (including waveforms and annotations), and continuous waveform and patient impedance records in internal memory.

The user can select and print reports, and transfer the stored information via supported communication methods.

Report Types:

- Three format types of CODE SUMMARY™ critical event record: short, medium, and long
- 12-lead ECG with STEMI statements
- Continuous Waveform (transfer only)
- Trend Summary
- Vital Sign Summary
- Snapshot

Memory Capacity: Total capacity is 360 minutes of continuous ECG, 90 minutes of continuous data from all channels, or 400 single waveform events.

Maximum memory capacity for a single patient includes up to 200 single waveform reports and 90 minutes of continuous ECG.

COMMUNICATIONS

The device is capable of transferring data records by wired or wireless connection. This device complies with Part 15 of the FCC rules, and its operation is subject to the following two conditions: (1) this device may not cause harmful interference, and (2) this device must accept any interference received,

including interference that may cause undesired operation.

Serial Port RS232 communication + 12V available

Limited to devices drawing maximum 0.5 A current

Bluetooth® technology provides short-range wireless communication with other Bluetooth-enabled devices

MONITOR

ECG

ECG is monitored via several cable arrangements:

A 3-wire cable is used for 3-lead ECG monitoring.

A 5-wire cable is used for 7-lead ECG monitoring.

A 10-wire cable is used for 12-lead ECG acquisition. When the chest electrodes are removed, the 10-wire cable functions as a 4-wire cable.

Standard paddles or QUIK-COMBO pacing/defibrillation/ECG electrodes are used for paddles lead monitoring.

Frequency Response:

Monitor: 0.5 to 40 Hz or 1 to 30 Hz

Paddles: 2.5 to 30 Hz

12-lead ECG diagnostic: 0.05 to 150 Hz

Lead Selection:

Leads I, II, III, (3-wire ECG cable)

Leads I, II, III, AVR, AVL, and AVF acquired simultaneously (4-wire ECG cable)

Leads I, II, III, AVR, AVL, AVF, and C lead acquired simultaneously (5-wire ECG cable)

Leads I, II, III, AVR, AVL, AVF, V1, V2, V3, V4, V5, and V6 acquired simultaneously (10-wire ECG cable)

ECG size: 4, 3, 2.5, 2, 1.5, 1, 0.5, 0.25 cm/mV (fixed at 1 cm/mV for 12-lead)

Heart Rate Display:

20–300 bpm digital display

Accuracy: ±4% or ±3 bpm, whichever is greater

QRS Detection Range Duration: 40 to 120 msec

Amplitude: 0.5 to 5.0 m

Common Mode Rejection (CMRR): ECG Leads: 90 dB at 50/60 Hz

SpO₂/SpCO/SpMet

Sensors:

MASIMO® sensors including RAINBOW® sensors

NELLCOR® sensors when used with the MASIMO RED™ MNC adapter

SpO₂

Displayed Saturation Range: “<50” for levels below 50%; 50 to 100%

Saturation Accuracy: 70–100% (0–69% unspecified)

Adults/Pediatrics:

±2 digits (during no motion conditions)

±3 digits (during motion conditions)

Dynamic signal strength bar graph

Pulse tone as SpO₂ pulsations are detected

SpO₂ Update Averaging Rate User selectable:

4, 8, 12 or 16 seconds

SpO₂ Sensitivity User selectable:

Normal, High

SpO₂ Measurement: Functional SpO₂ values are displayed and stored

Pulse Rate Range: 25 to 240 bpm

Pulse Rate Accuracy (Adults/Pediatrics):

±3 digits (during no motion conditions)

±5 digits (during motion conditions)

Optional SpO₂ waveform display with autogain control

SpCO®

SpCO Concentration Display Range: 0 to 40%

SpCO Accuracy: ±3 digits

SpMET®

SpMet Saturation Range: 0 to 15.0%

SpMet Display Resolution: 0.1% up to 10%

SpMet Accuracy: ±1 digit

NIBP

Blood Pressure Systolic Pressure Range: 30 to 255 mmHg

Diastolic Pressure Range: 15 to 220 mmHg

Mean Arterial Pressure Range: 20 to 235 mmHg

Units: mmHg

Blood Pressure Accuracy: ±5 mmHg

Blood Pressure Measurement Time: 20 seconds, typical (excluding cuff inflation time)

Pulse Rate Range: 30 to 240 pulses per minute

Pulse Rate Accuracy: ±2 pulses per minute or ±2%, whichever is greater

Operation Features Initial Cuff Pressure: User selectable, 80 to 180 mmHg

Automatic Measurement Time Interval: User selectable

Automatic Cuff Deflation Excessive Pressure: If cuff pressure exceeds 290 mmHg

Excessive Time: If measurement time exceeds 120 seconds

CO₂

CO₂ Range: 0 to 99 mmHg (0 to 13.2 kPa)

Units: mmHg, %, or kPa

Respiration Rate Accuracy:

0 to 70 bpm: ±1 bpm

71 to 99 bpm: ±2 bpm

Respiration Rate Range: 0 to 99 breaths/minute

Rise Time: 190 msec

Response Time: 3.3 seconds (includes delay time and rise time)

Initialization Time: 30 seconds (typical), 10–180 seconds

Ambient Pressure: automatically compensated internally

Optional Display: CO₂ pressure waveform

Scale factors: Autoscale, 0–20 mmHg (0–4 Vol%), 0–50 mmHg (0–7 Vol%), 0–100 mmHg (0–14 Vol%)

Invasive Pressure

Transducer Type: Strain-gauge resistive bridge

Transducer Sensitivity: 5µV/V/mmHg

Excitation Voltage: 5 Vdc

Connector: Electro Shield: CXS 3102A 14S-6S

Bandwidth: Digital filtered, DC to 30 Hz (< -3db)

Zero Drift: 1 mmHg/hr without transducer drift

Zero Adjustment: ±150 mmHg including transducer offset

Numeric Accuracy: ±1 mmHg or 2% of reading, whichever is greater, plus transducer error

Pressure Range: -30 to 300 mmHg, in six user selectable ranges

Invasive Pressure Display

Display: IP waveform and numerics

Units: mmHg

Labels: P1 or P2, ART, PA, CVP, ICP, LAP (user selectable)

Temperature

Range: 24.8° to 45.2°C (76.6° to 113.4°F)

Resolution: 0.1°C

Accuracy: ±0.2°C including sensor

Reusable Temperature Cable: 5 foot or 10 foot

Disposable Sensor Types: Surface–Skin; Esophageal/Rectal

Trend

Time Scale: Auto, 30 minutes, 1, 2, 4, or 8 hours

Duration: Up to 8 hours

ST Segment: After initial 12-lead ECG analysis, automatically selects and trends ECG lead with the greatest ST displacement

Display Choice of: HR, PR (SpO₂), PR (NIBP), SpO₂ (%), SpCO (%), SpMet (%), CO₂ (EtCO₂/FICO₂), RR (CO₂), NIBP, IP1, IP2, ST

ALARMS

Quick Set: Activates alarms for all active vital signs

VF/VT Alarm: Activates continuous (CPSS) monitoring in Manual mode

Apnea Alarm: Occurs when 30 seconds has elapsed since last detected respiration

Heart Rate Alarm Limit Range: Upper, 100–250 bpm; lower, 30–150 bpm

INTERPRETIVE ALGORITHM

12-Lead Interpretive Algorithm: University of Glasgow 12-Lead ECG Analysis Program, includes AMI and STEMI statements

PRINTER

Prints continuous strip of the displayed patient information and reports

Paper Size: 100 mm (3.9 in)

Print Speed: 25 mm/sec or 12.5 mm/sec

Optional: 50 mm/sec time base for 12-lead ECG reports

Delay: 8 seconds

Autoprint: Waveform events print automatically

Frequency Response:

Diagnostic: 0.05 to 150 Hz or 0.05 to 40 Hz

Monitor: 0.67 to 40 Hz or 1 to 30 Hz

DEFIBRILLATOR

Biphasic Waveform: Biphasic Truncated Exponential

The following specifications apply from 25 to 200 ohms, unless otherwise specified:

Energy Accuracy: ±1 joule or 10% of setting, whichever is greater, into 50 ohms, ±2 joules or 15% of setting, whichever is greater, into 25-175 ohms.

Voltage Compensation: Active when disposable therapy electrodes are attached. Energy output within ±5% or ±1 joule, whichever is greater, of 50 ohms value, limited to the available energy which results in the delivery of 360 joules into 50 ohms.

Paddle Options: QUIK-COMBO® pacing/defibrillation/ECG electrodes (standard). Cable Length 8 foot long (2.4 m) QUIK-COMBO cable (not including electrode assembly).

Standard paddles (optional)

Manual Mode

Energy Select: 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 20, 30, 50, 70, 100, 125, 150, 175, 200, 225, 250, 275, 300, 325, and 360 joules

Charge Time: Charge time to 360 joules in less than 10 seconds, typical

Synchronous Cardioversion: Energy transfer begins within 60 msec of the QRS peak

Paddles Lead Off Sensing: The transition point at which device changes from assuming that QUIK-COMBO electrodes are properly connected to patient to assuming that electrodes are not connected is 300±50 ohms.

AED Mode

Shock Advisory System™ (SAS): an ECG analysis system that advises the operator if the algorithm detects a shockable or non-shockable ECG rhythm. SAS acquires ECG via therapy electrodes only.

Shock Ready Time: Using a fully charged battery at normal room temperature, the device is ready to shock within 20 seconds if the initial rhythm finding is "SHOCK ADVISED"

Biphasic Output: Energy Shock levels ranging from 150–360 joules with same or greater energy level for each successive shock

cprMAX™ Technology: In AED mode, cprMAX™ technology provides a method of maximizing the CPR time that a patient receives, with the overall goal of improving the rate of survival of patients treated with AEDs.

Setup Options:

– Auto Analyze: Allows for auto analysis. Options are OFF, AFTER 1ST SHOCK

– Initial CPR: Allows the user to be prompted for CPR for a period of time prior to other activity. Options are OFF, ANALYZE FIRST, CPR FIRST

– Initial CPR Time: Time interval for Initial CPR. Options are 15, 30, 45, 60, 90, 120, and 180 seconds.

– Pre-Shock CPR: Allows the user to be prompted for CPR while the device is charging. Options are OFF, 15, 30 seconds.

– Pulse Check: Allows the user to be prompted for a pulse check at various times. Options are ALWAYS, AFTER EVERY SECOND NSA, AFTER EVERY NSA, NEVER

– Stacked Shocks: Allows for CPR after 3 consecutive shocks or after a single shock. Options are OFF, ON

– CPR Time: 1 or 2 User selectable times for CPR. Options are 15, 30, 45, 60, 90, 120, 180 seconds and 30 minutes.

PACER

Pacing Mode: Demand or non-demand rate and current defaults

Pacing Rate: 40 to 170 PPM

Rate Accuracy: ±1.5% over entire range

Output Waveform: Monophasic, truncated exponential current pulse (20 ±1.5 msec)

Output Current: 0 to 200 mA

Pause: Pacing pulse frequency reduced by a factor of 4 when activated

Refractory Period: 180 to 280 msec (function of rate)

ENVIRONMENTAL

Unit meets functional requirements during exposure to the following environments unless otherwise stated.

Operating Temperature: 0° to 45°C (32° to 113°F); -20°C (-4°F) for 1 hour after storage at room temperature; 60°C (140°F) for 1 hour after storage at room temperature

Storage Temperature: -20° to 65°C (-4° to 149°F) except therapy electrodes and batteries

Relative Humidity, Operating: 5 to 95%, non-condensing. NIBP: 15 to 95%, non-condensing

Relative Humidity, Storage: 10 to 95%, non-condensing

Atmospheric Pressure, Operating: -382 to 4,572 m (-1,253 to 15,000 ft). NIBP: -152 to 3,048 m (-500 to 10,000 ft)

Water Resistance, Operating: IP44 (dust and splash resistance) per IEC 529 and EN 1789 (without accessories except for 12-lead ECG cable, hard paddles, and battery pack)

Vibration: MIL-STD-810E Method 514.4, Propeller Aircraft - category 4 (figure 514.4-7 spectrum a), Helicopter - category 6 (3.75 Grms), Ground Mobile - category 8 (3.14 Grms), EN 1789: Sinusoidal Sweep, 1 octave/min, 10-150 Hz, ±0.15 mm/2 g

Shock (drop): 5 drops on each side from 18 inches onto a steel surface EN 1789: 30-inch drop onto each of 6 surfaces

Shock (functional): Meets IEC 60068-2-27 and MIL-STD-810E shock requirements 3 shocks per face at 40 g, 6 ms half-sine pulses

Bump: 1000 bumps at 15 g with pulse duration of 6 msec

Impact, Non-operating: EN 60601-1 0.5 + 0.05 joule impact UL 60601-1 6.78 Nm impact with 2-inch diameter steel ball. Meets IEC62262 protection level IK 04.

EMC: EN 60601-1-2:2001 Medical Equipment - General Requirements for Safety - Collateral Standard: Electromagnetic Compatibility - Requirements and Tests EN 60601-2-4:2003: (Clause 36) Particular Requirements for the Safety of Cardiac Defibrillators and Cardiac Defibrillator-Monitors

Cleaning: Cleaning 20 times with the following: Quaternary ammonium, isopropyl alcohol, hydrogen peroxide

Chemical Resistance: 60 hour exposure to specified chemicals: Betadine (10% Povidone-Iodine solution), Coffee, Cola, Dextrose (5% Glucose solution), Electrode Gel/Paste (98% water, 2% Carbopol 940), HCL (0.5% solution, pH=1), Isopropyl Alcohol, NaCl solution (0.9% solution), Cosmetic discoloration of the paddle well shorting bar shall be allowed following exposure to HCL (0.5% solution).

POWER

Power Adapters: AC or DC

Power Adapters provide operation and battery charging from external AC or DC power

– Full functionality with or without batteries when connected to external AC/DC

– Typical battery charge time while installed in LIFEPAK 15 device is 190 minutes

– Indicators: external power indicator, battery charging indicator

Dual battery: Capability with automatic switching

Low battery indication and message: Low battery fuel gauge indication and low battery message in status area for each battery

Replace battery indication and message: Replace battery fuel gauge indication, audio tones and replace battery message in the status area for each battery. When replace battery is indicated, device auto-switches to second battery. When both batteries reach replace battery condition, a voice prompt instructs user to replace battery.

Battery Capacity For two, new fully-charged batteries, 20°C (68°F)

Operating Mode		Monitoring	Pacing	Defibrillation
		(minutes)	(minutes)	(360J discharges)
Total Capacity to Shutdown	Typical	360	340	420
	Minimum	340	320	400
Capacity After Low Battery	Typical	21	20	30
	Minimum	12	10	6

BATTERY

Battery Specifications

Battery Type: Lithium-ion

Weight: 0.59 kg (1.3 lb)

Voltage: 11.1V typical

Capacity (rated): 5.7 amp hours

Charge Time (with fully depleted battery): 4 hours and 15 minutes (typical)

Battery indicators: Each battery has a fuel gauge that indicates its approximate charge. A fuel gauge that shows two or fewer LEDs after a charge cycle indicates that the battery should be replaced.

Charging Temperature Range: 0° to 50°C (32° to 122°F)

Operating Temperature Range: 0° to 50°C (32° to 122°F)

Short Term (<1 week) Storage Temperature Range: -20° to 60°C (-4° to 140°F)

Long Term (>1 week) Storage Temperature Range: 20° to 25°C (68° to 77°F)

Operating and Storage Humidity Range: 5 to 95% relative humidity, non-condensing

REFERENCES

- 1 Stiel IG, Walker RG, Nesbitt LP, et al. Biphasic Trial: A randomized comparison of fixed lower versus escalating higher energy levels for defibrillation in out-of-hospital cardiac arrest. *Circulation*. 2007;115:1511-1517.
- 2 Edelson DP, Litzinger B, Arora V, et al. Improving in-hospital cardiac arrest process and outcomes with performance debriefing. *Arch Intern Med*. 2008;168:1063-1069.
- 3 Olasveengen TM, Wik L, Kramer-Johansen J, et al. Is CPR quality improving? A retrospective study of out-of-hospital cardiac arrest. *Resuscitation*. 2007;75:260-266.
- 4 Fletcher D, Galloway R, Chamberlain D, et al. Basics in advanced life support: A role for download audit and metronome. *Resuscitation*. 2008;78:127-134.

*All claims valid as of March 2011.

For further information please contact your local Physio-Control representative or visit our website at www.physio-control.com



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AI-2046

12.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Municipal Court

AGENDA CAPTION:

Consider **Action On A Resolution Accepting The Resignation Of Alternate Judge U.H. "Woody" Specht As Of February 28, 2017.**

BACKGROUND:

This resolution will accept the resignation of Judge U H "Woody" Specht. He has served the Town of Addison for over 22 years as Alternate Municipal Court Judge. In November 2016, Judge Specht communicated his desire to retire. He agreed to serve the Town until another Alternate Judge was named. The Council is scheduled to appoint one new Alternate Judge on February 28, 2017, and this individual will be in place by March 2017.

Section 29.005 of Government Code states that the judge of a municipal court serves for a term of office of two years unless the municipality provides for a longer term. A municipal court judge who is not re-appointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired. This resolution will accept Judge Specht's resignation will not renew his term as Alternative Judge.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Specht

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS ACCEPTING THE RESIGNATION OF JUDGE U.H. “WOODY” SPECHT AS AN ALTERNATE JUDGE OF ADDISON MUNICIPAL COURT OF RECORD NO. 1 AND ACKNOWLEDGING JUDGE SPECHT’S SERVICE TO THE TOWN OF ADDISON, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Judge U.H. “Woody” Specht was initially appointed as a judge in the Addison Municipal Court in December 1994 and

WHEREAS, since that time, Judge Specht has honorably and faithfully discharged his duties to the court and to those who appeared before him in the court; and

WHEREAS, Judge Specht has tendered his resignation to the City Council.

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

Section 1. The recitals set forth above are true and correct and are incorporated herein for all purposes.

Section 2. The Addison City Council hereby accepts the resignation of Judge Specht from his service as an Alternate Judge in the Addison Municipal Court of Record No. 1, effective February 28, 2017.

Section 3. The Addison City Council hereby offers its gratitude and appreciation to Judge Specht for his more than 20 years of exceptional service to the Town of Addison, the court and to those who appeared before him in the court.

Section 4. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

AI-2101

13.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Police

AGENDA CAPTION:

Consider Action On A **Resolution To Approve A Lease Agreement With DCO Clipper Pointe LP For Approximately 1400 Square Feet Located At 4015 Vitruvian As An Addison Police Department Community Substation And Authorizing The City Manager To Execute The Agreement.**

BACKGROUND:

Similar to the police storefront in Addison Circle, UDR has reserved property for the Addison Police Department to occupy a storefront in the Vitruvian Park development at 4015 Vitruvian, located at the corner of Spring Valley Road and Vitruvian. This would give the department adequate space to assist in community relations, such as operations during daily patrol activities and special events in the area.

The effective date of this lease agreement will begin on March 1, 2017. The lease term will be for two years with a two year renewal. The annual rental payment is \$10 to be paid on March 1, 2017 and on the yearly anniversary as long as the lease remains in effect. In addition, the Town will pay a monthly flat fee of \$400 (\$4,800 annually) for all customary and necessary utilities.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution with Agreement - PD Storefront

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A LEASE AGREEMENT BETWEEN TOWN OF ADDISON AND DCO CLIPPER POINTE LP FOR APPROXIMATELY 1400 SQUARE FEET LOCATED AT 4015 VITRUVIAN AS AN ADDISON POLICE DEPARTMENT COMMUNITY SUBSTATION, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Lease Agreement between the Town of Addison and DCO Clipper Pointe LP for approximately 1400 square feet located at 4015 Vitruvian as an Addison Police Department community substation, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

STATE OF TEXAS §
COUNTY OF DALLAS §
TOWN OF ADDISON §

LEASE AGREEMENT (this "Lease")

In consideration of the rents and covenants hereinafter set forth, which are mutually agreed to by Landlord and Tenant, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the following described premises on the following terms and conditions:

1. **FUNDAMENTAL LEASE PROVISIONS:**

- 1.1 Effective Date: March 1, 2017.
- 1.2 Landlord: DCO Clipper Pointe LP, a Delaware limited partnership.
- 1.3 Tenant: Town of Addison, Texas, a home-rule municipality.
- 1.4 Leased Premises: The Leased Premises located at 4015 Vitruvian, Addison, Texas 75001, approximately 1400 square feet (hereinafter referred to as the "Premises").
- 1.5 Lease Term: The term of this Lease Agreement (this "Lease") shall be for two (2) years commencing on the Effective Date and ending on February 28, 2019, unless earlier terminated as otherwise provided for herein, or renewed as provided herein.
- 1.6 Renewal: Tenant shall have the right to renew this Lease for additional two (2) year terms following the expiration of the Lease Term; provided, however, Tenant submits to Landlord a written request for said renewal at least three (3) months prior to the expiration of the Term. Any extension of this Lease will require a written amendment to same, signed by both parties.
- 1.7 Holding Over: Should Tenant hold over in possession with the consent of the Landlord upon the expiration of the Term of this Lease, or of any renewal term, such holding over shall not be deemed to extend or renew this Lease, but tenancy thereafter shall be from month to month only, at the rental in effect during the last month of the term, subject to being terminated by either party upon thirty (30) days written notice prior to the expiration of the then-current month.
- 1.8 Address of Notices

To Landlord: c/o UDR, Inc.
 1745 Shea Center Drive, Suite 200
 Highlands Ranch, CO 80129
 Attn: Legal

To Tenant: TOWN OF ADDISON
P.O. Box 9010
Addison, Texas 75001
Attn: Wesley S. Pierson, City Manager

1.9 References in this Section 1 to other Sections are for convenience only and to designate some of the other Sections where references to the particular Fundamental Lease Provisions appear. Each reference in this Lease to any of the Fundamental Lease Provisions contained in this Section 1 shall be construed to incorporate all of the terms provided under each such Fundamental Lease Provision.

2. **PREMISES.**

2.1 Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises set forth in Paragraph 1.4 herein. The Premises are leased by Landlord and accepted by Tenant in an "as is" condition as of the Effective Date.

2.2 The Lease created hereby is upon the terms, covenants and conditions set forth herein and Landlord and Tenant covenant, as a material part of the consideration for the Lease, to perform all of said terms, covenants and conditions required to be performed by Tenant and Landlord, respectively, and further covenant that this Lease is made upon the condition of such performance.

3. **USE OF PREMISES**

3.1. Tenant shall be authorized to use the Premises as an Addison Police Department community substation, for the sole purpose of community relations and for no other purpose without prior written consent of Landlord.

3.2 Tenant covenants that there shall be no holding cells at the Premises and Tenant covenants it shall not transport detainees to the Premises for any reason.

3.3. If any governmental license or permit is required for the lawful conduct of any activity carried on by Tenant in or on the Premises, and if the failure to obtain such license or permit would affect Landlord, Tenant shall procure and maintain such license or permit throughout the term of this Lease, submit such license or permit for inspection by Landlord and comply at all times with all terms and conditions thereof.

3.4 Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials at the Premises. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Premises any such materials or substances. Without limitation, hazardous substance and materials shall include those described

in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., any applicable state or local laws and the regulations adopted under these acts, and asbestos. If any lender or governmental agency should ever require testing to ascertain whether or not there has been any release of hazardous materials by Tenant or its employees, agents, contractors, invitees or licensees anywhere in the Project, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional rent if such requirement applies to the Premises. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises.

- 3.5 At Tenant's expense, Tenant may install suite signage at Tenant's entry to the Premises, subject to Landlord's written approval. Tenant shall not paint, place, display or otherwise maintain any signs or advertising of any kind in or about the Premises which can be seen from anywhere outside the Premises, without Landlord's prior written consent. Tenant acknowledges that the Premises will accommodate window signage only and no signage shall be affixed to the exterior of the building. Any such consent by Landlord shall be upon the understanding and condition that Tenant shall remove the sign(s) at the expiration or sooner termination of this Lease and Tenant shall repair any damage to the Premises caused thereby.

4. **LEASE TERMINATION**

- 4.1 The term of this Lease shall be the period of time specified in Paragraph 1.5, unless terminated as provided hereinafter.
- 4.2 NOTWITHSTANDING ANY PROVISION OF THIS LEASE TO THE CONTRARY, LANDLORD OR TENANT MAY TERMINATE THIS LEASE, WITH OR WITHOUT CAUSE, UPON PROVIDING NINETY (90) DAYS WRITTEN NOTICE OF SAME TO THE OTHER PARTY.

5. **RENTAL**

The annual rental payment amount shall be **Ten and 00/100s Dollars (\$10.00)**, paid on the Effective Date and so long as this Lease remains in effect, yearly on the anniversary of the Effective Date. In addition to the rental payment amount, Tenant shall pay any Additional Rent as provided for in Section 6 herein below.

6. **UTILITIES AND SERVICES AND ADDITIONAL RENT**

Tenant shall pay a monthly flat fee of **Four Hundred and 00/100 Dollars (\$400.00)** ("Utilities Fee") as Additional Rent for all customary and necessary utilities including but not limited to, electricity, water, gas, heat, and any other utilities used by Tenant on the Premises from and after the Effective Date of this Lease. If Landlord's cost and expense for providing

such utilities increases during the Term of this Agreement, Landlord reserves the right to increase the Utilities Fee at any time on thirty (30) days' notice to Tenant. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Premises, and no such failure or interruption shall entitle Tenant to terminate this Lease or to abate payment of any portion of the rent due hereunder. All operating expenses, routine maintenance, HVAC and plumbing repairs (excluding replacement) related to the Premises, if any, shall be promptly paid by Tenant. The Tenant shall be responsible for any repairs/modifications to comply with current building codes.

7. **QUIET POSSESSION**

Landlord agrees that Tenant's quiet enjoyment of the Premises shall not be disturbed, as long as Tenant pays rent and performs the covenants and conditions of this Lease until the end of the Term or the earlier termination of this Lease.

8. **DISCLAIMER OF IMPLIED WARRANTIES** LANDLORD AND TENANT EACH HEREBY EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED. TENANT HEREBY ACKNOWLEDGES AND AGREES THAT TENANT IS RELYING SOLELY ON ITS OWN INSPECTIONS, INVESTIGATIONS, DUE DILIGENCE AND JUDGMENT WITH REGARD TO ALL MATTERS AND ISSUES CONCERNING THE CONDITION OF THE PREMISES AND TENANT'S ELECTION TO MAKE AND ENTER INTO THIS LEASE, AND TENANT IS NOT RELYING UPON ANY REPRESENTATION, PROMISE OR STATEMENT BY LANDLORD OR LANDLORD'S AGENTS, EMPLOYEES OR REPRESENTATIVES THAT IS NOT EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE; AND TENANT HEREBY DISCLAIMS ANY RELIANCE UPON ANY REPRESENTATION, STATEMENT OR PROMISE OF LANDLORD OR LANDLORD'S AGENTS, EMPLOYEES AND REPRESENTATIVES, EXCEPT TO THE EXTENT THAT ANY SUCH REPRESENTATIONS, STATEMENTS OR PROMISES ARE EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE, AND TENANT HEREBY RELEASES AND WAIVES ANY CLAIM FOR FRAUDULENT INDUCEMENT OR OTHERWISE BASED UPON ANY REPRESENTATIONS, STATEMENTS OR PROMISES, IF ANY, NOT EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS LEASE. TENANT ADDITIONALLY HEREBY ACKNOWLEDGES AND AGREES THAT TENANT HAS BEEN REPRESENTED AND/OR HAS HAD THE OPPORTUNITY

TO BE REPRESENTED BY INDEPENDENT COUNSEL AND THAT TENANT HAS THEREFORE NOT ACTED UNDER COMPULSION OR DURESS IN MAKING AND ENTERING INTO THIS LEASE, BUT HAS INSTEAD MADE AND ENTERED INTO THIS LEASE KNOWINGLY AND VOLUNTARILY, AND TENANT CONSEQUENTLY ACKNOWLEDGES ITS UNDERSTANDING OF AND AGREEMENT TO THE TERMS AND CONDITIONS OF THIS LEASE (INCLUDING, WITHOUT LIMITATION, THE IMPLICATIONS AND EFFECT OF THE WAIVERS AND DISCLAIMERS SET FORTH IN THIS PARAGRAPH ABOVE).

9. **REPAIRS, MAINTENANCE AND INSPECTION BY LANDLORD**

- 9.1 Tenant shall, during the term of this Lease and at Tenant's cost, keep the Premises and all fixtures and equipment installed therein or located thereon in good order, condition and repair, including the interior wall, all windows, doors, door frames, and door closures, all plate glass, all carpeting and other floor covering, all electrical equipment, all heating, ventilating and air conditioning equipment, and all plumbing and sprinkler systems, if any, installed therein or used exclusively by Tenant, and shall as necessary, or when required by governmental authority, make modifications or replacements thereof. Landlord shall have no obligations to repair or maintain the Premises or improvements constructed therein except as otherwise provided in this Lease.
- 9.2 If Tenant refuses or neglects to make necessary repairs and/or maintain the Premises, or any part thereof, Landlord shall have the right, after ten (10) days written notice (except in case of emergency) to Tenant, but shall not be obligated, to make such repairs or perform such maintenance on behalf of or for the account of Tenant. In this event, Tenant shall reimburse Landlord for the cost of such maintenance.
- 9.3 Tenant hereby grants to Landlord the rights to enter upon the Premises at any time in order to inspect, view, analyze or make repairs upon reasonable notice to Tenant, if possible under the circumstances
- 9.4 Tenant agrees upon the expiration or earlier termination of this Lease to surrender the Premises to Landlord in good order, condition and repair, ordinary wear and tear excepted.

10. **ALTERATIONS**

- 10.1 Tenant shall not make alterations, repairs, additions or improvements in, to or about the Premises (collectively "Tenant Alterations"), including, but not limited to interior reconfiguration of non-load bearing walls, without the prior written consent of Landlord. Tenant shall promptly pay all costs incurred in connection with all Tenant

Alterations and shall not permit the filing of any mechanics lien or other lien in connection with any Tenant Alterations. If a mechanics lien or other lien is filed against the Premises or any portion thereof as a result of Tenant Alterations by Tenant, Tenant shall discharge, cause to be discharged, or make adequate allowance therefore, within ten (10) days after Tenant receives notice of the filing thereof.

- 10.2 All Tenant Alterations, which are attached to, or built into, the Premises, including without limitation, floor coverings, draperies, wall coverings, paneling, molding, doors, vaults, plumbing systems, electrical systems, mechanical systems, lighting systems, sound insulation equipment, communication wiring and outlets for the systems mentioned above and for all telephone, radio, telegraph and television purposes, and any special ceiling installations, shall become the property of Landlord and shall be surrendered with the Premises, as a part thereof, at the end of the term of this Lease; provided however, Landlord may, by written notice to Tenant at least thirty (30) days prior to the end of the term of this Lease, require Tenant to remove any Tenant Alterations designated by Landlord to be removed, and to repair any damage to the Premises caused by such removal, all at Tenant's sole expense.
- 10.3 Any articles of personal property, including business and trade fixtures not attached to, or built into, the Premises, machinery and equipment, freestanding cabinet work, furniture and movable partitions, and any other improvements or alterations which were installed by Tenant in the Premises at Tenant's sole expense and which were not installed in connection with a credit or allowance granted by Landlord or in replacement for an item which Tenant would not have been entitled to remove, shall be and remain the property of Tenant and may be removed by Tenant at any time during the term of this Lease or at the expiration of the Lease term, so long as Tenant is not in default hereunder and provided that Tenant repairs any damage to the Premises caused by such removal.

11. **WAIVER; REIMBURSEMENT; INSURANCE**

- 11.1 Landlord shall not be liable for any injury to any person, or for any loss of or damage to any property (including property of Tenant) occurring in or about the Premises from any cause whatsoever, other than the gross negligence or intentional misconduct of Landlord or its employees or agents. Landlord shall not be liable for interference with light, air or view. Tenant shall promptly notify Landlord of casualties or accidents occurring in or about the Premises. In the event of any claim arising out of or relating to this Agreement, each of the Parties shall control its defense and be responsible for its attorneys' fees and costs, provided that at the time of claim resolution, Tenant shall reimburse Landlord for reasonable and actual defense costs, if any, resulting from any negligence or cause of action, or a portion thereof, caused by or attributable to Tenant.

11.2 Tenant shall, at its own expense, maintain commercial general liability insurance with broad form and stop gap endorsements with limits of Two Million Dollars (\$2,000,000) per occurrence for property damage and loss and \$2,000,000 per occurrence for personal injuries (including death), \$4,000,000.00 aggregate. Landlord shall have the right to periodically review the appropriateness of such limits in view of changing industry conditions and to require an increase in such limits upon thirty (30) days prior written notice. Landlord, Landlord's property manager and any lender designated in writing by Landlord shall be named as additional insureds and shall be furnished with a copy of such policy or policies of insurance or certificate of insurance which shall bear an endorsement that the same shall not be canceled or materially altered without thirty (30) days prior written notice to such additional insureds. During the Lease term, Tenant shall also maintain at its own expense insurance covering its furniture, fixtures, equipment and inventory and all improvements which it makes to the Premises in an amount equal to the full insurable value thereof, against fire and such other perils as are covered by an all risk policy, excluding earthquake and flood, with plate glass endorsement, including all glass on the Premises. All insurance required of Tenant under this Lease shall (a) be issued by insurance companies authorized to do business in the State of Texas and acceptable to Landlord in its reasonable discretion; (b) be issued as a primary policy or under a blanket policy of Tenant, not contributing with and not in excess of coverage which Landlord may carry; (c) have deductibles of no more than Five Thousand Dollars (\$5,000) per occurrence; and (d) in the case of the liability policy, contain a contractual liability coverage endorsement covering Tenant's indemnification duty. If Tenant fails to maintain such insurance, Landlord may do so, and Tenant shall reimburse Landlord for the full expense thereof upon demand. Tenant shall not keep or use in or about the Premises any article which is prohibited by Landlord's insurance policy. Tenant shall pay immediately any increase in Landlord's premiums for insurance during the term of this Lease which results from Tenant's use of the Premises.

12. **TAXES**

As a governmental entity using the Premises for a governmental function and public purpose, the Tenant shall not pay taxes.

13. **DEFAULT**

13.1 Default by Tenant. If Tenant fails to pay rentals or other charges hereunder or otherwise fails to perform its obligations hereunder and this failure is not cured within thirty (30) days after written notice from the Landlord to Tenant of such failure, then Tenant is in default, and Landlord may terminate this Lease and may enter and take possession of Premises, and will have the remedies now or hereafter provided by law for recovery of rent, repossession of Premises and damages occasioned by Tenant's default.

13.2 Default by Landlord. If Landlord fails to perform any of the obligations imposed upon Landlord by this Lease or by law, and this failure is not cured within thirty (30)

days after written notice from Tenant, then Landlord is in default and Tenant may terminate this Lease. Termination of this Lease shall be Tenant's sole and exclusive remedy.

14. **ASSIGNMENT OR SUBLEASE BY TENANT**

14.1 Assignment by Tenant. Tenant shall not sublet or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise, without the prior written consent of Landlord. In lieu of giving or denying its consent thereto, Landlord shall have the right to terminate this Lease. Any assignment or sublease without Landlord's prior written consent shall, at Landlord's option, be void. No assignment or sublease shall release Tenant from primary liability hereon. Each assignment and sublease shall be by an instrument in writing in form satisfactory to Landlord.

14.2 Assignment by Landlord. Landlord may freely assign or transfer its interest in this Lease, with written notice to the Tenant.

15. **MISCELLANEOUS**

15.1 One or more waivers of a breach of any covenant, term or condition of this Lease by either party shall not be construed by the other party as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval of either party to or of any act by the other party of a nature that required consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent act.

15.2 In the event that at any time during the term of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, then, and in that event, the prevailing party in such action or proceeding will be entitled to recover from the non-prevailing party reasonable attorneys' fees and costs of suit incurred by the prevailing party.

15.3 The terms and agreements as contained in this Lease shall apply to, run in favor of and shall be binding upon and inure to the benefit of the parties hereto, and their respective assigns and successors in interest, subject at all times to the provisions of this Lease.

15.4 It is agreed that if any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Lease is capable of two constructions, one of which would render the provision void and the

other of which would render the provision valid, the provision shall have the meaning which renders it valid.

- 15.5 This Lease embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof.
- 15.6 This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.
- 15.7 Tenant shall, within ten (10) days of demand, execute, acknowledge and deliver to Landlord or its designee a written statement certifying, to best of the Tenant's knowledge and belief: (i) the date the Lease term commenced or will commence and the date it expires; (ii) the date Tenant entered into occupancy of and commenced business operations in the Premises; (iii) the amount of monthly rent and the date to which monthly rent has been paid; (iv) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of each agreement so affecting this Lease) and that no part of the Premises has been sublet (or to the extent such is not the case, a copy of any sublease); (v) that, to the extent such is the case, this Lease represents the entire agreement between the parties as to the Premises; (vi) that Landlord is not in default under this Lease (or is such is not the case, the extent and nature of such default); (vii) that all required advances by Landlord to Tenant on account of tenant improvements have been made (or the extent that such is not the case); (viii) on the date of such certification there are no existing defenses or claims which Tenant has against the enforcement of this Lease by Landlord (or if such is not the case, the extent and nature of such defenses or claims); (ix) the amount of the security deposit, if any, paid to Landlord; and (x) any other fact or representation that a mortgagee or purchaser may reasonably request. It is intended that any such statement delivered pursuant to this Section shall be fully and completely binding upon Tenant for all purposes of this Lease, may be relied upon by a prospective purchaser or mortgagee of Landlord's interest, or any assignee of any mortgage upon Landlord's interest in the property. If Tenant shall fail to respond within ten (10) days of receipt of a written request by Landlord therefor, Tenant shall be deemed to have given a certificate as above provided without modification and shall be conclusively deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee, that this Lease is full force and effect, that there are no uncured defaults in Landlord's performance, and that the security deposit, if any, is as stated in this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date and at the place indicated below.

LANDLORD

DCO CLIPPER POINTE LP,
a Delaware limited partnership

By: DCO REALTY, INC.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock, Authorized Agent

TENANT

TOWN OF ADDISON, TEXAS

By: _____
Wesley S. Pierson, City Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared _____, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they each executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this __day of _____, 2017.

NOTARY OF PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared WESLEY S. PIERSON, City Manager of the Town of Addison, Texas, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this __day of _____, 2017.

NOTARY OF PUBLIC, State of Texas

AI-2100

14.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

Consider Action On **An Ordinance Appointing Cass Robert Calloway As Alternate Municipal Judge For The Addison Municipal Court Of Record No. 1 And Approving A Compensation Agreement To Perform Services As Alternate Municipal Judge And Administer Oath Of Office.**

BACKGROUND:

This ordinance will appoint and issue the oath of office to Cass Robert Calloway as Alternate Municipal Judge for Town of Addison Municipal Court of Record No.1. The current Alternate Judge, U.H. "Woody" Specht primarily covered weekend magistrate duties and notified the council of his desire to retire. In order to ensure the Town would have adequate coverage for weekends and to assist the Presiding Municipal Judge, it was decided that the council would appoint two Alternate Municipal Judge positions. During the February 14, 2017 executive session, the council interviewed several candidates and made an offer to Cass Robert Calloway as Alternative Municipal Judge. He accepted and will fill a twenty-two month term that expires on December 31, 2018. Mr. Calloway is employed on an on-call basis and is expected to be reasonably available to perform his role as Alternate Judge as requested by the Town. This appointment will fill one of the two Alternate Judge positions.

Also included in this item is a compensation agreement. Mr. Calloway will receive \$100 per hour for work performed while acting in his judicial capacity for the Town. These funds are budgeted and available in the Municipal Court department budget in the General Fund.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - Calloway

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, APPOINTING CASS ROBERT CALLOWAY AS ALTERNATE MUNICIPAL JUDGE OF ADDISON MUNICIPAL COURT OF RECORD NO. 1; APPROVING A COMPENSATION AGREEMENT WITH CASS ROBERT CALLOWAY TO PERFORM SERVICES AS AN ALTERNATE MUNICIPAL JUDGE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAID AGREEMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison has determined that an Alternate Municipal Judge of Addison Municipal Court of Record No. 1 is necessary to perform certain judicial functions in the Town of Addison; and

WHEREAS, the City Council of the Town of Addison has determined that Cass Robert Calloway should be appointed as Alternate Municipal Judge of Addison Municipal Court of Record No. 1; and

WHEREAS, the City Council of the Town of Addison has determined that a compensation agreement should be entered into with Cass Robert Calloway to perform services as an Alternate Municipal Judge of Addison Municipal Court of Record No. 1.

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. Appointment. The City Council of Addison hereby appoints Cass Robert Calloway as Alternate Municipal Judge of Addison Municipal Court of Record No. 1 to serve for an initial term which shall begin on February 28, 2017 and shall end on December 31, 2018. Cass Robert Calloway may not serve beyond the said term except upon the express authorization of the City Council, and this provision shall control over any law, rule, or regulation in conflict herewith.

Section 3. Authorization to Execute. The Compensation Agreement by and between the City and Cass Robert Calloway regarding his service as an Alternate Municipal Judge of the Addison Municipal Court of Record No. 1, a true and correct copy of which is attached hereto as **Exhibit A**, is hereby approved. The City Manager or the City Manager's designee is authorized to execute the said Compensation Agreement on behalf of the City.

Section 4. Effective Date. This Ordinance shall take effect on February 28, 2017.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda McDonald, City Attorney

EXHIBIT A

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS

AGREEMENT

For and in consideration of the mutual terms, conditions and covenants herein contained, the following Agreement is entered into by and between THE TOWN OF ADDISON, TEXAS (hereinafter referred to as “City”) and CASS ROBERT CALLOWAY (hereinafter referred to as “Calloway”) (hereinafter collectively the City and Calloway are referred to as the “Parties).

I.

The City does hereby appoint, Calloway as Alternate Judge of Addison Municipal Court of Record No. 1 for an initial term to commence on February 28, 2017, and to expire December 31, 2018.

II.

As Alternate City Judge, Calloway shall perform such functions as arraignment of prisoners and any other functions requested of him to assist the Presiding Municipal Judge. Calloway is employed on an on-call basis and is expected to be reasonably available to perform his role as Alternate Judge as requested by the City. Calloway is required to provide his own robe. Calloway is further required to spend a reasonable amount of time participating in judicial continuing legal education programs so as to enhance his abilities to perform as Alternate City Judge and to enhance the stature of such office at his own expense.

III.

In consideration for such services, Calloway shall receive:

1. compensation of One Hundred and No/100 Dollars (\$100.00) per hour, with a minimum of one hour’s compensation to be paid to Calloway per sitting in his judicial capacity; and
2. the City’s obligations are funded from current funds.

IV.

The City makes no warranties or representations as to the amount of work Calloway will receive under this Agreement.

V.

Calloway may be removed from office by the City at any time for incompetency, misconduct, malfeasance, or disability, or other reason(s) as may be authorized by or not inconsistent with law. Calloway shall be required to provide thirty (30) days’ notice of resignation.

EXHIBIT A

VI.

The terms, obligations, and requirements of this Agreement shall be construed in accordance with the laws of the State of Texas, without regard to conflict of laws provisions of any jurisdiction. The obligations and requirements of the Parties hereto are performable in Dallas County, and exclusive venue for any dispute relating to this Agreement shall be in Dallas County.

VII.

The Parties further agree that Calloway may only serve beyond the term of this Agreement as provided by the laws and Constitution of this State.

VIII.

This Agreement is executed on behalf of the City by the City Manager or his designee who is authorized to execute this instrument by order heretofore passed and duly recorded in its minutes.

IX.

This instrument shall be the entire agreement and understanding between the Parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed orally.

WITNESS the signatures of all parties hereto in single or multiple originals on this the ____ day of _____, 2017, in Addison, Dallas County, Texas.

CASS ROBERT CALLOWAY

TOWN OF ADDISON, TEXAS

Cass Robert Calloway

By: _____
Wes Pierson, City Manager

AI-2090

15.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: City Manager

AGENDA CAPTION:

Discuss And Consider Action On An Ordinance Rezoning The Property Located At 4021 Belt Line Road, On The North West Corner Of Belt Line Road And Runyon Road, From LR, Local Retail, To PD, Planned Development District, Allowing All Local Retail Uses Plus Medical And Dental Offices And Establishing Modified Development Standards. Case 1751-Z/Belt Line Square.

BACKGROUND:

This item was originally heard at the February 14, 2017, City Council Meeting. The Council voted to table further consideration of this item until the February 28, 2017, agenda to allow staff and the property owner to discuss language limiting surgical medical procedures. Staff will provide additional information at the Council meeting.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on January 17, 2017, voted to recommend approval of an ordinance rezoning the property located at 4021 Belt Line Road from, LR, Local Retail, to PD, Planned Development, allowing all local retail uses plus medical and dental offices and establishing modified development standards, subject to the following condition:

- There shall be no 24 hour medical uses.

Voting Aye: Braun, Griggs, Meleky, Morgan, Robinson, Schaeffer, Wheeler

Voting Nay: none

Absent: none

SPEAKERS AT THE PUBLIC HEARING: none

Please refer to the attached staff report for additional information on this case.

RECOMMENDATION:

Administration recommends approval.

Attachments

1751-Z Staff Report

1751-Z Plans

1751-Z Ordinance

1751-Z

PUBLIC HEARING Case 1751-Z/Belt Line Square. Public hearing, discussion, and take action on a recommendation regarding an ordinance changing the zoning on property located at 4021 Belt Line Road from LR, Local Retail, to PD, Planned Development District, allowing all Local Retail uses plus medical and dental offices and establishing modified development standards.

LOCATION MAP





January 13, 2017

STAFF REPORT

RE: Case 1751-Z/Belt Line Square
LOCATION: 4021 Belt Line Road
REQUEST: Approval of an ordinance rezoning the property from LR, Local Retail, to a new PD, Planned Development District.
APPLICANT: Retail Plazas, Inc. represented by Mr. Trey Hodge.

DISCUSSION:

Background: Belt Line Square is the two-story retail center at the northwest corner of Belt Line Road and Runyon Road. The site was originally rezoned from Industrial-1 to Local Retail in 1980 and developed in 1981. In 2013, the property was acquired by its current owners and underwent extensive exterior renovations, which were administratively approved under the Local Retail zoning standards. The property consists of the main two-story building, a one-story building closer to Belt Line Road, and the Scooter's Coffee drive-through building.

Medical and dental offices are not permitted uses in the Local Retail zoning district and would not currently be allowed on this property.

Proposed Plan: Given that this is a two-story retail location, the owner believes that medical uses would help supplement the other retail and restaurant occupancies, especially to occupy the second floor, which struggles to attract typical retail tenants. The owner is requesting that medical and dental offices be permitted at this location. In order to do that, the property must be rezoned to a Planned Development.

Staff is proposing a Planned Development that would permit Local Retail uses plus medical and dental offices. Staff and the applicant have also discussed revised parking standards for the property that would relax certain parking requirements in order to enable the provision of additional landscaping. The Planned Development would also be governed by a site plan, landscape plan, and building elevations.

Site Plan: The site plan would mostly stay the same with some restriping of parking spaces and modifications to parking layouts to increase landscaping. The most notable difference is the proposed closure of the driveway immediately west of the intersection of Belt Line Road and

Runyon Road. This property developed before many of the Town's current standards were in place. Properties are now limited in how many access points they can have to the same street. Additionally, there are clearance requirements that dictate how far driveways must be spaced from intersections and other driveways. This driveway does not comply with any of the current requirements. Closing this driveway will create safer traffic operations on Belt Line Road and allow for additional parking and landscaping. With this closure, the property has four remaining access points, two on Belt Line Road and two on Runyon Road.

Parking: There are currently three restaurants with plans for a fourth in this center. These will occupy a total of 17,442 square feet and account for 48% of the total square footage in the center. These restaurants are currently parked at a ratio of 1 space per 100 square feet under the Local Retail zoning. Staff is recommending capping the restaurant square footage at 17,442 square feet and maintaining the 1 per 100 ratio. For general retail, as well as medical and dental offices, the Code typically requires that those uses be parked at a ratio of 1 space per 200 square feet. Staff believes that due to the typical hours of medical and dental offices, this can be relaxed slightly in recognition that they would share parking well with the restaurants. Staff is proposing that retail and medical uses be parked at 1 space per 300 square feet. Parking standards for other uses allowed in Local Retail would remain as typically required in the Local Retail District:

- *Furniture store*. 1 space per 1,000 square feet
- *Banks or savings and loans*. 1 space per 300 square feet
- *Office*. 1 space per 300 square feet
- *Motion picture theater*. 1 space per 4 seats
- *Health club or studio for dance, music, drama, health, and reducing*. 1 space per 100 square feet.
- *Hotel/motel*. 1 space per room. Banquet or meeting space in a hotel, one space per 300 square feet.

The applicant is proposing to provide 234 spaces. As part of the Belt Line Road utility undergrounding project, the Town took land from this property at the corner of Runyon and Belt Line. This resulted in the loss of 5 parking spaces. As part of the agreement for that taking, the Town agreed to credit the property those 5 spaces. Therefore, the property will be treated as having a total of 239 spaces. This should be a sufficient number of spaces to operate, given the anticipated uses. These spaces are not technically required until a use requests a certificate of occupancy for a space, therefore staff will be able to monitor and ensure that there is sufficient parking to meet code in the future, prior to approving occupancy.

Landscaping: This property developed prior to the Town's current landscape standards and is extremely under-landscaped compared to what would be required of development today. Rezoning a property triggers that it be brought up to current standards. As staff has discussed previously with the Commission, staff has interpreted this requirement to mean that a property must do everything it can to bring the property up to current standards without interfering with other standards such as parking. In this case, relaxing the parking requirements appears to

make sense independently from other considerations. However, it also has the added benefit of freeing space for additional landscaping.

The property owner is proposing to gain landscaping by closing one of the Belt Line Road driveways and adding landscaping islands adjacent to the remaining Belt Line Road driveways. Additional landscaping will be gained in the area fronting Runyon Road by converting the current row of head-in parking to parallel parking spaces. While the property owner has added landscaping, the property is still below what is required by the current standards. See the comparison below:

Requirement	Current	Required	Proposed
Overall Landscape Percentage	7.61%	20%	9.15%
Landscape Buffer on Belt Line/Runyon	22 ft / 10 ft	25 ft / 25 ft	22 ft / 23 ft
Parking Lot Interior Landscaping	2.01%	5%	4.33%

While the property owner is restriping some parking spaces to the Town’s minimum of 8.5 feet wide, there are still a significant number of parking spaces that could be restriped that would enable landscaping to be added. Additionally, some drive aisles could be adjusted or abandoned to provide more opportunities for landscaping. That being said, there is only opportunity to add about another percentage point to the overall landscape percentage through additional tree islands in the parking lot.

Building Elevations: The building elevations were upgraded in 2013 and consist of stone, stucco, and painted concrete masonry units (CMU). The Planned Development district would codify these improvements as the standard going forward.

Comprehensive Plan: The 2013 Plan was drafted just as the current owners were purchasing the property. On page 229, the Plan rates this property as “Yellow” and notes the difficulty of renting the second floor space. The assessment notes the need for a facelift, which has since occurred, and landscaping renovations, which the property owner is attempting to address.

Master Transportation Plan: The applicant submitted this request for rezoning prior to the adoption of the new Master Transportation Plan and is therefore not required to address the new standards included in the Plan for sidewalks along Belt Line Road and Runyon Road. Staff has discussed the new requirements with the property owner and they have offered to grant the easements that will be necessary in the future should the Town desire to widen and move the sidewalks away from the back of curb in accordance with the new Master Transportation Plan.

RECOMMENDATION: DENIAL

Staff takes no issue with the applicant’s request to rezone the property from Local Retail to a Planned Development. Staff believes that allowing medical and dental offices will improve the competitiveness of this site. Staff also supports the adjustments being proposed to the parking requirements and the improvements shown on the site and landscape plans.

However, as mentioned above, rezoning triggers that the site be brought to up to current landscaping standards or that it be brought as close as possible. While the applicant has added landscaping, staff believes that more can be done through additional restriping and minor parking layout modifications. Historically, staff has not supported zoning cases when there are additional opportunities to gain compliance with current standards and it is important for staff to follow the ordinance's guidance and uphold historic practice. This is the basis for the recommendation to deny the request.

Staff acknowledges that the applicant is making a very minor request to add a use that in most other communities would be allowed in a Local Retail zoning district. Staff believes that the applicant is making a good faith effort to add landscaping and that additional site plan changes would offer minimal gains. Staff also notes that should the request be denied, the site will remain as-is with a driveway that is out of compliance with current standards, having less landscaping and no accommodation for future pedestrian improvements.

Staff is obligated to recommend denial because the project does not check all of the required boxes. The Planning and Zoning Commission and the City Council have the latitude to weigh competing community interests and accept less stringent standards that may be more reasonable if the other elements of the case have merit.

Land Use Analysis

Attributes of Success Matrix

Belt Line Square, 4021 Belt Line Road

1751-Z

Attribute	Comment	Score
Competitive	Historically, this site has struggled to attract tenants. It ranked Red in this category in the 2013 Comprehensive Plan. The addition of medical uses should help it to be more competitive.	
Safe	The site has good visual accessibility. It is safe.	
Functional	The site is functional.	
Visually Appealing	The buildings on this site were recently renovated. Additional landscaping will be installed, should this case be approved, but it will still be below current standards.	
Supported with Amenities	The restaurant will be supported by the adjacent residential and office uses and should gain more support from the future growth of Addison Grove.	
Environmentally Responsible	This proposed changes will add landscaping and promote the use of an existing underutilized space.	
Walkable	A 7 foot wide sidewalk is being added as part of the work on Belt Line and the property owner has agreed to grant additional easements for future enhancements.	
Overall Assessment	Retail properties west of Midway have struggled to attract quality tenants. This is an older property that can't meet current standards. The proposed zoning changes should maximize its potential absent a complete redevelopment of the site.	



Case 1751-Z/Belt Line Square
January 17, 2017

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on January 17, 2017, voted to recommend approval of an ordinance rezoning the property located at 4021 Belt Line Road from, LR, Local Retail, to PD, Planned Development, allowing all local retail uses plus medical and dental offices and establishing modified development standards, subject to the following condition:

- There shall be no 24 hour medical uses.

Voting Aye: Braun, Griggs, Meleky, Morgan, Robinson, Schaeffer, Wheeler

Voting Nay: none

Absent: none

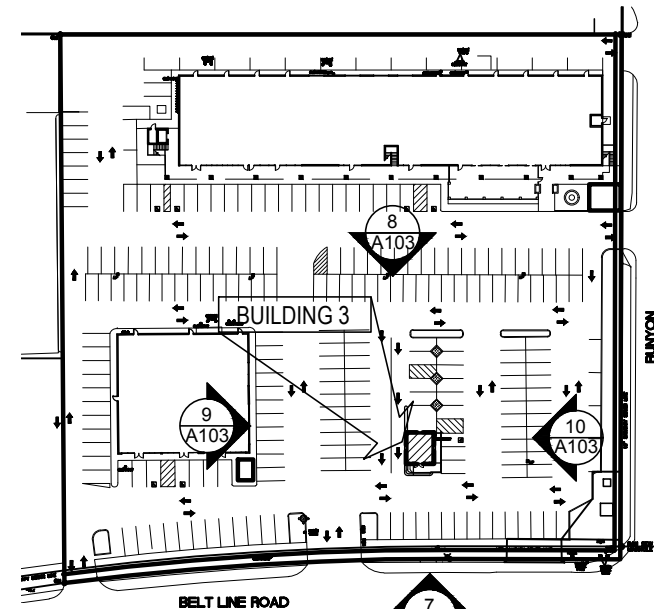
SPEAKERS AT THE PUBLIC HEARING:

For: none

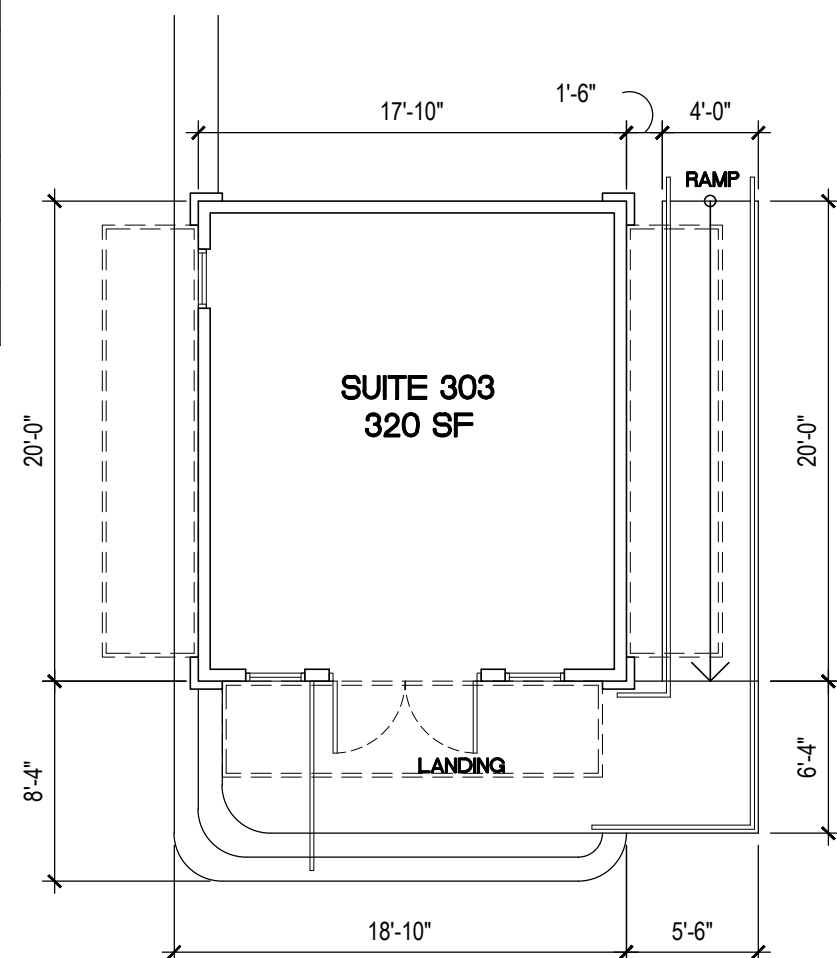
On: none

Against: none

BUILDING -3: EXISTING EXTERIOR FINISH SCHEDULE				
NO	MATERIAL	COLOR	FINISH	NOTES
1	STUCCO	BEIGE	SMOOTH FINISH	EXISTING
2	BRICK VENEER	BROWN	SMOOTH FINISH	EXISTING
3	EQUIPMENT SCREEN	BROWN	STANDING SEAM	EXISTING
4	RAILING	ALUMINUM		EXISTING
5	STOREFRONT	DARK ANODIZED ALUMINUM FRAME		EXISTING
6	METAL AWNING	BROWN	STANDING SEAM	EXISTING



BUILDING 3
FLOOR AREA: 320 SF
BUILDING 3 - MATERIAL TAKE-OFFS (EXISTING):
SOUTH ELEVATION (FRONT)
 TOTAL STOREFRONT AREA: 61 SF = 28% OF FACADE
 TOTAL BRICK AREA: 32 SF = 15% OF FACADE
 TOTAL STUCCO AREA: 186 SF = 85.3% OF FACADE
 TOTAL FACADE AREA: 218 SF
WEST ELEVATION (SIDE)
 TOTAL STOREFRONT AREA: 9.5 SF = 3.5% OF FACADE
 TOTAL BRICK AREA: 32 SF = 12% OF FACADE
 TOTAL STUCCO AREA: 235 SF = 88% OF FACADE
 TOTAL FACADE AREA: 267 SF
NORTH ELEVATION (REAR)
 TOTAL BRICK AREA: 32 SF = 12.8% OF FACADE
 TOTAL STUCCO AREA: 218 SF = 87.2% OF FACADE
 TOTAL FACADE AREA: 250 SF
EAST ELEVATION (SIDE)
 TOTAL BRICK AREA: 32 SF = 12% OF FACADE
 TOTAL STUCCO AREA: 235 SF = 88% OF FACADE
 TOTAL FACADE AREA: 267 SF



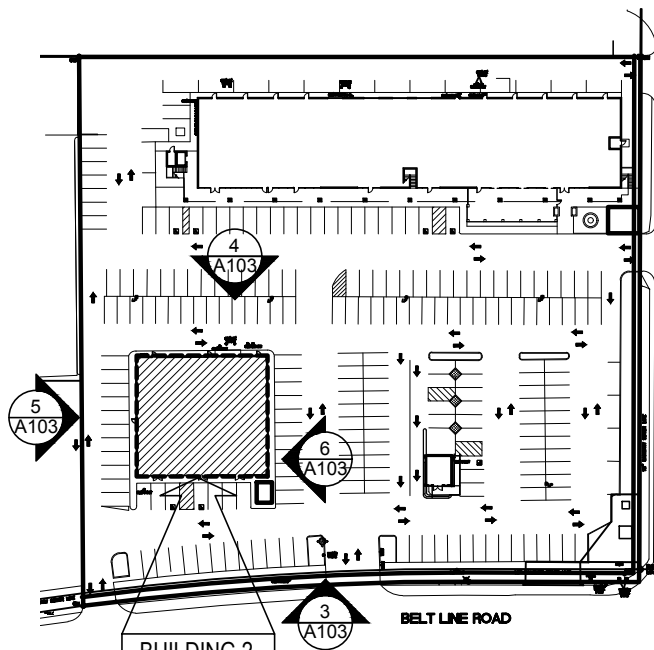
KEY PLAN - BUILDING 3
NORTH

BUILDING 3 - EXISTING FLOOR PLAN 4

SCALE: 1/8" = 1'-0" A-101

BUILDING-2: EXISTING EXTERIOR FINISH SCHEDULE				
NO	MATERIAL	COLOR	FINISH	NOTES
1	ACRYLIC STUCCO OVER STYRENE FOAM	DARK BROWN	SMOOTH FINISH	EXISTING
2	STUCCO	BEIGE	SMOOTH FINISH	EXISTING
3	CULTURED STONE	BROWN		EXISTING
4	CULTURED STONE WATER TABLE	BROWN		EXISTING
5	CONTROL JOINTS			EXISTING
6	DECORATIVE WALL LIGHT FIXTURES			EXISTING
7	PAINT OVER EXISTING BRICK AND CONCRETE BLOCK WALL	TAN	SMOOTH FINISH	EXISTING
8	EXISTING STOREFRONT SYSTEM TO REMAIN	DARK ANODIZED ALUMINUM FRAME		EXISTING
9	OVERFLOW SCUPPER AND DOWNSPOUT	DARK BROWN		EXISTING

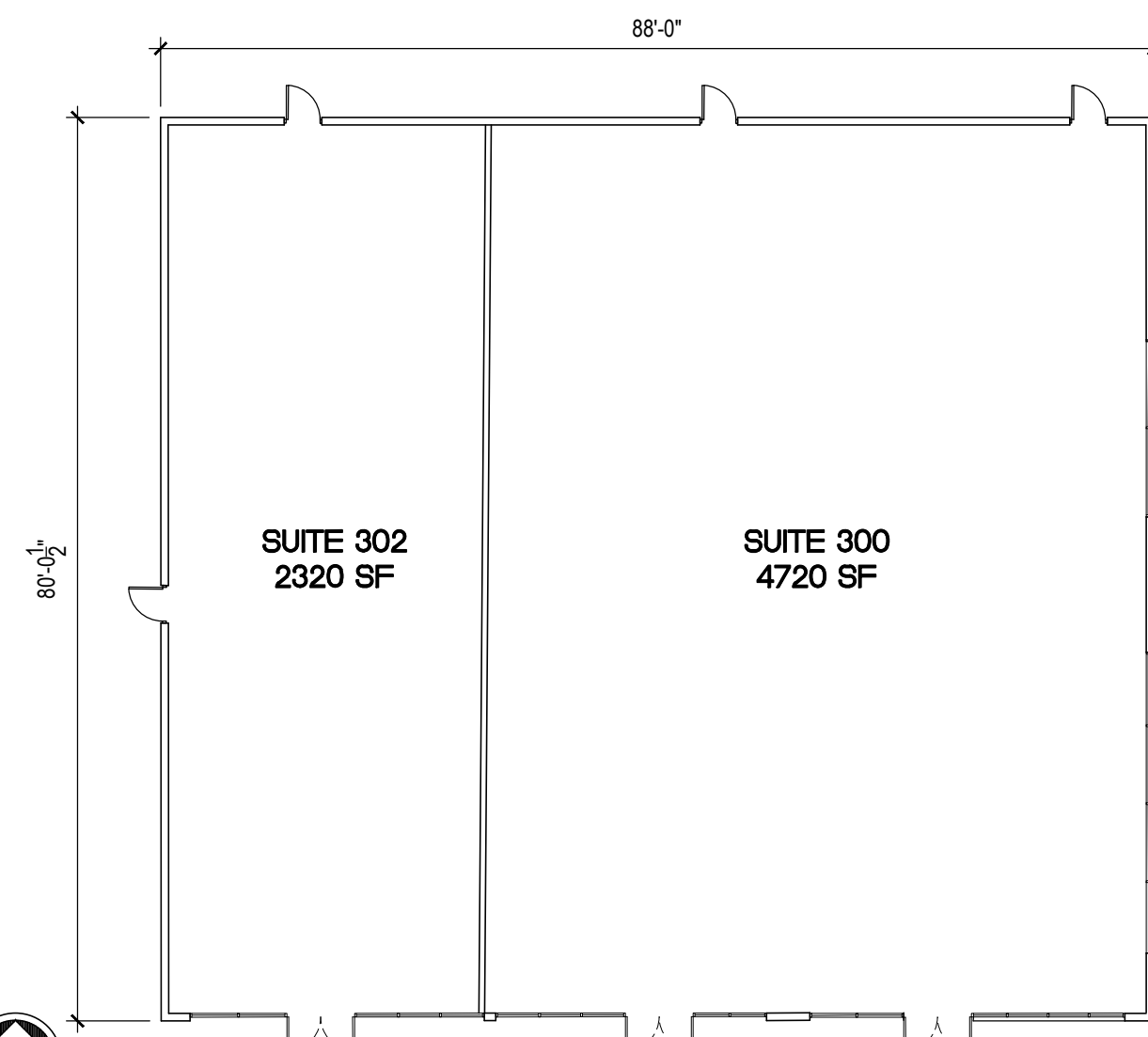
BUILDING 2
FLOOR AREA: 7040 SF
BUILDING 2 - MATERIAL TAKE-OFFS (EXISTING):
SOUTH ELEVATION (FRONT)
 TOTAL STOREFRONT AREA: 287 SF = 16.2% OF FACADE
 TOTAL STONE AREA: 134 SF = 7.5% OF FACADE
 TOTAL STUCCO AREA: 830 SF = 46.8% OF FACADE
 TOTAL FACADE AREA: 1524 SF
WEST ELEVATION (SIDE)
 TOTAL PAINTED CMU AREA: 491 SF = 34% OF FACADE
 TOTAL STONE AREA: 142 SF = 9.9% OF FACADE
 TOTAL STUCCO AREA: 767 SF = 53.6% OF FACADE
 TOTAL FACADE AREA: 1431 SF
NORTH ELEVATION (REAR)
 TOTAL PAINTED CMU AREA: 422 SF = 27.7% OF FACADE
 TOTAL STONE AREA: 150 SF = 9.8% OF FACADE
 TOTAL STUCCO AREA: 767 SF = 50.4% OF FACADE
 TOTAL FACADE AREA: 1522 SF
EAST ELEVATION (SIDE)
 TOTAL STOREFRONT AREA: 226 SF = 15.8% OF FACADE
 TOTAL STONE AREA: 267 SF = 18.6% OF FACADE
 TOTAL STUCCO AREA: 937 SF = 65.4% OF FACADE
 TOTAL FACADE AREA: 1431 SF



KEY PLAN - BUILDING 2
NORTH

BUILDING 2 - EXISTING FLOOR PLAN 3

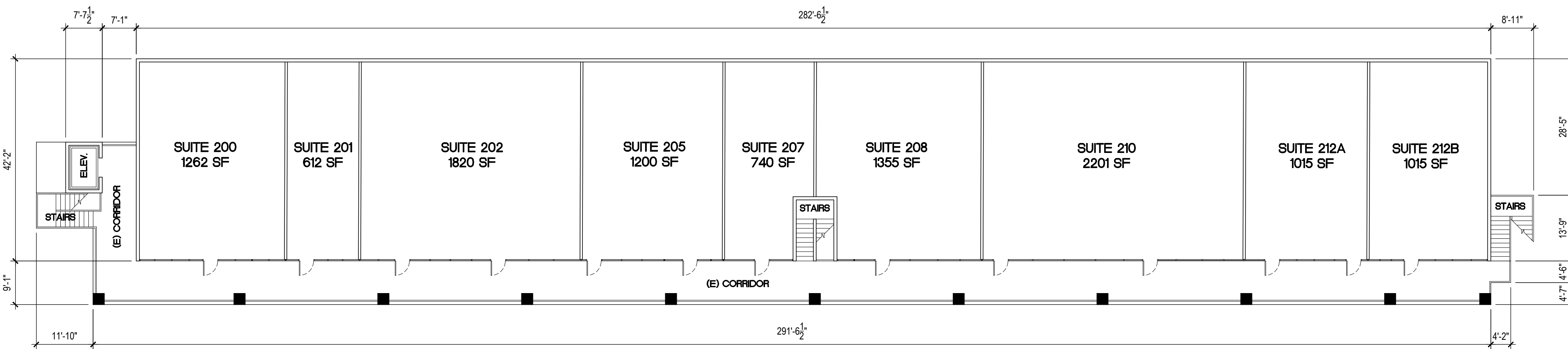
SCALE: 1/16" = 1'-0" A-101



NORTH

BUILDING 2 - EXISTING FLOOR PLAN 3

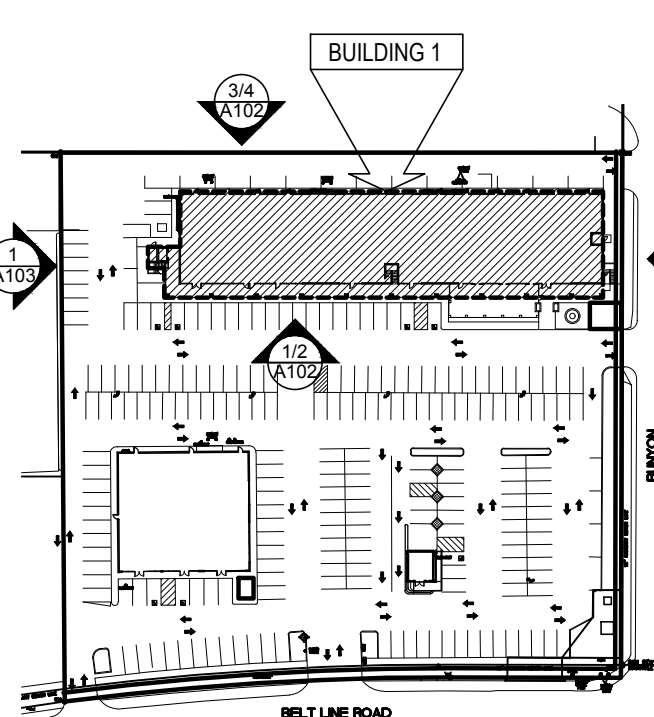
BUILDING 1: EXISTING EXTERIOR FINISH SCHEDULE				
NO	MATERIAL	COLOR	FINISH	NOTES
1	STUCCO	DARK BROWN	SMOOTH FINISH	EXISTING
2	STUCCO	BLACK	SMOOTH FINISH	EXISTING
3	STUCCO	BEIGE	SMOOTH FINISH	EXISTING
4	CULTURED STONE	BROWN		EXISTING
5	CULTURED STONE	WHITE		EXISTING
6	CULTURED STONE	BROWN		EXISTING
7	CONTROL JOINTS			EXISTING
8	DECORATIVE WALL LIGHT FIXTURES			EXISTING
9	EXISTING STOREFRONT SYSTEM TO REMAIN			EXISTING
10	GUTTER, SCUPPER AND DOWNSPOUT	GALVANIZED		EXISTING
11	METAL RAILING	BLACK	GLOSSY	EXISTING
12	RED AWNING	BLACK	GLOSSY	EXISTING
13	MASONRY WALL	BEIGE		EXISTING



NORTH

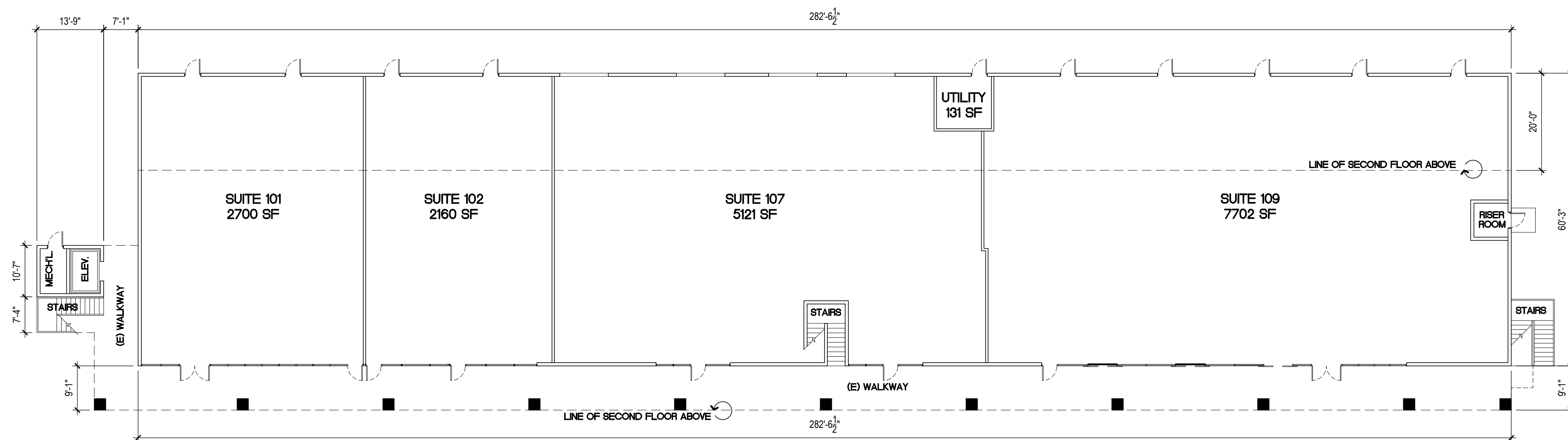
BUILDING 1 - EXISTING SECOND FLOOR PLAN 2

SCALE: 1/16" = 1'-0" A-101



BUILDING 1
FIRST FLOOR AREA: 17,683 SF
SECOND FLOOR AREA: 11,220 SF
TOTAL FLOOR AREA: 28,903 SF
BUILDING 1 - MATERIAL TAKE-OFFS (EXISTING):
SOUTH ELEVATION (FRONT)
 TOTAL STOREFRONT AREA: 3637 SF = 41% OF FACADE
 TOTAL STONE AREA: 706 SF = 8.0% OF FACADE
 TOTAL STUCCO AREA: 4509 SF = 51% OF FACADE
 TOTAL FACADE AREA: 8763 SF
WEST ELEVATION (SIDE)
 TOTAL STONE AREA: 256 SF = 16% OF FACADE
 TOTAL STUCCO AREA: 1293 SF = 80.4% OF FACADE
 TOTAL FACADE AREA: 1608 SF
NORTH ELEVATION (REAR)
 TOTAL PAINTED CMU AREA: 4120 SF = 47% OF FACADE
 TOTAL STUCCO AREA: 2731 SF = 31.2% OF FACADE
 TOTAL FACADE AREA: 8763 SF
EAST ELEVATION (SIDE)
 TOTAL STONE AREA: 56 SF = 3.5% OF FACADE
 TOTAL STUCCO AREA: 1435 SF = 89.2% OF FACADE
 TOTAL FACADE AREA: 1608 SF

KEY PLAN - BUILDING 1
NORTH



NORTH

BUILDING 1 - EXISTING FIRST FLOOR PLAN 1

SCALE: 1/16" = 1'-0" A-101

RPI
BELTLINE
SQUARE, LTD.

ISSUE DATE:		
1ST	INITIAL SUBMITTAL	11/21/2016
2ND	FINAL SUBMITTAL	01/06/2017
3RD	FINAL SUBMITTAL	01/11/2017

REVISIONS:

REZONING APPLICATION

4021 BELT LINE ROAD, ADDISON, TX 75001

JOB NUMBER

DRAWN BY

SHEET CONTENT
BUILDING 1 / 2 / 3
(FLOOR PLAN)

SHEET NO

A-101

ISSUE DATE:		
1ST	INITIAL SUBMITTAL	11/21/2016
2ND	FINAL SUBMITTAL	01/06/2017
3RD	FINAL SUBMITTAL	01/11/2017
REVISIONS:		

REZONING APPLICATION
 4021 BELT LINE ROAD, ADDISON, TX 75001

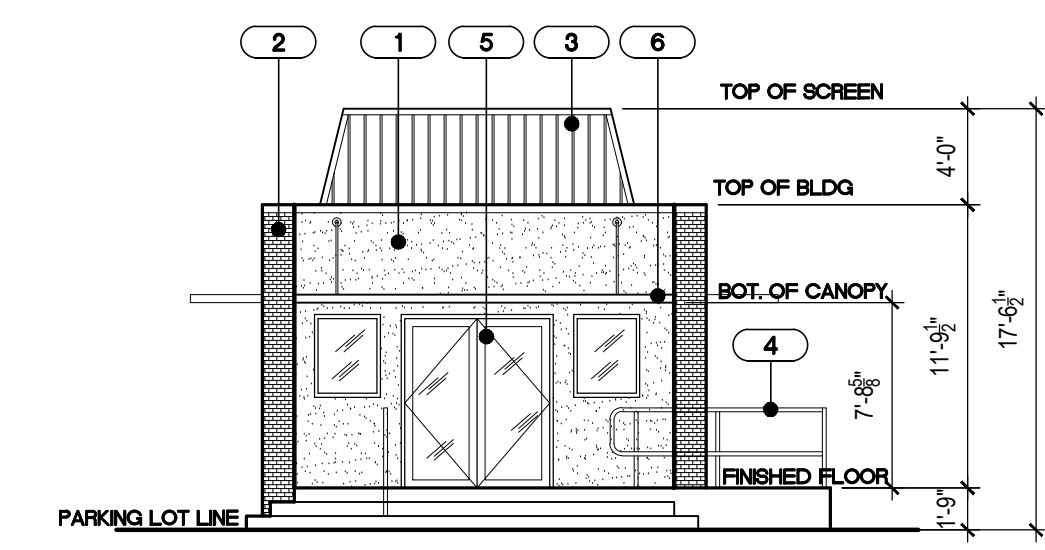
JOB NUMBER

DRAWN BY

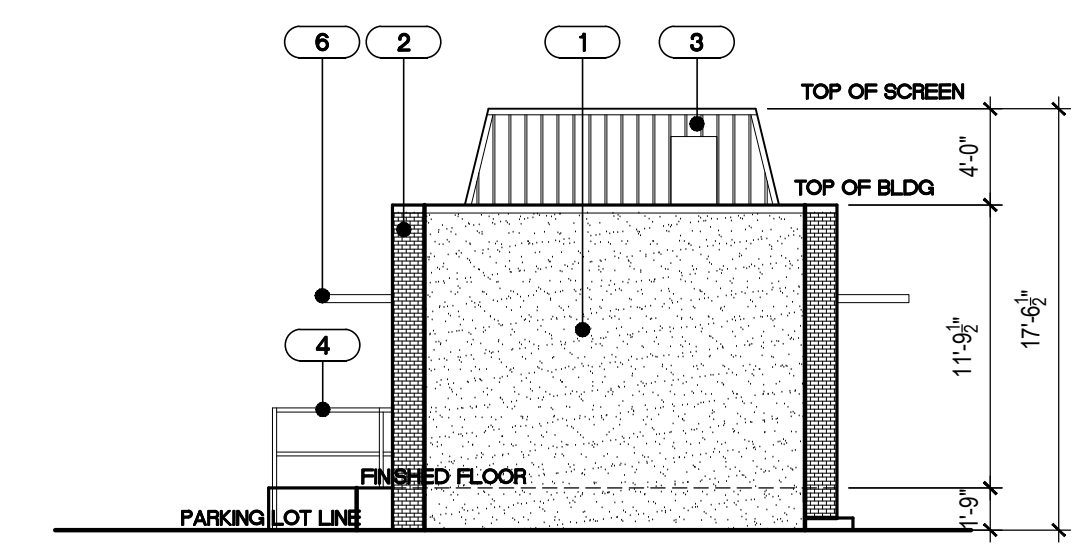
SHEET CONTENT
BUILDING 1/ BUILDING 2
(ELEVATIONS)

SHEET NO

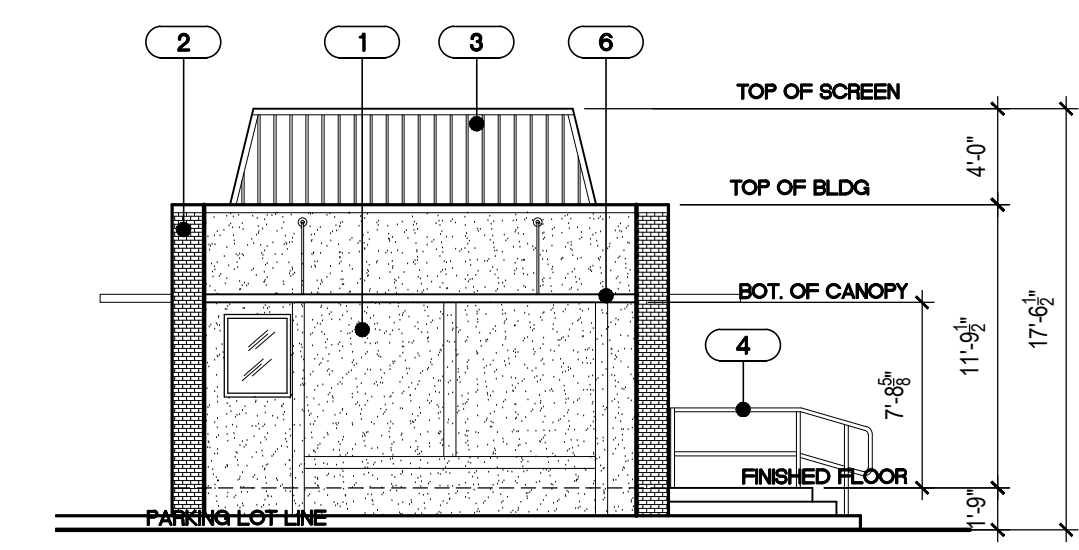
A-103



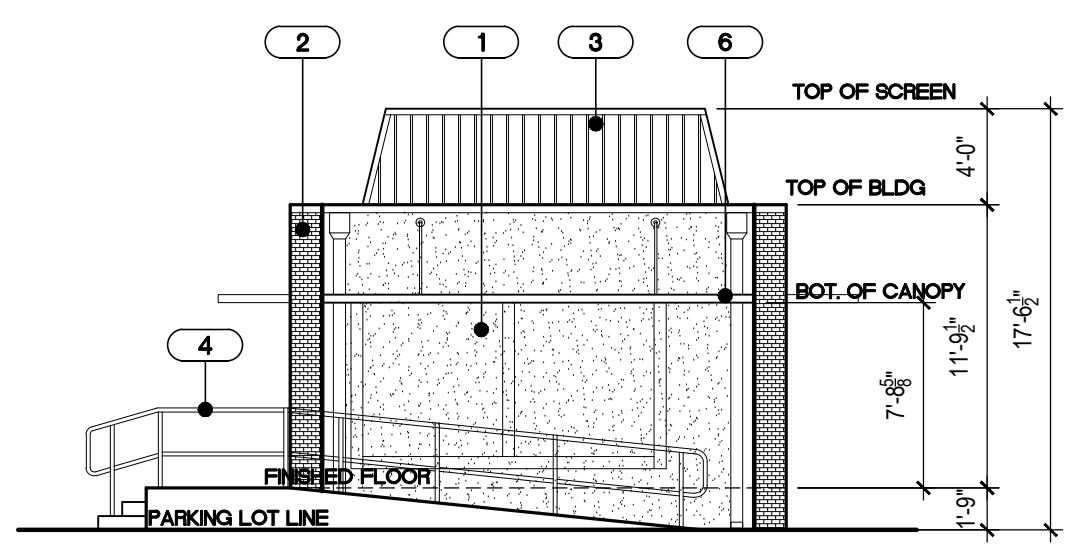
BUILDING 3 - (E) SOUTH ELEVATION (FRONT) 7
SCALE: 1/8" = 1'-0" **A-103**



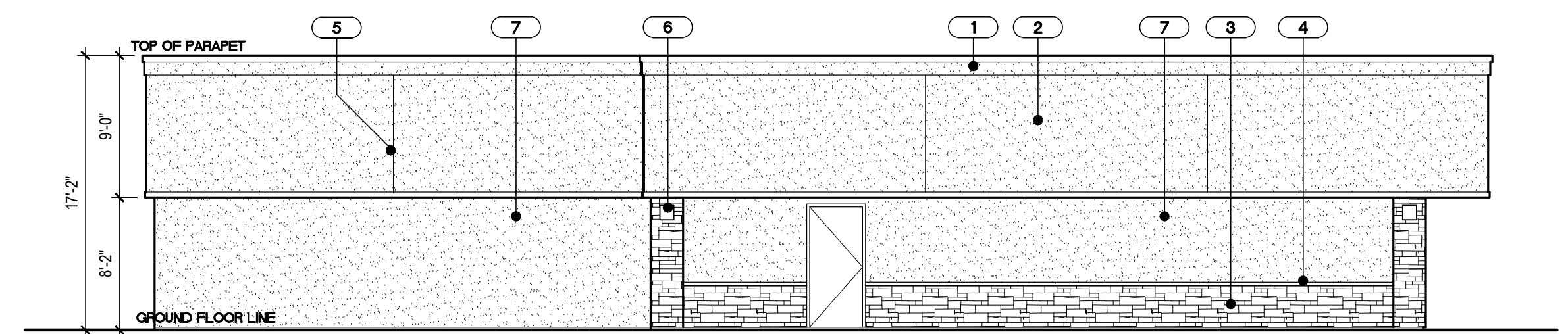
BUILDING 3 - (E) NORTH ELEVATION (REAR) 8
SCALE: 1/8" = 1'-0" **A-103**



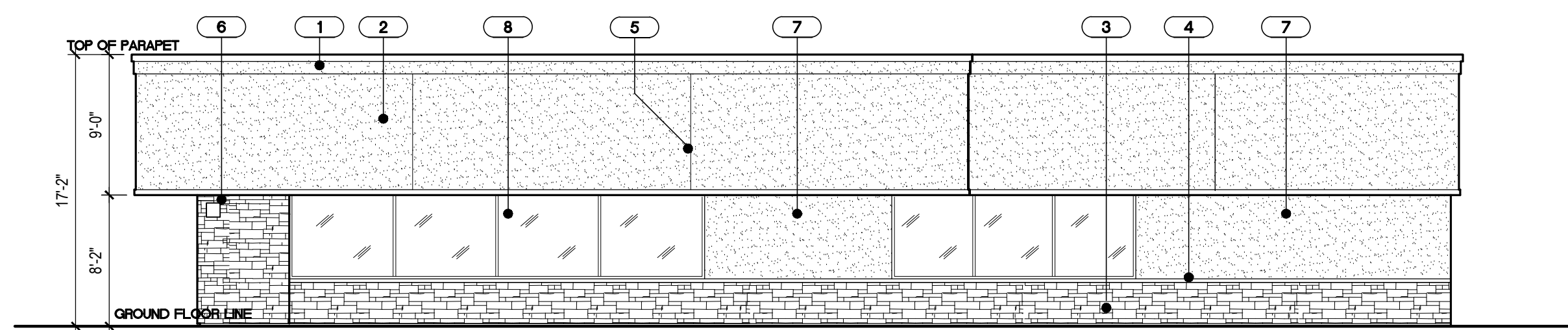
BUILDING 3 - (E) WEST ELEVATION (SIDE) 9
SCALE: 1/8" = 1'-0" **A-103**



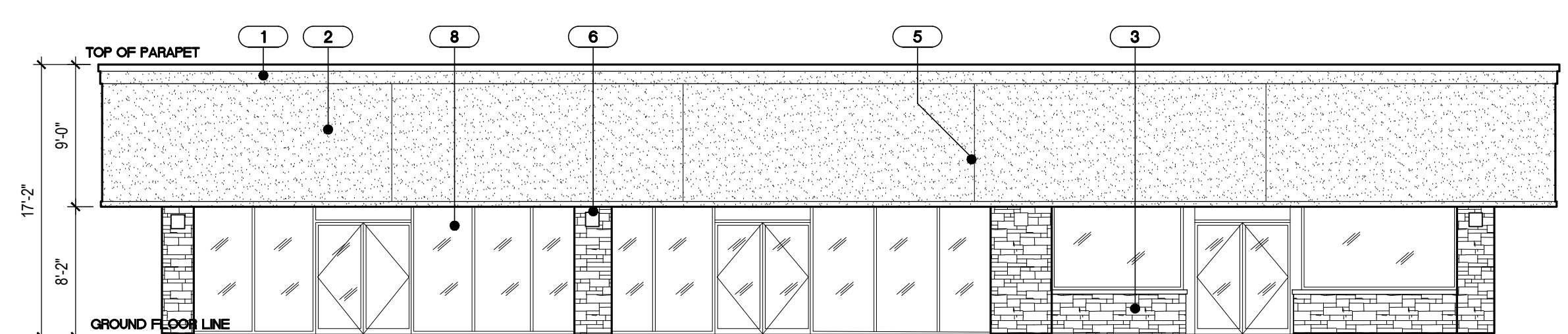
BUILDING 3 - (E) EAST ELEVATION (SIDE) 10
SCALE: 1/8" = 1'-0" **A-103**



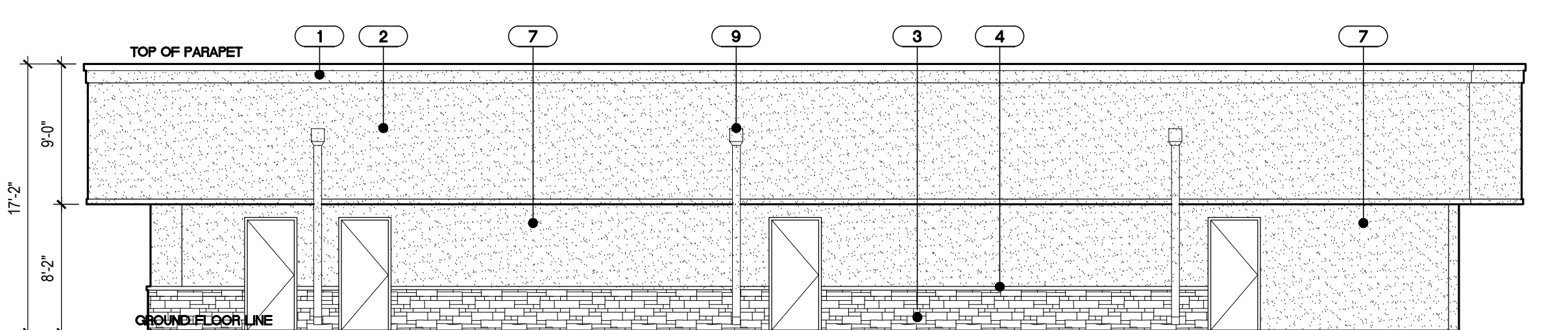
BUILDING 2 - EXISTING WEST ELEVATION (SIDE) 5
SCALE: 1/8" = 1'-0" **A-103**



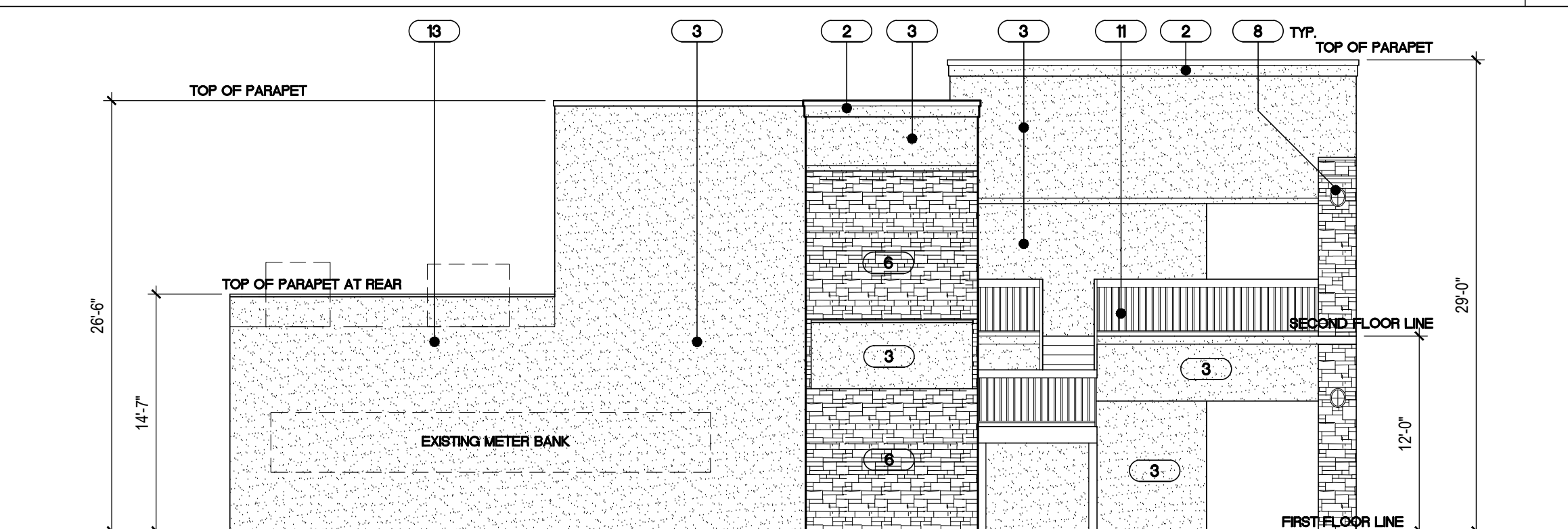
BUILDING 2 - EXISTING EAST ELEVATION (SIDE) 6
SCALE: 1/8" = 1'-0" **A-103**



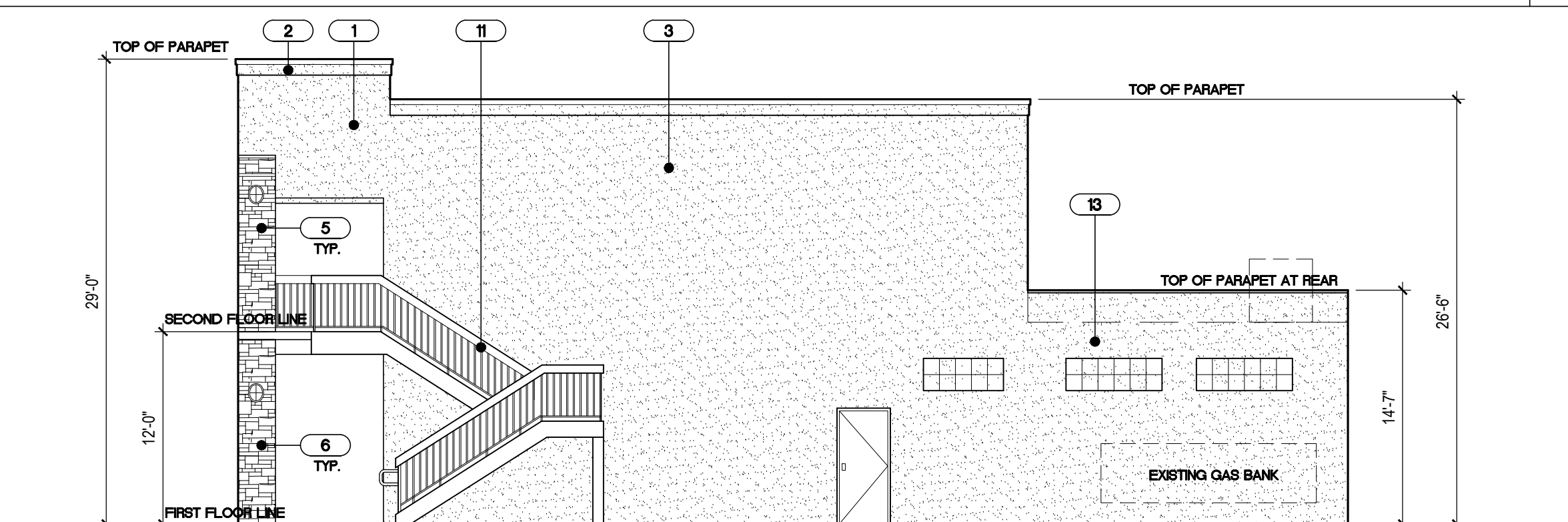
BUILDING 2 - EXISTING SOUTH ELEVATION (FRONT) 3
SCALE: 1/8" = 1'-0" **A-103**



BUILDING 2 - EXISTING NORTH ELEVATION (REAR) 4
SCALE: 1/8" = 1'-0" **A-103**



BUILDING 1 - EXISTING WEST ELEVATION (SIDE) 1
SCALE: 1/8" = 1'-0" **A-103**



BUILDING 1 - EXISTING EAST ELEVATION (SIDE) 2
SCALE: 1/8" = 1'-0" **A-103**

EXHIBIT A

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, CREATING PLANNED DEVELOPMENT DISTRICT _____ BASED ON LOCAL RETAIL DISTRICT REGULATIONS WITH MODIFIED USES AND DEVELOPMENT STANDARDS LOCATED AT 4021 BELT LINE ROAD; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); AND PROVIDING FOR SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission, the information received at a public hearing, and other relevant information and materials, the City Council of the Town of Addison, Texas finds that this amendment promotes the general welfare and safety of this community.

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

Section 1. The recitals and findings set forth above are hereby found to be true and correct and incorporated as if fully set forth herein.

Section 2. Planned Development District _____ is hereby established for the 3.02 acres of property located at 4021 Belt Line Road (the “Property”), to allow medical and dental offices and all other uses permitted in the Local Retail District (LR) in accordance with all LR district development regulations contained in the Town of Addison, Code of Ordinances, as amended, with the following special conditions:

- A. In addition to the uses allowed in the LR district regulations, the Property may be used for medical and dental offices.
- B. There shall be no 24 hour medical uses.
- C. The following special parking standards apply:
 - a. *Restaurant*. 1 space per 100 square feet (up to a maximum of 17,442 square feet)
 - b. *General Retail*. 1 space per 300 square feet
 - c. *Medical and Dental Office*. 1 space per 300 square feet
- D. The Property shall be developed in accordance with the site plan, landscape plan, and building elevations shown in **Exhibit A** attached hereto and incorporated herein.

EXHIBIT A

Section 3. The provisions of the Town of Addison Code of Ordinances, as amended, shall remain in full force and effect save and except as amended by this ordinance.

Section 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the city, as heretofore amended, and upon conviction shall be punished by a fine set in accordance with Chapter 1, General Provisions, Section 1.10, General penalty for violations of Code; continuing violations, of the Code of Ordinances for the Town of Addison.

Section 5. The provisions of this Ordinance are severable, and should any section, subsection, paragraph, sentence, phrase or word of this Ordinance, or application thereof to any person, firm, corporation or other business entity or any circumstance, be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of the remaining or other parts or portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining parts or portions of this Ordinance despite such unconstitutionality, illegality, or invalidity, which remaining portions shall remain in full force and effect.

Section 6. All ordinances of the City in conflict with the provisions of this Ordinance be, and the same are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 7. This Ordinance shall become effective from and after its passage and approval and after publication as may be required by law or by the City Charter or ordinance.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, on this the 14th day of February, 2017.

Todd Meier, Mayor

ATTEST:

Laura Bell, City Secretary

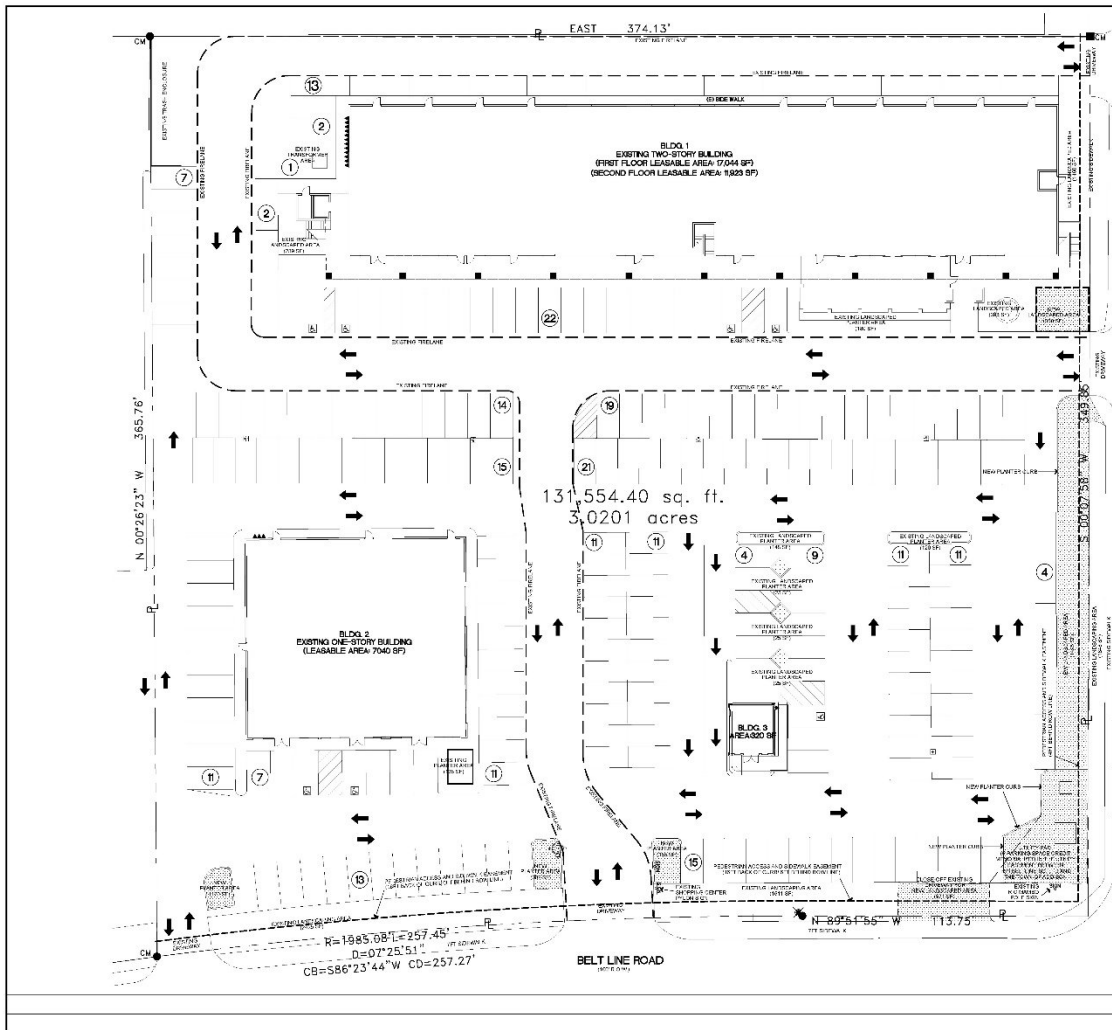
CASE NO: 1751-Z/Belt Line Square

APPROVED AS TO FORM:

Brenda N. McDonald, City Attorney

PUBLISHED ON: _____

EXHIBIT A



- FAÇADE PLAN NOTES:**
- THE FAÇADE PLAN IS FOR CONCEPTUAL PURPOSES ONLY. ALL BUILDING PLANS REQUIRE REVIEW AND APPROVAL BY DEVELOPMENT SERVICES.
 - ALL MECHANICAL UNITS SHALL BE SCREENED FROM PUBLIC VIEWS AS REQUIRED BY THE ZONING ORDINANCE.
 - WHEN PERMITTED, EXPOSED UTILITY BOXES AND CONDUITS SHALL BE PAINTED TO MATCH THE BUILDING.
 - ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL BY DEVELOPMENT SERVICES.
 - ROOF ACCESS SHALL BE PROVIDED INTERNALLY, UNLESS OTHERWISE PERMITTED BY THE CHIEF BUILDING OFFICIAL.

- LANDSCAPING ANALYSIS:**
- PLEASE REFER TO LANDSCAPING PLAN FOR LANDSCAPING ANALYSIS AND LANDSCAPING CALCULATIONS.

BEING PART OF LOT 4 OF WATSON SUBDIVISION NO. 2 AND ADDITION TOWN OF ADDISON, DALLAS COUNTY, TEXAS. PREPARED: JANUARY 3, 2017

CONCEPTUAL SITE SCALE

EXHIBIT A

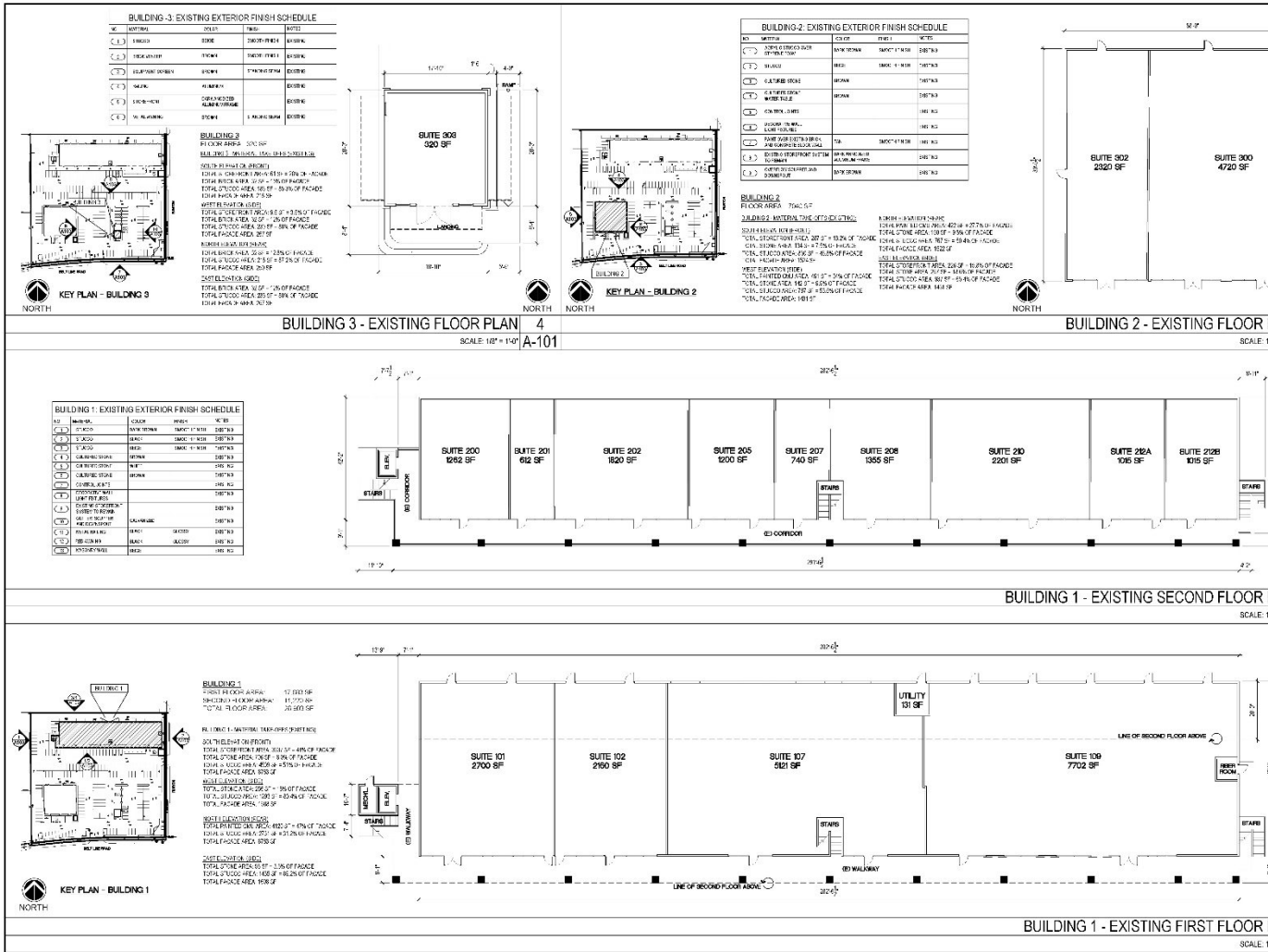
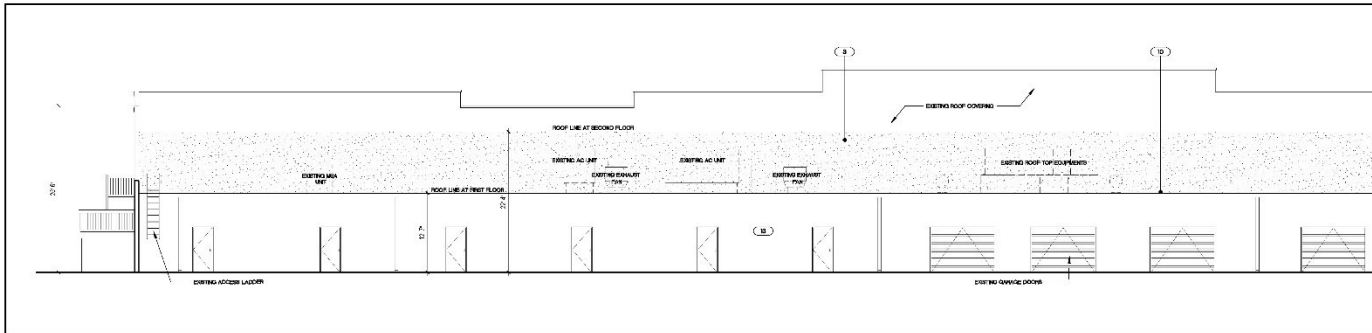
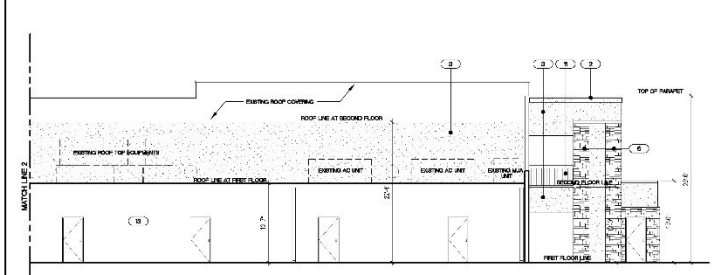


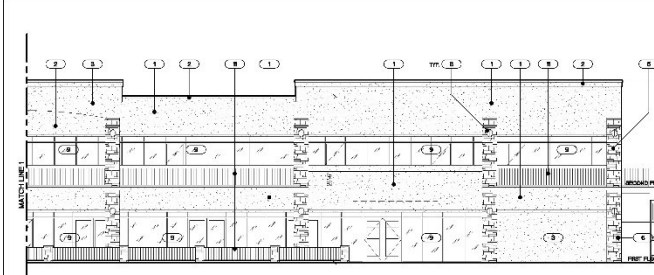
EXHIBIT A



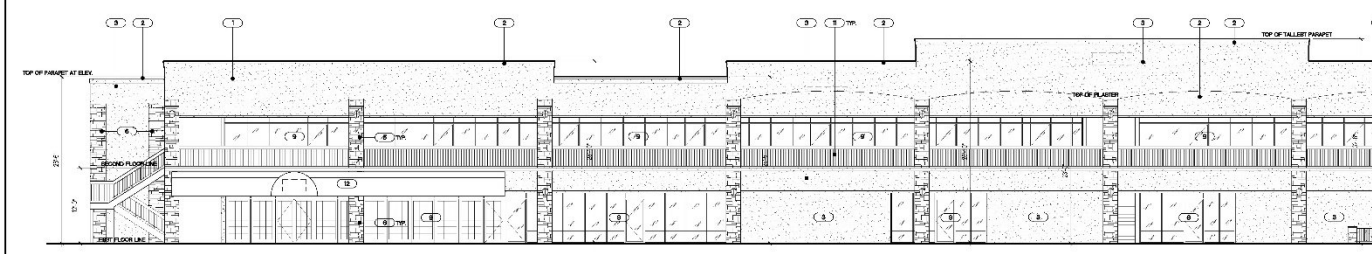
BUILDING 1 - EXISTING NORTH ELEVATION (FRONT)



BUILDING 1 - EXISTING NORTH ELEVATION (REAR) 3
SCALE: 1/8" = 1'-0" A-102



BUILDING 1 - EXISTING SOUTH ELEVATION (FRONT)



BUILDING 1 - EXISTING SOUTH ELEVATION (FRONT)

EXHIBIT A

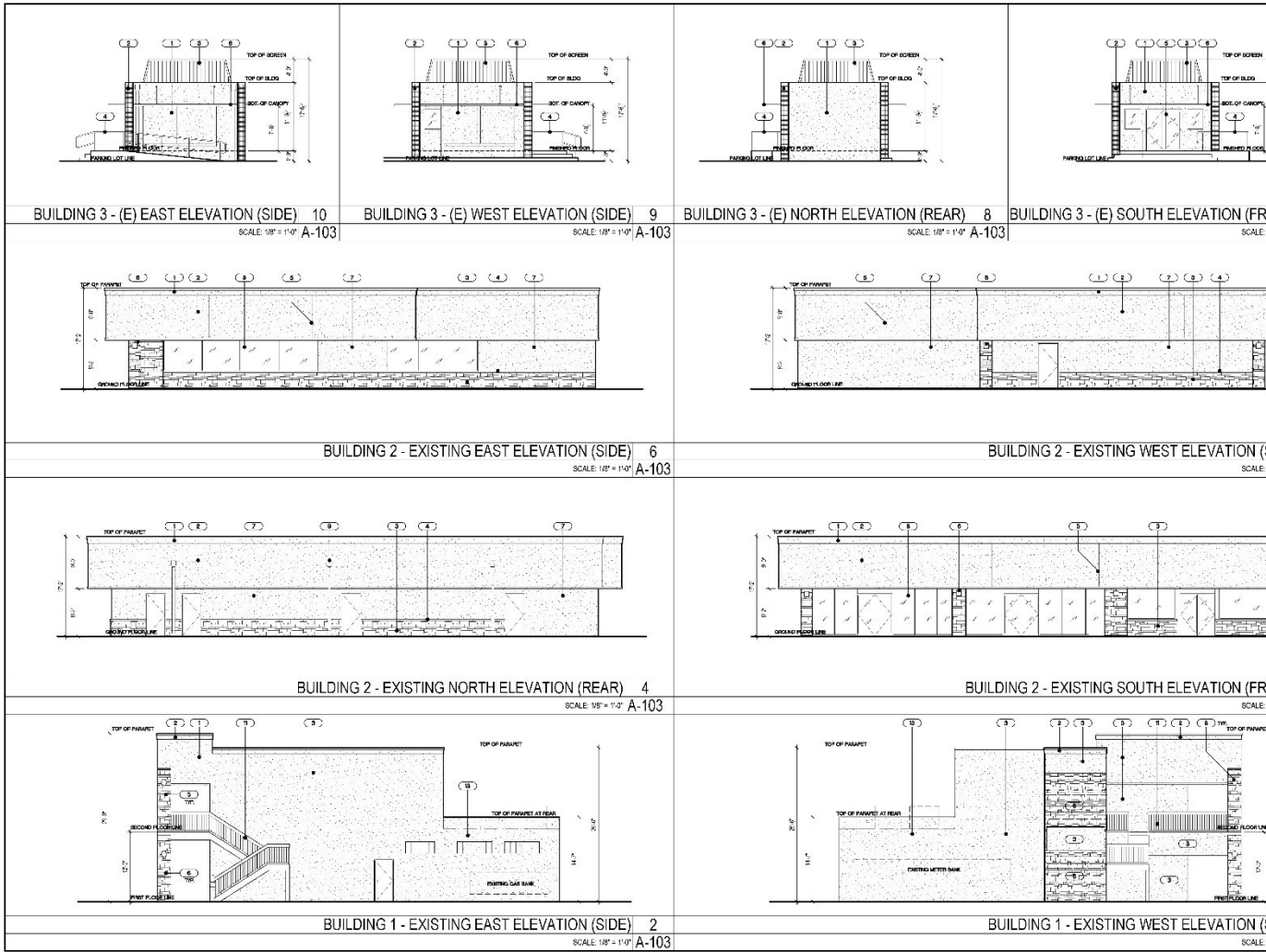
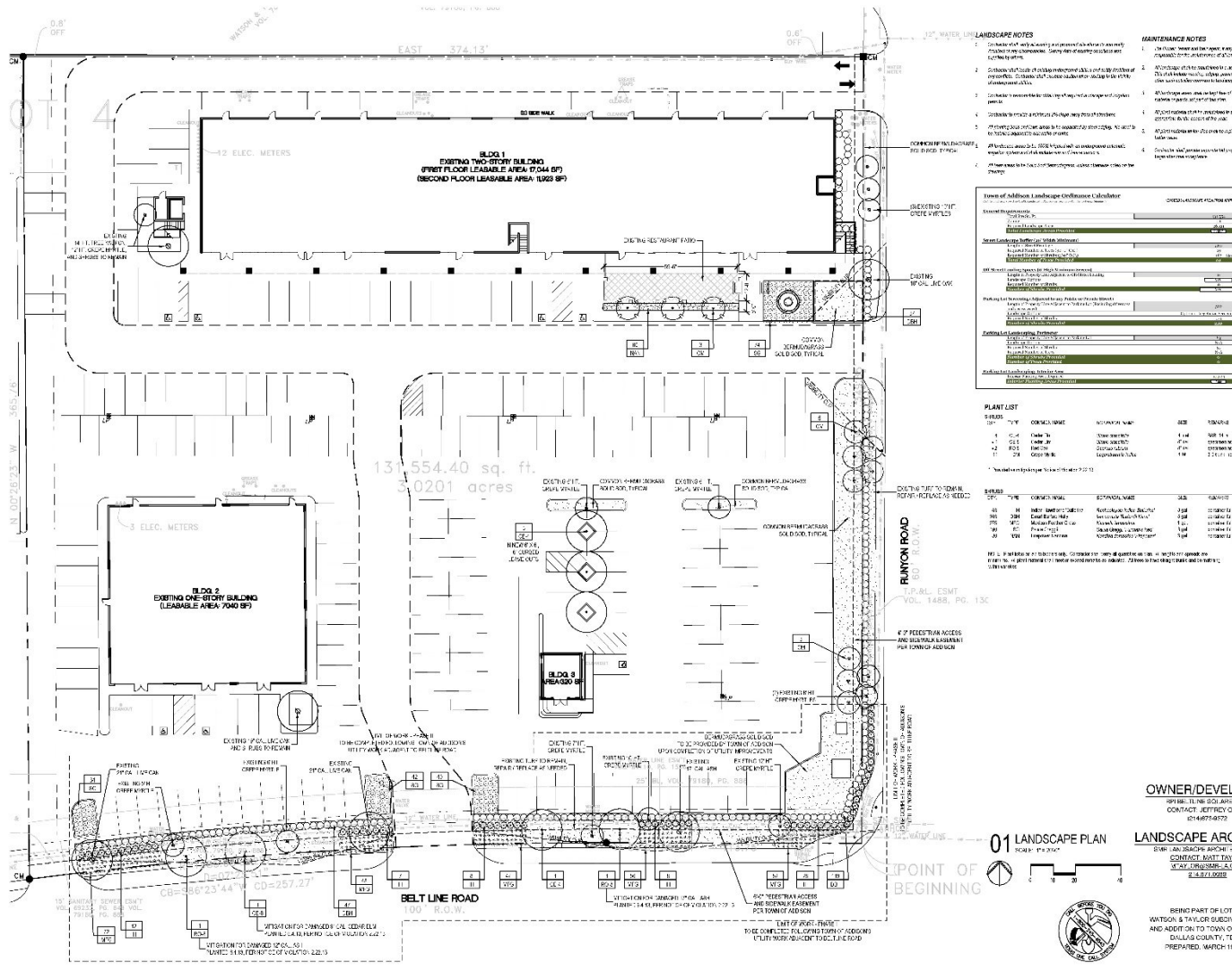


EXHIBIT A



Work Session and Regular Meeting**Meeting Date:** 02/28/2017**Department:** Infrastructure- Development Services**AGENDA CAPTION:**

Present, Discuss And Consider Action On A **Resolution To Approve A Professional Services Agreement With Eikon Consulting Group LLC, For The Design Of A Vehicle Storage Building Located At The Kellway Lift Station Site And Authorize The City Manager To Execute The Agreement In An Amount Not to Exceed \$68,230.**

BACKGROUND:

In the Fiscal Year (FY) 2016 budget, the Utility division of the Infrastructure and Development Services Department purchased two new vehicles, the Gap-Vac and TV Van. Both vehicles are critical to the daily maintenance and operations of the water, wastewater, and stormwater systems within the Town. They provide the ability to perform normal maintenance for the underground infrastructure associated with the sanitary sewer and stormwater systems as well as to respond to emergencies.

In order to extend the life of these vehicles and because they have complex electronic and hydraulic systems, they should be stored in a semi-climate controlled, indoor environment. There is not enough space to accommodate these large vehicles at the Service Center on Westgrove Drive. Budgeted in the adopted FY2017 Utilities Capital Fund is \$75,000 to design a new vehicle storage building to be located at the Kellway Lift Station at 4245 Kellway Circle on the west side of the Addison Airport.

In November 2016, a Request For Qualifications (RFQ) to solicit qualified engineering and architectural firms for this project was posted. The RFQ closed in December 2016 and two responses were received. Both firms were interviewed and Eikon Consulting Group, LLC was selected as the most qualified to provide the design services. Eikon has a long history of designing vehicle storage and maintenance facilities and they are highly recommended by their references. The scope of services for this project includes architectural and civil engineering design by Eikon and survey and geotechnical engineering services by various subcontractors. The building will be designed according to all applicable codes and Town regulations.

The cost for this design work is \$68,230 and is budgeted for in the Utility Capital Projects Fund. The total budget for the project is \$650,000 for design and construction. The design is expected to take approximately 5 months to complete.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution with Agreement - Eikon

Certificate of Interested Parties - Eikon

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN THE TOWN OF ADDISON AND EIKON CONSULTING GROUP, LLC, FOR ARCHITECTURAL AND CIVIL ENGINEERING SERVICES ASSOCIATED WITH THE KELLWAY VEHICLE STORAGE BUILDING IN THE AMOUNT OF \$68,230 AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Agreement for Professional Engineering Services between the Town of Addison and Eikon Consulting Group, LLC, for Architectural and Civil Engineering services associated with the Kellway Vehicle Storage Building in the amount of \$68,230, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 14th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

**AGREEMENT
BETWEEN
THE TOWN OF ADDISON, TEXAS (TOWN)
AND
(EIKON Consulting Group, LLC) (CONSULTANT)
FOR
PROFESSIONAL ENGINEERING SERVICES**

Made as of the ____ day of _____ in the year 2016,

BETWEEN the Town: The Town of Addison, Texas
 16801 Westgrove Drive
 Addison, Texas 75001
 Telephone: (972) 450-7001

and the Consultant: EIKON Consulting Group, LLC
 1405 W Chapman Drive
 Sanger, Texas 76266
 Telephone: (940) 458-7503

for the following Project: Town of Addison Storage Facility

The Town and the Consultant agree as set forth below.

THIS AGREEMENT is made and entered by and between the **Town of Addison, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "Town," and **EIKON Consulting Group, LLC**, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as "Agreement."

WHEREAS, the Town desires to engage the services of the Consultant to provide professional services which shall include, but not be limited to, professional architectural and engineering services for the design of a new storage facility to store large equipment. Currently the Town has purchased a new vac truck and CCTV truck that will be kept in this storage facility. The Town may purchase additional equipment in the future so the facility needs to take into account the growth that may occur. At this time a 10,000 square foot facility has been identified by the Town to be sufficient for current and future equipment. The facility will be located on Kellway Circle near adjacent to the existing lift station on Town property. within the Town of Addison, Texas; hereinafter referred to as "Project"; and

EXHIBIT A

WHEREAS, the Consultant desires to render such professional engineering services for the Town upon the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

ARTICLE 1 CONSULTANT'S SERVICES

- 1.1 **Employment of the Consultant** – The Town hereby agrees to retain the Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform such services as are set forth and described in Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit "A," in the form of written change orders, may be authorized from time to time by the Town.
 - 1.2.1 **Requirement of Written Change Order** – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the Addison Town Manager, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Addison Town Council's authorization for the Addison Town Manager to execute said change order.
 - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE ADDISON TOWN MANAGER.** Project Managers, Superintendents, and/or Inspectors of the Town are not authorized to issue verbal or written change orders.
- 1.3 **Schedule of Work** – The Consultant agrees to commence work immediately upon the execution of this Agreement and receipt of written Notice to Proceed, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as **Exhibit "B"** and incorporated

EXHIBIT A

herein by reference for all purposes, but in no event shall the Project be completed any later than as identified in **Exhibit "A"**.

- 1.4 **Failure to Meet Established Deadlines** – Consultant acknowledges that time is of the essence in the performance of services under this Agreement as set forth in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B."

ARTICLE 2 THE TOWN'S RESPONSIBILITIES

Town shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 **Project Data** – The Town shall furnish required information that is currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **Town Project Manager** – The Town shall designate, when necessary, a representative authorized to act on the Town's behalf with respect to the Project (the "Project Manager"). The Town or such authorized representative shall examine the documents submitted by the Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of the Consultant's services. The Project Manager is not authorized to issue verbal or written change orders for "extra" work or "claims" invoiced as "extra" work.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services," compensation for this Project shall be on a Type of Payment Basis not to exceed **Sixty-Three Thousand Two Hundred Thirty and 00/100 Dollars (\$63,230)** and **Reimbursables not to exceed Five Thousand and 00/100 Dollars (\$5,000)**, ("Consultant's Fee") and shall be paid in accordance with Article 3 and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B." **The final five percent (5%) of the Consultant's Fee, or Three Thousand One Hundred Sixty-One and 50/100 Dollars (\$3,161.50), shall not be paid until the Consultant has completed all of the services described in Exhibit "A" and delivered to the Town all of the documents, plans, data, maps, and/or other information required in Exhibit "A."**

EXHIBIT A

- 3.1.1 **Completion of Final Report** – Town and Consultant agree that the Final Report shall be completed, submitted to, and accepted by the Town prior to payment of the **final five percent (5%) of the Consultant's Fee, or Three Thousand One Hundred Sixty-One and 50/100 Dollars (\$3,161.50)**. The electronic formatting shall be in AutoCAD or similar drafting format. Completion of the Record Documents and/or "As-Built" documents, if any, shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement.
- 3.2 **Direct Expenses – Direct Expenses are included in the Consultant's Fee as described** in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with Exhibit "C," Town of Addison Guidelines for Direct Expenses, General and Administrative Markup, and Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the Town for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the Town's sole and exclusive remedy for said overpayment.
- 3.3 **Additional Services** – The Consultant shall provide the services as described in the Scope of Services as set forth in Exhibit "A" of this Agreement. If authorized in writing by the Town, the Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph ("Additional Services"). These services may include, but are not limited to:
- 3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in Exhibit "A."
- 3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in Exhibit "A." Drafts or revisions required as the result

EXHIBIT A

of errors or omissions by the Consultant shall not be considered Additional Services, but shall fall within the Scope of Services.

- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
- 3.3.5 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to Town.

EXHIBIT A

Hourly Billable Rates by Position

CEO/President/Vice-President:	\$215
Principal:	\$175
Director:	\$160
Senior Engineer:	\$150
Architect:	\$150
Landscape Architect:	\$150
Construction Administrator:	\$150
Project Manager:	\$135
Staff Engineer (EIT):	\$120
Senior Designer:	\$110
CAD Operator:	\$90
Construction Inspector:	\$85
Administrative Staff:	\$65
Geotechnical Mobilization:	\$300 per mile
Soil Sampling:	\$17/foot
Soil Testing:	\$7
Moisture Content:	
Atterburg Limit:	\$65
Swell Test:	\$120
Unconfined Compression:	\$40
Other testing quoted as needed	

**Minimum charge \$75

- 3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to the Town. Invoices are to be mailed to Town immediately upon completion of each individual task listed in Exhibit “B.” On all submitted invoices, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.
- 3.5 **Timing of Payment** – Town shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by Town to Consultant is considered to

EXHIBIT A

be complete upon mailing of payment by Town. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.

- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by Town, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. Town shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date the Town receives the invoice. Town shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of the Consultant, Town shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the Town, Consultant shall submit to Town a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid Town in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. Town agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 **Failure to Pay** – Failure of the Town to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to the Consultant within sixty (60) days from the date of the invoice shall grant the Consultant the right, in addition to any and all other rights provided, to, upon written notice to the Town, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to Town, in accordance with Chapter 2251, Subchapter “D” (“Remedy for Nonpayment”) of the *Texas Government Code*. The Town shall not be required to pay any invoice submitted by the Consultant if the Consultant breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project or if the Consultant’s services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of the Consultant’s compensation shall be equitably adjusted as approved by Town. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.

EXHIBIT A

- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of Town in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to Town all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Consultant's compensation shall be equitably adjusted as approved by the Town. Any additional amounts paid to the Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of the Town** – The Project is the property of the Town, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials for any other purpose not relating to the Project without Town's prior written consent. Town shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit "A." Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 7, Consultant will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project and promptly furnish the same to the Town in an acceptable electronic format. All such reproductions shall be the property of the Town who may use them without the Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that Town is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the Town and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (*Texas Government Code*, Chapter 552) and any other applicable laws

EXHIBIT A

requiring public disclosure of the information contained in said documents.

ARTICLE 5 CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required Professional Liability Insurance** – Consultant shall maintain, at no expense to Town, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required General Liability Insurance** - Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, a general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor

EXHIBIT A

Insurance Requirements, Consultant shall maintain, at no expense to Town, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to the Town, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Consistent with the terms and provisions of Exhibit "F," such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that the same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the Town as indicated in Article 3.4. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be included in the monthly invoices.

EXHIBIT A

ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE

The Consultant agrees that at any time during normal business hours and as often as the Town may deem necessary, Consultant shall make available to representatives of the Town for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the Town to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated on the Affidavit, attached hereto as Exhibit "E" and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit attached hereto as Exhibit "E". Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit "F" and incorporated herein for all purposes.

If the Agreement is required to go to the City Council for approval, then the Consultant shall execute and deliver to the Town the Form 1295 Certificate of Interested Parties, as required by section 2252.908, Texas Government Code, as amended, prior to the City's execution of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES

Town may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If Town terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds the Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the Town is required to pay in order to finish the Project. On any default and/or breach by Consultant, Town may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from the

EXHIBIT A

Consultant's Fee due Consultant as set forth in Article 3 herein. If Town terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of the Town in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to Town all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION / MEDIATION

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

ARTICLE 10 INDEMNITY

CONSULTANT SHALL HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENTS), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF

EXHIBIT A

PROFESSIONAL SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. THIS INDEMNIFICATION SHALL EXTEND TO THE PAYMENT OR REIMBURSEMENT OF THE TOWN'S REASONABLE ATTORNEYS FEES AND ASSOCIATED COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONSULTANT'S LIABILITY.

CONSULTANT SHALL PROMPTLY NOTIFY TOWN OF THE DEFENSE COUNSEL RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER, AND TIMELY NOTIFY TOWN OF ANY AND ALL LEGAL ACTIONS TAKEN BY THE DEFENSE COUNSEL REGARDING ANY AND ALL CLAIMS.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Consultant agrees that all notices or communications, including invoices, to Town permitted or required under this Agreement shall be delivered to Town at the following addresses:

Director of Infrastructure and Development Services

EXHIBIT A

Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

P.O. Box 9010
Addison, Texas 75001

Town agrees that all notices or communication to Consultant permitted or required under this Agreement shall be delivered to Consultant at the following addresses:

EIKON Consulting Group, LLC
1405 W Chapman Drive
Sanger, Texas 76266

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

ARTICLE 12 MISCELLANEOUS

12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modifies except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

12.1.1 Exhibit “A,” Scope of Services.

12.1.2 Exhibit “B,” Compensation Schedule / Project Billing / Project Budget.

12.1.3 Exhibit “C,” Town of Addison Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.

12.1.6 Exhibit “D,” Town of Addison Contractor Insurance Requirements.

EXHIBIT A

12.1.7 Exhibit "E," Affidavit.

12.1.8 Exhibit "F", Conflict of Interest Questionnaire, Form CIQ.

- 12.2 **Assignment and Subletting** – The Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the Town. The Consultant further agrees that the assignment or subletting or any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Consultant of its full obligations to the Town as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.
- 12.3 **Successors and Assigns** – Town and Consultant, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.4 **Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.
- 12.5 **Venue** – This entire Agreement is performable in Dallas County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Dallas County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for an on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his

EXHIBIT A

or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.14 **No Third Party Beneficiaries** -- Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

EXHIBIT A

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Effective Date: _____

TOWN:
Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

CONSULTANT:
EIKON Consulting Group, LLC

By: Brad Isbell
Brad Isbell, President

Date: 2/16/2017

EXHIBIT A

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Wesley S. Pierson**, Town of Addison, Texas City Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 2016.

Notary Public In and For the State of Texas
My commission expires: _____

STATE OF _____ Texas §
COUNTY OF _____ Denton §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Brad Isbell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16th day of February, 2016.

Notary Public In and For the State of Texas
My commission expires: 2/23/2016

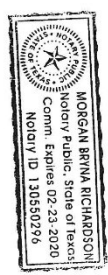


EXHIBIT A

Exhibit "A"

Scope of Services

Architectural

- Programming- Develop program elements with owner including overall size of the building.
- Code Review-Review code issues such as fire sprinkler requirements, building egress and other pertinent code items.
- Egress Plan-Indicate overall building occupant load and exit requirements.
- Floor Plans-Ground floor plan.
- Exterior Building Elevations-(all sides)
- Wall Sections-(2 planned)
- Development of Construction Documents as required for permitting and construction bid documents.
- Development of Project Manual-Specifications as required for construction bid documents.
- Energy Code – Envelope COMCheck-If applicable.
- Opinion of Probable Cost-
- Accessibility Plan Review- Through RAS state inspector.

Geotechnical Investigation

- Geotechnical subsurface investigation of proposed site
- EIKON will engage a third party subcontractor to complete borings as follows with truck mounted drilling equipment:
 - 1 boring to a depth of 35' beneath the proposed building site
 - 2 borings to a depth of 25' beneath the proposed pavement areas
 - *depths of borings may be modified depending on field conditions*
- EIKON will complete a maximum of one site visit in order to determine location of borings
- EIKON will complete testing on the soil samples with type and amount of testing to be determined by the Engineer:
 - Moisture Content, Atterberg Limits, Swell Tests, Unconfined Compression Testing, Pocket Penetrometer Readings, Determination of Suction Values, Hydrometer, % fine clay readings, % Passing #200 Sieve, Unit Weight Determinations
- Written Geotechnical Report to include:
 - Report and Recommendations for alternate foundation types, bearing values, Potential Vertical Movement estimates, and required soil modification to reduce the PVM for proposed site

EXHIBIT A

- Boring Logs with full testing data

Civil

- EIKON will prepare construction plans that will include the building and site improvements suitable for construction and bidding. Water and sanitary sewer utilities are available adjacent to the site to serve this project. EIKON will prepare the following design plans:
 - Existing Conditions and Demolition Plan
 - Site and Dimensional Control Plan (Site Plan with Dimensional Control)
 - Staging Plan
 - Existing and Proposed Drainage Area Maps (with calculations)
 - Paving Profile
 - Utility Plan and Details
 - Site Grading, Paving and Striping Plan
 - Recommended Erosion and Sediment Control Plan
 - Site Construction Details
 - Erosion Control Details
 - Development of Specifications

Topographic Survey

EIKON will subcontract with a Registered Professional Land Surveyor to complete a topographic and tree survey for the project area. Existing above grade features such as water and wastewater service locations and mains, inlet and storm drain flow lines, franchised utility locations, contours and other features will be obtained as determined from above ground Texas 811 markings, on-the-ground observation of features and appurtenances, and available City record drawings.

Landscape Architecture

- Landscape Design for City Landscape Ordinance Compliance
- Irrigation design by performance specifications
- Development of Specifications

Structural

- Foundation Plan
- Roof Framing Plan
- Details and Sections
- Development of Specifications

EXHIBIT A

Mechanical, Electrical, Plumbing

- Lighting design
- Power, signal, and electrical distribution design
- Plumbing design
- Design of rough-in requirements for data, security, and communications systems
- Fire alarm
- Fire protection performance specifications
- Energy code analysis for lighting systems
- Development of Specifications

Construction Administration

- Permitting Assistance
- Bidding Assistance
- Checking shop drawings
- Answering RFIs
- Clarification Drawings as Requested
- Review Payment Applications
- Project Close Out
- Accessibility Inspection Coordination

Assumptions

Typical Assumptions

- Client will provide necessary information for timely completion of the project including all existing plans for the lift station and equipment information such as weights, length and heights etc.
- EIKON will not provide the following services:
 - Continuous On-Site Observation or Quality Control
 - Construction Management
 - Construction Materials Testing
- American Disabilities Act (ADA) or Texas Accessibility Standards (TAS) review will be required and will be a reimbursable expense
- EIKON's fee assumes that the project will progress in a continuous and orderly fashion and we will expedite the project as much as practical. Significant project delays through no fault of EIKON may be basis for negotiation of additional fee for professional services.
- In the event that additional work is required in connection with this project, we propose to complete the work on an hourly basis at our current rates then in effect. Prior to the start of any new work, we will identify a Scope of Work with associated tasks, submit a budgetary cost estimate, and a proposed work schedule for your approval.
- Substantial Changes in the project scope by the Client and/or the Owner/Architect after conceptual design is completed and/or after any City

EXHIBIT A

submittals and/or approvals will be an extra service requiring a separate proposal/extra work authorization.

- Construction as-built drawings are included.
- Permitting and approvals are anticipated to be limited to the Town of Addison and FAA Form 7460.
- Design of data, security, and communication systems not required. .

Geotechnical Assumptions

- Clearing to obtain access to testing site to be performed by a third party
- Additional site visits to repair/replace soil within test borings due to settlement. Soil will be replaced within each test boring hole, however it will not be to its original compaction. Settlement of the hole may occur or the hole may be washed out completely.
- Repair of pavement or grading of sites after completion of testing due to drilling rig causing damage to property due to the weight of the machine will be performed by a third party.
- Use of ATV Buggy rig to access the site due to soil and site conditions may be necessary. Additional cost will be associated with this service. This will only be completed after authorization from the client.

Civil Assumptions

- We assume that the Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) will be prepared by the Contractor.
- Onsite drainage will be designed to sheet flow to drain into the existing drainage system.
- The existing onsite utilities have adequate capacity to serve the proposed facility. Sanitary sewer service and water supply will be provided by connection to the existing onsite utilities without any improvements or modification.
- Earthwork calculations will not be required.
- Platting will not be required.
- Preparation and submittal of reports, calculations and drawings to FEMA for a proposed revision to the Flood Insurance Rate Map are not included. Should these be required, EIKON will submit a proposal or Extra Work authorization at the appropriate time for this work.
- We assume existing utility connections will be used. No extension of City mains is included in this scope. Should extension of existing City mains be desired, EIKON will submit a proposal or Extra Work Authorization for this design.
- No Traffic Impact Study is required.
- No Storm Water detention is required for this site.
- No Rezoning is required for the site.

Meetings

EXHIBIT A

- EIKON will have formal meetings with the Town at the project kickoff and submittal stages.
- EIKON will plan for 2 DRC staff level meetings.
- EIKON will plan to attend the Council meeting to recommend award of the bid.
- EIKON will plan to hold a Pre-Bid meeting, Pre-Construction meeting and monthly site meetings during construction.
- EIKON will provide Jason with talking points for Council updates.

Deliverables

- EIKON will deliver 1 set of 22x34 and 1 set of 11x17 size drawings to the client at SD, 50% and 95%.
- EIKON will submit PDF format electronic drawings for all submissions.

EXHIBIT A

EXHIBIT "B" COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Agreement by and between the Town of Addison (Town) and EIKON Consulting Group, LLC (Consultant) to perform Professional Engineering Services for Equipment Storage Facility

I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.

Compensation

- Fixed Fee (refer to the scope of services and assumptions): **\$63,230**
- Reimbursable fees not to exceed **\$5,000** for all project related expenses including, but not limited to, regulatory fees, postage/shipping, printing/reproduction, mileage, and travel expenses.

Invoices are processed monthly and are based on a percentage of completion. Invoices are to be paid within 30 days after the delivery of an invoice from EIKON.

Schedule

Below is an anticipated production schedule for the Equipment Storage Facility project for the Town of Addison.

2.28.2017	Town Council Award to EIKON
3.1-3.29.2017	Gather Information: <ul style="list-style-type: none">• Survey• Geotechnical• Program• Site Layout
3.6.2017	Mandatory Pre-Submittal Meeting
3.7.2017	Begin Site Plan Design and DC Design
3.30-4.6.2017	Schematic Design – Owner Review of SD Drawings
4.7.2017	Submit Site Plan, Façade, Open Space, Preliminary Drainage, Preliminary Utility
4.7-4.28.2017	Construction Documents up to 50%
5.1-5.5.2017	Owner Review
5.6-5.15.2017	Construction Documents up to 95%
5.17.2017	Submit Building Permit Plans
5.16-5.23.2017	Owner Review
5.24-6.2.2017	Finalize Bid Documents
7.12.2017	Receive Approvals

EXHIBIT A

EXHIBIT "C" TOWN OF ADDISON GUIDELINES FOR DIRECT EXPENSES; GENERAL AND ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

- I. **CONSULTANT'S RESPONSIBILITY.** The Consultant shall be solely responsible for the auditing of all direct expense, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those to be included under a sub-contract, prior to the Town for reimbursement, and Consultant shall be responsible for the accuracy thereof. Any overpayment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment(s) for services; however, this shall not be the Town's sole and exclusive remedy for said overpayment.

II. **GUIDELINES FOR DIRECT EXPENSES.**

- A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of the Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall Town reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of Town's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by Town. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

- B. **Supplies, Material, Equipment** – Town shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by Town's Project Manager in writing.
- C. **Commercial Reproduction** – Town shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to Town at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- D. **In-House Reproduction** - Consultant shall make arrangements with the Town for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number or

EXHIBIT A

reproductions, the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – Town shall reimburse the actual cost of plots, specifically limited to final documents, provided the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with Town for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – Town shall reimburse the actual cost of postage and delivery of Instruments of Service, provided the Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Town, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Consultant and/or the Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with the Town's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

EXHIBIT A

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

1. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to Town specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to Town what costs would be considered direct costs. Town shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. Town reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

1. **Adherence to Currently Adopted Town Travel Policy** – Unless otherwise stated within this Agreement, reimbursements shall be governed by the same travel policies provided for Town employees according to current adopted policy. All lodging and meals are reimbursed in accordance with IRS rules and rates as shown on the U.S. General Services Administration website for the Town: <http://www.gsa.gov/portal/category/21287>.
2. Prior to the event, Consultant shall request, and the Town shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT A

EXHIBIT "D" TOWN OF ADDISON PROFESSIONAL SERVICES/CONSULTANT INSURANCE GUIDELINES

REQUIREMENTS

Contractors performing work on CITY OF ADDISON property or public right-of-way shall provide the CITY OF ADDISON a certificate of insurance or a copy of their insurance policy(s) (and including a copy of the endorsements necessary to meet the requirements and instructions contained herein) evidencing the coverages and coverage provisions identified herein within ten (10) days of request from CITY OF ADDISON. Contractors shall provide CITY OF ADDISON evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. Work shall not commence until insurance has been approved by CITY OF ADDISON.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must have a A.M. Best's rating A-:VII or greater.

Listed below are the types and minimum amounts of insurances required and which must be maintained during the term of the contract. CITY OF ADDISON reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1. Workers' Compensation Employers' Liability to include: (a) each accident (b) Disease Policy Limits (c) Disease each employee	Statutory Limits per occurrence Each accident \$1,000,000 Disease Policy Limits \$1,000,000 Disease each employee \$1,000,000	CITY OF ADDISON to be provided a <u>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.
2. Commercial General (Public) Liability to include coverage for: a) Bodily Injury b) Property damage c) Independent Contractors d) Personal Injury e) Contractual Liability	Bodily Injury/Property Damage per occurrence \$1,000,000, General Aggregate \$2,000,000 Products/Completed Aggregate \$2,000,000, Personal Advertising Injury per occurrence \$1,000,000, Medical Expense 5,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.
3. Business Auto Liability to include coverage for: a) Owned/Leased vehicles b) Non-owned vehicles c) Hired vehicles	Combined Single Limit \$1,000,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII-rated or above.

EXHIBIT A



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/07/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McLaughlin Brunson Insurance Agency, LLP 12801 N. Central Expressway Suite 1710 Dallas TX 75243	CONTACT NAME: Melissa Pratt PHONE (A/C, No, Ext): (214) 503-1212 FAX (A/C, No): (214) 503-8899 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: Travelers Casualty & Surety Co 19038 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED (940) 367-3324 EIKON Consulting Group, LLC 1405 West Chapman Drive Sanger TX 76266	

COVERAGES **CERTIFICATE NUMBER:** Cert ID 32982 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR	INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability	Y		105968214	07/21/2016	07/21/2017	Per Claim/ Annual Aggregate \$ 2,000,000 \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty day notice of cancellation in favor of certificate holder. **Add'l Named Insureds: Eikon Consultant Group, David Isbell, P.E., Brad Isbell, P.E., Jeff Isbell, P.E., and Justin Davidson, P.E.

CERTIFICATE HOLDER The Town of Addison, Texas 16801 Westgrove Dr Addison TX 75001	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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EXHIBIT A


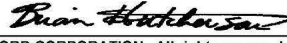
	CERTIFICATE OF LIABILITY INSURANCE	DATE (MM/DD/YYYY) 2/7/2017																
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p>																		
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PRODUCER Hutcherson Ins. Group P.O. Box 2096 Denton TX 76202	CONTACT NAME: Misty Links PHONE (A/C, No. Ext): (940) 382-9696 FAX (A/C, No): (940) 387-6962 E-MAIL ADDRESS: misty@hutchinsure.net																	
INSURED Eikon Consulting Group LLC 1405 W Chapman Dr Sanger TX 76266	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A :American Fire & Casualty</td> <td>24066</td> </tr> <tr> <td>INSURER B :Ohio Casualty Insurance Company</td> <td>24074</td> </tr> <tr> <td>INSURER C :Ohio Security Insurance Company</td> <td>24082</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A :American Fire & Casualty	24066	INSURER B :Ohio Casualty Insurance Company	24074	INSURER C :Ohio Security Insurance Company	24082	INSURER D :		INSURER E :		INSURER F :			
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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS												
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A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/>	X Y	BAA55346014	7/27/2016	7/27/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined \$ 1,000,000												
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X Y	USO55346014	7/27/2016	7/27/2017	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000												
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	XWS55346014	7/27/2016	7/27/2017	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">PER STATUTE</th> <th style="text-align: left;">OTH-ER</th> <th style="text-align: left;">LIMIT</th> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td></td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td></td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td></td> <td>\$ 1,000,000</td> </tr> </table>	PER STATUTE	OTH-ER	LIMIT	E.L. EACH ACCIDENT		\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE		\$ 1,000,000	E.L. DISEASE - POLICY LIMIT		\$ 1,000,000
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E.L. DISEASE - POLICY LIMIT		\$ 1,000,000																
<p>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Certificate Holder is listed as Additional Insured with Waiver of Subrogation on all above referenced liability policies with presence of written contract.</p>																		
CERTIFICATE HOLDER				CANCELLATION														
The Town of Addison, Texas 16801 Westgrove Drive Addison, TX 75001				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Brian Hutcherson/ML 														
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EXHIBIT A

Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) may be **faxed** to the Purchasing Department: **972-450-7074** or emailed to: purchasing@addisontx.gov. Questions regarding required insurance should be directed to the Purchasing Manager.

With respect to the foregoing insurance,

1. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the City of Addison.
2. All insurance policies shall be endorsed to require the insurer to immediately, or no later than thirty (30) days, notify the City of Addison, Texas of any material change in the insurance coverage.
3. All insurance policies shall be endorsed to the effect that the City of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name the City of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the City of Addison and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Upon request, Contractor shall furnish the City of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

This form must be signed and returned with your quotation. You are stating that you do have the required insurance and if selected to perform work for CITY OF ADDISON, will provide the certificates of insurance (and endorsements) with the above requirements to CITY OF ADDISON within 10 working days.

A CONTRACT/PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE AND APPROVAL OF INSURANCE.

AGREEMENT

I agree to provide the above described insurance coverages within 10 working days if selected to perform work for CITY OF ADDISON. I also agree to require any subcontractor(s) to maintain insurance coverage equal to that required by the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

Project/Bid# Town of Addison Equipment Storage Facility
Company: EIKON Consulting Group, LLC
Printed Name: Brad Isbell
Signature:  Date: 2/16/17

EXHIBIT A

EXHIBIT "E"
AFFIDAVIT

THE STATE OF TEXAS §
THE COUNTY OF DALLAS §

I, Brad Isbell, a member of EIKON Consulting Group, LLC, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

_____ Ownership of 10% or more of the voting shares of the business entity.
_____ Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.

_____ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.

_____ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000.00).

_____ A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.

Other: _____

None of the Above.

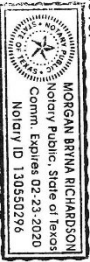
Upon filing this affidavit with the Town of Addison, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of a public body which took action on the agreement.

Signed this 16th day of February, 2016.

Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Brad Isbell and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 16th day of February, 2016.



Morgan Brina Richardson
Notary Public in and for the State of Texas
My commission expires: 2/23/2020


EXHIBIT A

EXHIBIT "F" CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

FORM CIQ CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity	
This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.	OFFICE USE ONLY
	Date Received
1. Name of person who has a business relationship with local governmental entity. Brad Isbell	
2. Check this box if you are filing an update to a previously filed question <input type="checkbox"/>	
(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)	
3. Name of local government officer with whom filer has employment or business relationship. _____ Name of Local Government Officer	
This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.	
A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
D. Describe each employment or business relationship with the local government officer named in this section. _____ _____ _____ _____ _____	

EXHIBIT A

EXHIBIT "F" CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

4. Signature of person doing business with the governmental entity Date:	
 _____ Signature	2/16/17 _____ Date

Local Government Officers Town of Addison, Texas

For purposes of completion of the required Conflict of Interest Questionnaire for the Town of Addison Texas (required by all Vendors who submit bids/proposals), Local Government Officers are:

Mayor:	Todd Meier
Council Members:	Al Angel, Council Member Jim Duffy, Council Member Bruce Arfsten, Council Member Paul Walden, Council Member Ivan Hughes, Council Member Dale Wilcox, Council Member
City Manager:	Wesley S. Pierson

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		OFFICE USE ONLY CERTIFICATION OF FILING Certificate Number: 2016-146726 Date Filed: 12/15/2016 Date Acknowledged:
1 Name of business entity filing form, and the city, state and country of the business entity's place of business. EIKON Consulting Group Sanger, TX United States		
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. Town of Addison		

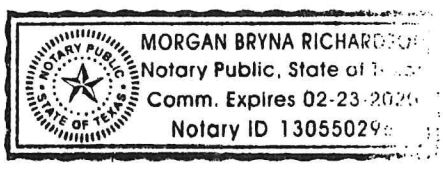
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

17-44
Architecture and Engineering

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

Morgan Richardson
Printed name of officer administering oath

Admin. Asst.
Title of officer administering oath

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Infrastructure- Development Services

AGENDA CAPTION:

Present, Discuss And Consider Action On A **Resolution To Approve An Agreement For Professional Architectural Engineering Services With Page Southerland Page, Inc., For Addison Airport Customs And Border Protection Site And Alternatives Cost Analysis And Authorize The City Manager To Execute The Agreement In An Amount Not To Exceed \$80,300.**

BACKGROUND:

The current Customs office at the Airport is not in compliance with the most current Customs requirements according to a letter dated May 2015 from US Customs and Border Patrol. Primarily, the non-compliance relates to deficiencies in the amount of space and non-compliance with current technology and security requirements. At the October 11, 2016 meeting, Council directed staff to investigate costs estimates for three development alternatives:

1. A stand-alone Customs facility
2. A Customs facility combined with airport administration offices
3. A Customs facility co-located with a Fixed Base Operator

Council also directed staff to provide site analyses for the development alternatives at three locations on the airport:

1. The JetPort on Claire Chennault
2. Mid-field adjacent to the toll tunnel
3. The southeast quadrant of the Airport

On November 4, 2016, a Request for Qualifications (RFQ) for the analysis of the site and cost estimates for the Customs facility including construction costs, opportunity costs, operational costs, and financing opportunities was advertised. According to the terms of the RFQ, the qualified firm is required to have a thorough knowledge of US Customs facilities, knowledge of Federal Aviation Administration grant assurances and Advisory Circulars, and knowledge of the operation of a general aviation airport. Four firms submitted statements of qualifications. They were:

- Page Southerland Page, Inc.
- Hahnfeld Hoffer Stanford
- Aeroplex Group Partners, LLC

- San Roc Group Architects / Planners

The selection committee chose Page Southerland Page, Inc. (Page), as the most qualified firm based on their past performance with similar projects, their history providing US Customs facilities at general aviation airports, and their technical competence. Page is an architectural firm that has offices in Houston and Dallas. Also on the Page team are Garver Engineers, who will be responsible for the engineering portion of the work, AG&E Structural Engenuity, who will provide structural engineering expertise, Vesta Rae and Associates, who will lead the stakeholder and public engagement activities, and the Sunland Group, who will head up the cost estimating tasks.

The scope of work will include the analysis of three potential site locations on the Airport for the Customs facility that will each be analyzed to determine their suitability for a stand-alone Customs facility, a Customs facility that includes Airport administration offices, and a facility that is co-located with a Fixed Base Operator (FBO), as well as the renovation of the JetPort site for Customs and Airport administration offices.

After the analysis, cost alternatives will be developed for each site and each configuration. A stakeholder workshop that will be open to users of the airport and the general public will be scheduled to gather input. Focused stakeholder meetings will also be held with the FBOs and direct Customs services users. A meeting will be scheduled with Customs representatives in order to present the concept site plans and receive feedback.

Page will provide a final report that will include a summary of the site and alternatives cost analysis process, a description of the evaluation criteria used for each site and development alternative, final concept floor plans, pros and cons for each site and alternative, identification of a recommended site and development alternative, and a summary of strategic funding scenarios to consider. The final report and recommendation will then be presented to Council for consideration and direction for staff.

The services will be provided for in an amount not to exceed \$80,300. These funds will be drawn from the \$280,000 that is currently budgeted for the design of the new customs facility. Additional funding will likely be needed to cover the cost of the design of the new customs facility. The project is expected to take 12 weeks once Notice to Proceed is given.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution and Agreement

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT FOR PROFESSIONAL ARCHITECTURAL ENGINEERING SERVICES WITH PAGE SOUTHERLAND PAGE, INC. FOR ADDISON AIRPORT CUSTOMS AND BORDER PROTECTION SITE AND ALTERNATIVES COST ANALYSIS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Agreement for architectural engineering services between the Town of Addison, Texas and Page Southerland Page, Inc. for Addison Airport customs and border protection site and alternatives cost analysis, attached hereto as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement and utilize the services contemplated therein by approving work orders under the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of February, 2017.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

**AGREEMENT
BETWEEN
THE TOWN OF ADDISON, TEXAS (TOWN)
AND
PAGE SOUTHERLAND PAGE, INC.**

FOR

PROFESSIONAL ARCHITECTURAL ENGINEERING SERVICES

Made as of the ____ day of _____ in the year 2017,

BETWEEN the Town: The Town of Addison, Texas
16801 Westgrove Drive
Addison, Texas 75001
Telephone: (972) 450-7001

and the Consultant: Page Southerland Page, Inc.
1100 Louisiana,
Suite One
Houston, Texas 77002
Telephone: 713-871-8484

for the following Project: Airport Customs and Border Protection Site and
Alternatives Cost Analysis

The Town and the Consultant agree as set forth below.

THIS AGREEMENT is made and entered by and between the **Town of Addison, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "Town," and **Page Southland Page, Inc.**, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as "Agreement."

WHEREAS, the Town desires to engage the services of the Consultant to provide professional services which shall include, but not be limited to, professional architectural and engineering services for the analysis of site and cost alternatives for a Customs and Border Protection facility at Addison Airport in the Town of Addison, Texas; hereinafter referred to as "Project"; and

WHEREAS, the Consultant desires to render such professional engineering services for the Town upon the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**ARTICLE 1
CONSULTANT'S SERVICES**

- 1.1 **Employment of the Consultant** – The Town hereby agrees to retain the Consultant to perform professional architectural and engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform such services as are set forth and described in Exhibit "A," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit "A," in the form of written change orders, may be authorized from time to time by the Town.
 - 1.2.1 **Requirement of Written Change Order** – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the Addison City Manager or designee, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Addison Town Council's authorization for the Addison City Manager to execute said change order.
 - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE ADDISON CITY MANAGER, OR DESIGNEE.**
- 1.3 **Schedule of Work** – The Consultant agrees to commence work immediately upon the execution of this Agreement and receipt of written Notice to Proceed, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as **Exhibit "B"** and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than as identified in **Exhibit "A"**.

- 1.4 **Failure to Meet Established Deadlines** – Consultant acknowledges the performance of services under this Agreement shall be in accordance with mutually agreed upon schedule as set forth in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B."

ARTICLE 2 THE TOWN'S RESPONSIBILITIES

Town shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 **Project Data** – The Town shall furnish required information that is currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **Town Project Manager** – The Town shall designate, when necessary, a representative authorized to act on the Town's behalf with respect to the Project (the "Project Manager"). The Town or such authorized representative shall examine the documents submitted by the Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of the Consultant's services. The Project Manager is not authorized to issue verbal or written change orders for "extra" work or "claims" invoiced as "extra" work.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services," compensation for this Project shall be on a Type of Payment Basis not to exceed, **Eighty Thousand Three Hundred Dollars (\$80,300)** ("Consultant's Fee") and shall be paid in accordance with Article 3 and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B." **The final five percent (5%) of the Consultant's Fee shall not be paid until the Consultant has completed all of the services described in Exhibit "A" and delivered to the Town all of the documents, plans, data, maps, and/or other information required in Exhibit "A."**
- 3.1.1 **Completion of Final Report** – Town and Consultant agree that the Final Report shall be completed, submitted to, and accepted by the Town prior to payment of the **final five percent (5%) of the Consultant's Fee**. The electronic formatting shall be consistent with the standards established in Town of Addison

Guidelines for Computer Aided Design and Drafting ("CADD"). Record Documents and/or "As-Built" documents are not applicable to the Project scope and are therefore NOT considered to be within the Scope of Services defined under this Agreement.

3.1.2 **Disputes between Town and Construction Contractor** – intentionally omitted.

3.1.3 **Consultation and Approval by Governmental Authorities and Franchised Utilities** – intentionally omitted.

3.2 **Direct Expenses – Direct Expenses are included in the Consultant's Fee** as described in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with Exhibit "C," Town of Addison Guidelines for Direct Expenses, General and Administrative Markup, and Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the Town for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the Town's sole and exclusive remedy for said overpayment.

3.3 **Additional Services** – The Consultant shall provide the services as described in the Scope of Services as set forth in Exhibit "A" of this Agreement. If authorized in writing by the Town, the Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph ("Additional Services"). These services may include, but are not limited to:

3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations that are not provided for or contemplated in the Scope of Services described in Exhibit "A."

3.3.2 Additional drafts and revisions to the Project that are not provided for or contemplated in the Scope of Services as described in Exhibit "A." Drafts or revisions required as the result of errors or omissions by the Consultant shall not be considered Additional Services, but shall fall within the Scope of Services.

- 3.3.3 Additional copies of final reports and construction plans that are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
 - 3.3.4 Photography, professional massing models that are not provided for or contemplated in the Scope of Services as described in Exhibit "A."
 - 3.3.5 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on direct billable labor rates and expenses.
 - 3.3.6 Compensation for Additional Services authorized by the Town shall be in addition to the Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to Town.
- 3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to the Town. Invoices are to be mailed to Town on a monthly basis in proportion to services performed (% complete) related to the individual tasks listed in Exhibit "B." On all submitted invoices, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.
- 3.5 **Timing of Payment** – Town shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by Town to Consultant is considered to be complete upon mailing of payment by Town. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by Town, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. Town shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date the Town receives the invoice. Town shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of the Consultant, Town shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the Town, Consultant shall submit to Town a

corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid Town in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. Town agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.

- 3.7 **Failure to Pay** – Failure of the Town to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to the Consultant within sixty (60) days from the date of the invoice shall grant the Consultant the right, in addition to any and all other rights provided, to, upon written notice to the Town, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to Town, in accordance with Chapter 2251, Subchapter “D” (“Remedy for Nonpayment”) of the *Texas Government Code*. The Town shall not be required to pay any invoice submitted by the Consultant if the Consultant breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project or if the Consultant’s services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of the Consultant’s compensation shall be equitably adjusted as approved by Town. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of Town in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to Town all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Consultant’s compensation shall be equitably adjusted as approved by the Town. Any additional amounts paid to the Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

**ARTICLE 4
OWNERSHIP OF DOCUMENTS**

- 4.1 **Documents Property of the Town** – The Project is the property of the City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials for any other purpose not relating to the Project without City's prior written consent. Upon executing an agreed upon Release and Transfer of Electronic Files agreement, City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit "A." Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 7, Consultant will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project and promptly furnish the same to the City in an acceptable electronic format. All such reproductions shall be the property of the City who may use them without the Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that Town is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the Town and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (*Texas Government Code*, Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents.

**ARTICLE 5
CONSULTANT'S INSURANCE REQUIREMENTS**

- 5.1 **Required Professional Liability Insurance** – Consultant shall maintain, at no expense to Town, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten

(10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

- 5.2 **Required General Liability Insurance** - Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, a general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit "D," Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, Town of Addison

Contractor Insurance Requirements, Consultant shall maintain, at no expense to the Town, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Consistent with the terms and provisions of Exhibit "F," such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that the same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the Town as indicated in Article 3.4. Receipts for direct expense items and other records of Project expenses will be included in the monthly invoices.

ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE

The Consultant agrees that at any time during normal business hours and as often as the Town may deem necessary, Consultant shall make available to representatives of the Town for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the Town to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated on the Affidavit, attached hereto as Exhibit "E" and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit attached hereto as Exhibit "E".

Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit "F" and incorporated herein for all purposes.

If the Agreement is required to go to the City Council for approval, then the Consultant shall execute and deliver to the Town the Form 1295 Certificate of Interested Parties, as required by section 2252.908, Texas Government Code, as amended, prior to the City's execution of this Agreement.

Notwithstanding the foregoing, the Town's right to inspect, copy and audit shall not extend to the composition of the Consultant's rates and fees, percentage mark-ups or multipliers.

ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES

Town may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If Town terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds the Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the Town is required to pay in order to finish the Project. On any default and/or breach by Consultant, Town may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from the Consultant's Fee due Consultant as set forth in Article 3 herein. If Town terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of the Town in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to Town all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

**ARTICLE 9
DISPUTE RESOLUTION / MEDIATION**

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

**ARTICLE 10
INDEMNITY**

CONSULTANT SHALL HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENTS), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF PROFESSIONAL SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION,

AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. THIS INDEMNIFICATION SHALL EXTEND TO THE PAYMENT OR REIMBURSEMENT OF THE TOWN'S REASONABLE ATTORNEYS FEES AND ASSOCIATED COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONSULTANT'S LIABILITY.

CONSULTANT SHALL PROMPTLY NOTIFY TOWN OF THE DEFENSE COUNSEL RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER, AND TIMELY NOTIFY TOWN OF ANY AND ALL LEGAL ACTIONS TAKEN BY THE DEFENSE COUNSEL REGARDING ANY AND ALL CLAIMS.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Consultant agrees that all notices or communications, including invoices to Town permitted or required under this Agreement shall be delivered to Town at the following addresses:

Director of Infrastructure and Development Services
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

If such notices and communications are mailed, they shall be mailed to the following address:

Director of Infrastructure and Development Services
P.O. Box 9010
Addison, Texas 75001

Town agrees that all notices or communication to Consultant permitted or required under this Agreement shall be delivered to Consultant at the following addresses:

Page Southerland Page Inc.
1100 Louisiana Suite One
Houston, TX 77002

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

ARTICLE 12 MISCELLANEOUS

12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled "A" through "F," all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modifies except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

12.1.1 Exhibit "A," Scope of Services.

12.1.2 Exhibit "B," Compensation Schedule / Project Billing / Project Budget.

12.1.3 Exhibit "C," Town of Addison Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.

12.1.6 Exhibit "D," Town of Addison Contractor Insurance Requirements.

12.1.7 Exhibit "E," Affidavit.

12.1.8 Exhibit "F", Conflict of Interest Questionnaire, Form CIQ.

12.1.9 Exhibit "G", Release and Transfer of Electronic Files.

12.2 **Assignment and Subletting** – The Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the Town. The Consultant further agrees that the assignment or subletting or any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Consultant of its full obligations to the Town as

provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.

- 12.3 **Successors and Assigns** – Town and Consultant, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.4 **Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.
- 12.5 **Venue** – This entire Agreement is performable in Dallas County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Dallas County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for an on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.

- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.14 **No Third Party Beneficiaries** -- Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Effective Date: _____

TOWN:
Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

CONSULTANT:
Page Southerland Page, Inc.

By: 
Jeffrey Mechlem, Jr., Vice President

Date: 10 Feb. 2017

Professional Services Agreement
(Page Southerland Page, Inc.)

STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Wesley S. Pierson**, Town of Addison, Texas City Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 2017.

Notary Public In and For the State of Texas
My commission expires: _____

STATE OF Texas

§
§
§

COUNTY OF Harris

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Jeffrey Mechlem, Jr.**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 10th day of February, 2017.

Dawn House
Notary Public In and For the State of Texas
My commission expires: July 18, 2019

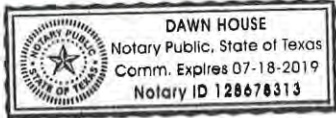


Exhibit "A"
Scope of Services
Agreement by and between the Town of Addison, Texas (Town)
and Page Southerland Page, Inc. (Consultant)
to perform Professional Architectural and Engineering Services

I. PROJECT DESCRIPTION/SCOPE OF SERVICES

See attached professional services proposal by Page Southerland Page, Inc., dated February 6, 2017.



TEL 713 871 8484
FAX 713 871 8440

Page Southerland Page, Inc.
1100 Louisiana Street, Suite One
Houston, Texas 77002
pagethink.com

Arturo Chavez, AIA
Senior Principal

February 6, 2017

Mr. Wil Newcomer, CPPB
Purchasing Manager
Town of Addison
P.O. Box 9010
Addison, TX 75001

Re: Addison Airport (ADS) Customs and Border Protection
Site and Alternatives Cost Analysis
Project No: 417012

Dear Mr. Newcomer,

Thank you for the opportunity to submit our fee proposal for professional services for the Addison Airport (ADS) Customs and Border Protection Site and Alternatives Cost Analysis project (Project) in Addison, TX. This letter will act as a fee proposal between the Town of Addison (Owner) and Page Southerland Page, Inc. (Architect). Upon approval, we intend to execute an Owner's standard form of agreement, subject to review.

We are extremely excited to be considered for your team on this unique project and ready to start immediately upon execution of an agreement.

Project Understanding

We understand the Project to consist of an analysis of three potential site locations at ADS for the development of a new General Aviation Customs Federal Inspection Services (FIS) facility. The program may also include airport administration offices. The FIS facility must satisfy Customs Border Protection (CBP) facility standards.

The current architectural program includes the following components and estimated areas:

- FIS facility ~3,710 ft² (minimum requirements to meet CBP facility standards to be confirmed)
- Minimum 10,000 ft² heavy concrete apron
- Airport administration offices ~4,000 ft²

The three potential sites and development alternatives to be analyzed are depicted in the attached 'Exhibit A - ADS FIS Site Options' and described below:

- 1) **New stand-alone Customs FIS facility:**
 - JetPort site – assumes demolition of existing JetPort building
 - Mid-Field site – assumes partial or full demolition of existing hangar
 - Southeast Quadrant site – assumes demolition of existing hangar canopies
- 2) **Customs FIS facility co-located with an FBO:**

ARCHITECTURE / ENGINEERING / INTERIORS / PLANNING / CONSULTING
Austin / Dallas / Denver / Houston / San Francisco / Washington DC /
International Affiliate Offices

- No particular site is assumed in the analysis, as this alternative would require an RFP process to all FBOs.
 - No additional conceptual site plans or estimates of probable cost required for this alternative (values for the stand-alone alternatives can be utilized).
- 3) **Customs FIS facility and Airport administration offices at the Mid-Field site**
 - 4) **Renovation of existing JetPort building (~10,000 ft²) to accommodate Customs FIS facility and Airport administration offices**

Scope of Services

BASIC SERVICES

The following basic services are included in the scope of this proposal:

A. **Phase One - Site and Conditions Assessment**

- 1) Review of existing drawings, surveys, assessments, etc. to be provided by Owner.
- 2) **Trip 1, Day 1 of 3:** On-site Project Kick-Off Meeting and Vision Session (2 - 3 hrs)
 - Conduct a brief programming exercise on-site with Owner to confirm the major architectural program requirements for the FIS and airport administration offices.
- 3) **Trip 1, Day 1 of 3 (see E: Stakeholder and Public Engagement for Days 2 and 3 of Trip 1):** Site visit (same day as Project Kick-Off Meeting, max. 3 hours) by architectural, civil, and cost estimating professionals to make visual observations of the three potential sites and existing JetPort facility.
- 4) Site assessment report for Jetport, Midfield, and Southeast Quadrant sites:
 - Description of observable existing site utilities (electrical power, domestic/ waste/ storm/ fire protection water), paving (airside, landside, parking), grading and development restrictions.
 - Identification of observable deficiencies or deferred maintenance situations (if any), recommended mitigation, and recommended action time range (immediate, 1-5 years, 5-10 years, 10+ years).
 - Estimate of probable cost for recommended mitigation and/or new infrastructure to support the Project program.
- 5) Facility improvements cost estimating for the existing JetPort building:
 - Review previous property conditions assessments by others, provided by Owner.
 - Estimate of probable cost for recommended mitigation to support the Project program, based on previous property conditions assessments (Improvements necessary to comply with CBP facility standards will be captured in the Concept Design & Test-Fit phase).
 - Capture estimates of revenue potential (opportunity costs) for site, provided by Owner.
- 6) Draft report review with Owner via web conference:
 - Submit draft report to Owner for review and comment.
 - Incorporate Owner comments.

B. **Phase Two - Concept Design Test-Fits and Cost Analysis**

- 1) Create one (1) conceptual architectural floor plan layout for the FIS and airport administration offices. The floor plan layout will include circulation and spaces identified in the programming exercise and identified in the CBP facility standards.

The intent of the floor plans is to communicate the general scope (building area) and spatial layouts.

- 2) Provide basis of design (BOD) narratives that describe the general components, equipment, systems and materials for the FIS, airport administration offices, and public use facilities. The narratives will encompass architectural, structural, MEP, FP, IT, security, audiovisual (AV), paving and landscape components. Finishes, fixtures, and equipment (FF&E) will be excluded unless requested otherwise.
- 3) Create up to six (6) conceptual site plans that incorporate the six (6) development alternatives identified herein (see the **Project Understanding** section). Each site plan will identify the building footprint to accommodate the concept architectural floor plan layouts, paving, parking, and landscape areas.
- 4) Review of concept floor plan, site plans and narratives with Owner via web conference.
- 5) **Trip 2, Day 1 of 1:** Meet on-site with Owner to review concept site plan alternatives.
- 6) Provide estimates of probable cost for each of the seven (7) site development alternatives. Each estimate of probable cost will reflect information from the site and facilities conditions assessment, conceptual architectural floor plans, BOD narratives, and conceptual site plans.
- 7) Draft review with Owner via web conference:
 - Submit draft floor plans, narratives, and site plans to Owner for review and comment.
 - Incorporate Owner comments and reissue to Owner.

C. Phase Three – Final Report

- 1) Create a draft 'Site and Alternatives Cost Analysis Report' that may include any combination of the following:
 - Summary of the site and alternatives cost analysis process.
 - Description of evaluation criteria considered in the analysis of each site and development alternative.
 - Final concept floor plans, narratives and site plans.
 - Qualitative and quantitative results of the evaluation criteria applied to each of the six (6) development alternatives.
 - Pros and cons for each site and development alternative.
 - Identification of a recommended site and development alternative.
 - Summary of viable strategic funding scenarios to consider, including potential public/ private partnerships.
- 2) **Trip 3, Day 1 of 1:** Draft report review with Owner via web conference:
 - Submit draft report to Owner for review and comment.
 - Incorporate Owner comments and issue a final draft report to Owner.

D. Conceptual Architectural Renderings

- 1) Once a recommended site and development alternative is confirmed with Owner, create one (1) rendered conceptual site plan, one (1) conceptual exterior perspective rendering, and one (1) conceptual interior perspective rendering to be included in the final report.

E. Stakeholder and Public Engagement (Concurrent with Phases One, Two and Three)

- 1) Engagement planning discussion with Owner via web conference prior to Phase One kick-off meeting.
- 2) **Trip 1, Day 1 of 3:** On-site meeting with CBP to present background information and receive FIS planning input.

- 3) **Trip 1, Day 2 of 3:** On-site Facilitated Stakeholder Workshop (1-2 hours) **Vision:**
 - Multiple stakeholders (Town of Addison, Addison Airport, FBOs, other airport tenants and users, FAA, etc.).
 - Present information on the background, process and timeline for the site and alternatives cost analysis.
 - Solicit input for consideration in the analysis – **outline the evaluation.**
- 4) **Trip 1, Day 3 of 3:** Stakeholder Focus Group meetings:
 - Potential audiences include Million Air FBO, Atlantic FBO, unidentified FBO, direct Customs service users, etc.
 - Solicit input for consideration in the analysis – **gather detail to flesh out and refine the evaluation criteria.**
 - Based on the number of focus groups, there may be availability on Day 2 of 3 to meet as well
- 5) **Trip 2, Day 1 of 1:** On-site meeting with CBP to present concept site plan alternatives.
- 6) Document the input from stakeholder and public engagement into the final report
- 7) **Trip 3, Day 1 of 1:** Present final report at Council Meeting.

OPTIONAL ADDITIONAL SERVICES

Services beyond those outlined above can be determined and proposed for additional compensation as mutually agreed, including the following:

- 1) **Full Services Architectural Design and Engineering (Schematic Design, Design Development, Construction Documents and Contract Administration)**
- 2) The production and/or coordination required to produce physical 3D models.
- 3) Renderings, visualization, animation or models prepared for marketing or other Owner use other than what may be provided as part of Basic Services herein.
- 4) Conducting stakeholder and public engagement strategies in addition to those included in Basic Services herein.
- 5) Public relations services, including social media content and management.
- 6) Providing services of consultants or other outside service providers, unless otherwise specifically identified and included herein.
- 7) Participation in meetings and/or workshops beyond the quantities included herein.
- 8) Services offered beyond the schedule duration described herein.

OWNER RESPONSIBILITIES

We understand the Owner will provide the following:

- 1) Coordinate, advertise and schedule all meetings and workshops with the stakeholder representatives and the public, including participants and venues.
- 2) Cover all costs associated with the facilities and refreshments for meetings and workshops with the stakeholder and public engagement meetings.
- 3) Provide any available previous drawings, studies, data, reports, or other documents of existing conditions, masterplans, and future development which may have a direct bearing on the requirements of the Project and that may be reasonably needed for the Project.

ASSUMPTIONS

- 1) Page shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.
- 2) Site and Facility Conditions Assessments will be generated based on visual observations and information found in existing documentation provided by Owner. No destructive testing or removal of materials will be performed as part of the assessment scope included herein.
- 3) Site and Facility Conditions Assessments DO NOT include environmental, surveying, geotechnical or any other scope that is not defined herein.
- 4) Report deliverables will be provided to Owner in pdf digital format and one (1) copy of letter or 11x17 format with all images and renderings printed in full color.

Schedule

The scope included herein is based on a Project duration of twelve (12) weeks. This duration is subject to change based on the scheduling of stakeholder/ public engagement events and Owner reviews. We are ready to commence with a kick-off meeting upon execution of an agreement, and will work with the Owner to develop a detailed schedule including meetings, workshops and milestones for the phases described herein.

Team

For the scope of services described herein, Page will provide professional services for project management, architectural planning, architectural design, and stakeholder & public engagement.

Below is a brief description of the consultants on the Page Team:

Garver USA (Garver) – Civil, MEP & FP engineering
Sunland Group (Sunland) – Cost Estimating
Vesta Rea & Associates (VRA) – Stakeholder and Public Engagement, technical review
AG&E Structural Engenuity (AG&E) – Structural Engineering

Compensation

BASIC SERVICES

For the professional services as described herein, we propose compensation to be a stipulated sum in the amounts listed below:

A. Phase One - Site and Facility Conditions Assessment	\$12,000
1) Phase One participants include:	
• Page: Project Manager (PM), Facilitator	
• Garver: Sr. PM, PM, Project Engineer	
• Sunland: Sr. PM	
• VRA: Project Advisor	
2) Phase One = approx. 77 cumulative person hours	
B. Phase Two - Concept Design Test-Fits and Cost Analysis	\$31,500

Re: ADS Customs and Border Protection Site and Alternatives Cost Analysis
Project No: 417012

Page/

- 1) Phase Two participants include:
 - Page: Project Manager, Architectural Designer, Designer
 - Garver: Sr. PM, PM, Sr. Project Engineer, Project Engineer
 - Sunland: Sr. PM
 - VRA: Project Advisor
 - AG&E: Sr. PM
- 2) Phase Two = approx. 218 cumulative person hours

C. Phase Three - Final Report **\$7,000**

- 1) Phase Three participants include:
 - Page: Project Manager, Architectural Lead, Designer
 - VRA: Project Advisor
- 2) Phase Three = approx. 61 cumulative person hours

D. Conceptual Architectural Renderings **\$4,800**

- 1) Conceptual Architectural Renderings participants include:
 - Page: Architectural Designer
- 2) Conceptual Architectural Renderings = approx. 40 cumulative person hours

E. Stakeholder and Public Engagement **\$16,500**

- 1) Stakeholder and Public Engagement participants include:
 - Page: Sr. PM, Facilitator
 - VRA: Project Advisor
- 2) Stakeholder and Public Engagement = approx. 106 cumulative person hours

Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice.

REIMBURSABLE EXPENSES

Reimbursable expenses shall be in addition to the compensation above and include transportation, lodging, meals associated with travel, courier services, postage and delivery charges, printing and reproduction costs, expense of models requested by the Client, and automobile travel.

All payments for reimbursable expenses to be made by Owner shall be increased by the addition of applicable Sales and Use Taxes, if any. Mileage charges for automobiles shall be at the prevailing rate established by the United States Internal Revenue Service (IRS).

Internal printing and plotting rates:

Black and white copies (8.5 x 11 and 11 x 17) will be charged at \$0.05 each. Black and white plots (larger than 11 x 17) will be charged at a rate of \$12.00 per plot.

Color copies will be charged at a rate of \$2.00 per 8.5 x 11 and \$4.00 per 11 x 17. Color copies larger than 11 x 17 will be charged at a ratio of \$2.00 per 93.5 sq. in.

We estimate reimbursable expenses not to exceed: **\$8,500.**



ADDITIONAL SERVICES

Compensation for Additional Services rendered by Page's and Page's Consultants' personnel shall be based upon the hourly billing rates for Page's and Consultant's personnel, or as otherwise agreed.

TBAE Statement

The Board of Architectural Examiners (TBAE) has jurisdiction over complaints regarding the professional practices of persons registered as architects in the State of Texas under the Architect's Registration Law, Texas Civil Statutes, Article 249.

The Texas Board of Architectural Examiners
P.O. Box 12337
Austin, Texas 78711-2337
OR
333 Guadalupe
Suite 2-350
Austin, Texas 78701-3942

Thank you for considering Page for part of your team for this project. We look forward to the opportunity to work with you. Please contact us at your convenience with any questions or comments.

Sincerely,

Arturo Chavez, AIA
Executive Vice President

Cc: Lisa Pyles (Town of Addison)
Jeff Mechlem AIA, John Littlejohn (Page)

Attachment: Exhibit A – ADS FIS Site Options
Exhibit B – ADS FIS Meeting Schedule Outline

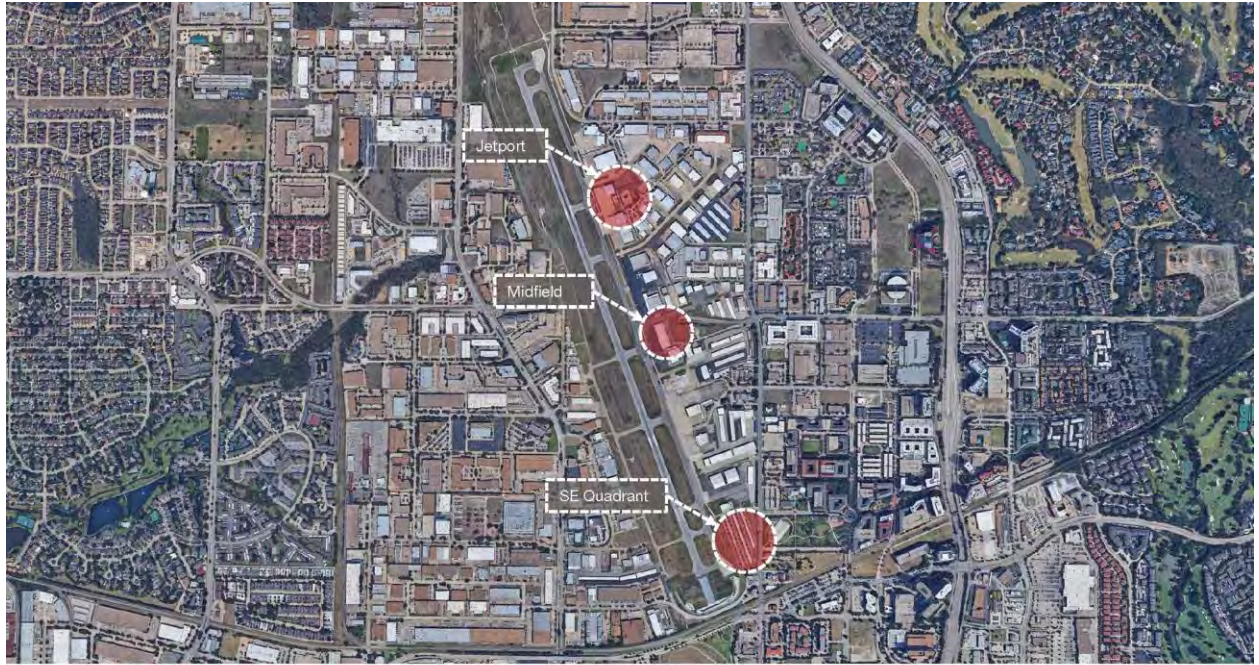


Exhibit A - ADS FIS Site Options 1/23/2017

Exhibit B - ADS FIS Meeting Schedule Outline

2/1/2017

PHASE 1	Trip 1	Day 1	Kick-Off/ Programming (Jeff Mechlem, John Littlejohn, Jaime F, Vesta Rea) Site Assessment (Jeff M, Design Team) Stakeholder Focus Groups (Vesta R, Jamie F, Jeff M, John L)
		Day 2	Stakeholder Workshop (Vesta R, Jamie F, Jeff M, John L) Stakeholder Focus Groups (Vesta R, Jamie F, Jeff M, John L)
		Day 3	CBP Meeting (Jeff M, Vesta R)
PHASE 2	Trip 2	Day 1	Review Site Concept Alternatives (Jeff M, Vesta R) CBP Meeting + Stakeholder Focus Groups (Jeff M, Vesta R)
PHASE 3	Trip 3	Day 1	City Council Presentation (Jeff M)

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.

Tasks	Fee
Phase One – Site Conditions Assessment	\$12,000
Phase Two – Concept Design Test-Fits and Cost Analysis	\$31,500
Phase Three – Final Report	\$7,000
Conceptual Architectural Renderings	\$4,800
Stakeholder and Public Engagement	\$16,500
Total Fees (Lump Sum):	\$71,800
Total Reimbursable Expenses Not to Exceed:	\$8,500
Total Fee	\$80,300
<i>TOTAL CONSULTANT'S FEE (NOT-TO-EXCEED)</i>	\$ 80,300

EXHIBIT "C"
**TOWN OF ADDISON GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES**

I. **CONSULTANT'S RESPONSIBILITY**. The Consultant shall be solely responsible for the auditing of all direct expense, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those to be included under a sub-contract, prior to the Town for reimbursement, and Consultant shall be responsible for the accuracy thereof. Any overpayment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment(s) for services; however, this shall not be the Town's sole and exclusive remedy for said overpayment.

II. **GUIDELINES FOR DIRECT EXPENSES**.

A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of the Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall Town reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of Town's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by Town, unless the charges are in connection with the scope of services described in Exhibit "A" AND related to travel to the Project site from a Consultant's place of business that is located beyond fifty (50) miles from the Project site. Toll road subscriptions are not reimbursable. Toll plaza receipts are not reimbursable, unless the charges are in connection with the scope of services described in Exhibit "A" AND related to travel to the Project site from a Consultant's place of business that is located beyond fifty (50) miles from the Project site. Consultant agrees to place these standards in all subcontracts for work on the Project.

B. **Supplies, Material, Equipment** – Town shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by Town's Project Manager in writing.

C. **Commercial Reproduction** – Town shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to Town at each phase of progress. Consultant shall make arrangements with the Town for prior approval of commercial reproduction rates prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- D. **In-House Reproduction** - Consultant shall make arrangements with the Town for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number or reproductions, the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- E. **Commercial Plotting** – Town shall reimburse the actual cost of plots, specifically limited to final documents. Consultant shall make arrangements with the Town for prior approval of commercial reproduction rates prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with Town for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – Town shall reimburse the actual cost of postage and delivery of Instruments of Service, provided the Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Town, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Consultant and/or the Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, unless the charges are in connection with the scope of services described in Exhibit "A" AND related to travel to the Project site from a Consultant's place of business that is located beyond fifty (50) miles from the Project site, and then only reimbursable for the actual cost subject to compliance with the Town's

currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

1. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to Town specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to Town what costs would be considered direct costs. Town shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. Town reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

1. **Adherence to Currently Adopted Town Travel Policy** – Unless otherwise stated within this Agreement, reimbursements shall be governed by the same travel policies provided for Town employees according to current adopted policy. All lodging and meals are reimbursed in accordance with IRS rules and rates as shown on the U.S. General Services Administration website for the Town: <http://www.gsa.gov/portal/category/21287>.
2. Prior to the event, Consultant shall request, and the Town shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT "D"
TOWN OF ADDISON PROFESSIONAL SERVICES/CONSULTANT
INSURANCE GUIDELINES

REQUIREMENTS

Contractors performing work on CITY OF ADDISON property or public right-of-way shall provide the CITY OF ADDISON a certificate of insurance or a copy of their insurance policy(s) (and including a copy of the endorsements necessary to meet the requirements and instructions contained herein) evidencing the coverages and coverage provisions identified herein within ten (10) days of request from CITY OF ADDISON. Contractors shall provide CITY OF ADDISON evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. Work shall not commence until insurance has been approved by CITY OF ADDISON.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must have a A.M. Best's rating A-VII or greater.

Listed below are the types and minimum amounts of insurances required and which must be maintained during the term of the contract. CITY OF ADDISON reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

	TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1.	Workers' Compensation Employers' Liability to include: (a) each accident (b) Disease Policy Limits (c) Disease each employee	Statutory Limits per occurrence Each accident \$1,000,000 Disease Policy Limits \$1,000,000 Disease each employee \$1,000,000	CITY OF ADDISON to be provided a <u>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-VII rated or above.
2.	Commercial General (Public) Liability to include coverage for: a) Bodily Injury b) Property damage c) Independent Contractors d) Personal Injury e) Contractual Liability	Bodily Injury/Property Damage per occurrence \$1,000,000, General Aggregate \$2,000,000 Products/Completed Aggregate \$2,000,000, Personal Advertising Injury per occurrence \$1,000,000, Medical Expense 5,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED</u> and provided <u>30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-VII rated or above.
3.	Business Auto Liability to include coverage for: a) Owned/Leased vehicles b) Non-owned vehicles c) Hired vehicles	Combined Single Limit \$1,000,000	CITY OF ADDISON to be listed as <u>ADDITIONAL INSURED</u> and provided <u>30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-VII-rated or above.

Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) may be faxed to the Purchasing Department: **972-450-7074** or emailed to: purchasing@addisontx.gov. Questions regarding required insurance should be directed to the Purchasing Manager.

With respect to the foregoing insurance,

1. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the City of Addison.
2. All insurance policies shall be endorsed to require the insurer to immediately, or no later than thirty (30) days, notify the City of Addison, Texas of any material change in the insurance coverage.
3. All insurance policies shall be endorsed to the effect that the City of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name the City of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the City of Addison and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Upon request, Contractor shall furnish the City of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

This form must be signed and returned with your quotation. You are stating that you do have the required insurance and if selected to perform work for CITY OF ADDISON, will provide the certificates of insurance (and endorsements) with the above requirements to CITY OF ADDISON within 10 working days.

A CONTRACT/PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE AND APPROVAL OF INSURANCE.

AGREEMENT

I agree to provide the above described insurance coverages within 10 working days if selected to perform work for CITY OF ADDISON. I also agree to require any subcontractor(s) to maintain insurance coverage equal to that required by the Contractor, except that Vesta Rea and Associates requirements for Worker's Compensation Liability is reduced to \$500,000 each for each accident, disease policy limits, and disease for each employee. It is the responsibility of the Contractor to assure compliance with this provision. The City accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

Project/Bid#: Airport Customs and Border Protection Site and Alternatives Cost Analysis/ Contract 17-25

Company: Page Southerland Page, Inc.

Printed Name: Jeffrey Mechlem Jr., AIA

Signature:  _____ Date: 10 Feb. 2017

EXHIBIT "E"
AFFIDAVIT

THE STATE OF TEXAS

§

THE COUNTY OF DALLAS

§

§

I, Jeffrey Mecklem, Jr., a member of Page Southland Pegasus, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

- Ownership of 10% or more of the voting shares of the business entity.
- Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000.00).
- A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.
- Other: _____
- None of the Above.

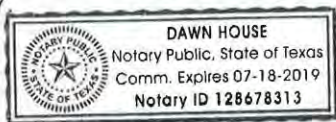
Upon filing this affidavit with the Town of Addison, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of a public body which took action on the agreement.

Signed this 10th day of February, 2017.

[Signature], Vice President
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Jeffrey Mecklem Jr. and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 10th day of February, 2017.



Dawn House
Notary Public in and for the State of Texas
My commission expires: July 18, 2019

EXHIBIT "F"
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

FORM CIQ CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity	
<p><small>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</small></p>	OFFICE USE ONLY <hr/> Date Received
<p>1. Name of person who has a business relationship with local governmental entity.</p> <p align="center"><i>Jeffrey Mechlem, Jr.</i></p>	
<p>2. Check this box if you are filing an update to a previously filed question <input type="checkbox"/></p> <p><small>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</small></p>	
<p>3. Name of local government officer with whom filer has employment or business relationship.</p> <p align="center">_____</p> <p align="center">Name of Local Government Officer</p> <p><small>This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</small></p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	

EXHIBIT "F"
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

4. Signature of person doing business with the governmental entity Date:


Signature

10 Feb 2017
Date

Local Government Officers Town of Addison, Texas

For purposes of completion of the required Conflict of Interest Questionnaire for the Town of Addison Texas (required by all Vendors who submit bids/proposals), Local Government Officers are:

Mayor: Todd Meier

Council
Members:

Al Angel, Council Member
Jim Duffy, Council Member
Bruce Arfsten, Council Member
Paul Walden, Council Member
Ivan Hughes, Council Member
Dale Wilcox, Council Member

City Manager: Wesley S. Pierson



EXHIBIT "G"

Release and Transfer of Electronic Files

Project	ADS CBP Site and Cost Analysis	Project No.	417012
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Dear Town of Addison:

At your request, Page Southerland Page, Inc. ("Page") will provide electronic files containing data that represent drawings, documents, building models, or other construction aspects of the Project referenced above ("Project") for your convenience and use subject to the following terms and conditions of this agreement ("Release"):

These electronic files are released under the authority of Page who maintains the original files.

The undersigned ("Recipient") agrees to assume all responsibility for any modification to, or use of the electronic files released hereunder, and Recipient shall require similar agreements from other users of the electronic files, including without limitation [Recipient's] subcontractors and consultants.

THE ELECTRONIC FILES ARE NOT CONTRACT DOCUMENTS, NOR ARE THEY REPRESENTED TO BE ACCURATE REPRESENTATIONS OF THE CONTRACT DOCUMENTS. WE MAKE NO REPRESENTATION REGARDING THE ACCURACY OR COMPLETENESS OF THE ELECTRONIC FILES.

By releasing these electronic files, Page does not convey any ownership right in the content provided, nor in the software used to generate the content. Unless otherwise granted in a separate license, any subsequent right to use, modify, or further transmit the electronic files is specifically limited to the uses necessary for the design, coordination and construction of the Project, and nothing contained in this Release conveys any other right to use the electronic files for another purpose.

Page's electronic files are typically provided in AutoDesk AutoCAD (.dwg, .dwt) format or Autodesk Revit format (.rvt), but may also include bitmap formats (such as .jpg, .tiff, or .bmp), Adobe Acrobat (.pdf) files, SketchUp (.skp) files, or other common file formats suitable for electronic representation of the Project. Page makes no representation as to the compatibility of these files with Recipient's hardware or software. System settings, file settings or software settings may be required to reflect the content in its originally intended format, and may not be provided with the files. These files may contain references to content separate from the file, which may not be included, due to its proprietary nature or other reason, at Page's discretion.

Under no circumstances shall delivery of the electronic files for use by Recipient or by others be deemed a sale by Page, and Page makes no warranties, either express or implied, of suitability or fitness for any particular purpose. In no event shall Page be liable for any loss of profit or any consequential damages—including, without limitation, damages for delays, loss of income, or increases in project costs, operating costs or overhead—as a result of your use or reuse of these electronic files.

Recipient represents to PageSoutherlandPage that all use will be consistent with the statutes, rules, and regulations of all governmental authorities having jurisdiction over the Project, the electronic files, and all related licensed, professional practices.



EXHIBIT "G"

If you agree with the above terms and conditions, please sign below and return the executed original to Jeffrey Mechlem, Page Southerland Page, Inc., 1100 Louisiana Suite One Houston, TX 77002 or jmechlem@pageshink.com.

Page Southerland Page, Inc.

Town of Addison
P.O. Box 9010
Addison, TX 75001

(Signature)

(Signature)

Jeffrey Mechlem AIA, Principal

(Printed Name, Title)

(Printed Name, Title)

13 February 2017

(Date)

(Date)

AI-2093

18.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Council

AGENDA CAPTION:

Discussion And Possible Action Regarding A Review Of **Council Guidelines On Meeting Protocols And Decorum.**

BACKGROUND:

Mayor Meier requested this item be placed on the agenda to review and discuss City Council guidelines on meeting protocols and decorum.

RECOMMENDATION:

Information only, no action required.

Attachments

Council Rules of Procedures

CITY COUNCIL PROCEDURES

SECTION 1. MEETINGS

Three types of meetings are recognized:

- A. Regular Meetings will be held on the second and fourth Tuesday of each month. Meetings will be held at Town Hall in the Council Chambers commencing at 7:30 p.m., unless otherwise posted.
- B. Special Meetings are subject to call by the Mayor, City Manager, or three members of the City Council with written notice to the City Secretary. These meetings will be held at Town Hall unless otherwise posted, at a stated time.
- C. Work Session Meetings are subject to call by the Mayor, City Manager, or three members of the City Council with written notice to the City Secretary. The time, place, and purpose will be stated in each instance. Ordinarily, no official Council action will be taken at a work session meeting.

SECTIONS 2. AGENDAS

The following procedures relate to the agenda for meetings of the Council.

- A. The Mayor, working with the City Manager, will determine what items of business should come before the Council. If, at a meeting of the Council, a member of the Council (i.e., the Mayor and each Council member) or the public inquires about a subject for which notice has not been given as required by law, only the following may be provided unless otherwise allowed by law: (1) a statement of specific factual information given in response to the inquiry, or (2) a recitation of existing policy in response to the inquiry. Unless otherwise allowed by law, any deliberation of or decision about the subject of such inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
- B. Any Council member may ask the Mayor to place an item on the agenda for discussion.
- C. An item may be placed on the agenda at the request of two or more Council members. The Council members requesting the agenda item may present or participate in the presentation of the item at the meeting. Any Town staff assistance should be requested through the City Manager's Office. Such agenda items must reach the City Secretary's office at Town Hall by 1:00 p.m., Tuesday, of the week preceding the meeting for which the request is made.
- D. Any member of the Town staff wishing to have an item placed on the agenda shall submit that item to the City Manager's Office for approval. The City Manager may establish procedures for submission of routine items without his approval.

E. The agenda packets for all Regular Meetings will be delivered electronically by Town staff to members of the Council no later than the Thursday preceding the meetings.

F. The City Secretary's office is responsible for seeing that notices for all meetings of the Council comply with the Open Meetings Law.

SECTION 3. COUNCIL MEETING PROCEDURES

The Council will use the following procedures as a general guide for parliamentary procedure, and may consult Robert's Rules of Order as a guide in instances not addressed by these procedures.

A. The Mayor shall be the presiding officer at all meetings. The Mayor Pro-Tempore shall preside at meetings in the absence of the Mayor, and the Deputy Mayor Pro-Tempore shall preside at meetings in the absence of the Mayor Pro-Tempore.

B. The Mayor shall have a voice in all matters before the Council and may vote on all matters.

C. When an item is presented to the Council, the Mayor (or presiding officer) shall recognize the appropriate individual to present the item. When two or more members are presenting an item, the Mayor shall choose which member is to speak first.

D. The Mayor (or presiding officer) shall preserve order and shall require Council members engaged in debate to limit discussion to the question under consideration.

E. The Mayor (or presiding officer) will give all members of the Council a full opportunity to speak on an item.

F. Should a conflict arise between Council members, the Mayor (or presiding officer) shall serve as the mediator.

G. The Mayor shall be recognized as head of the Town government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. If the Mayor is absent, the Mayor Pro-Tempore, and in the absence of the Mayor Pro-Tempore the Deputy Mayor Pro-Tempore, shall be so recognized.

H. Members of the Council shall confine their remarks to the item under consideration and shall avoid references to personality, integrity, or motives of any other members of the Council or Town staff members.

I. Any Council member may ask the Mayor (or presiding officer) to enforce the procedures established by the Council. Should the Mayor (or presiding officer) fail to do so, a majority of the Council may direct him/her to enforce the procedures.

SECTION 4. CODE OF CONDUCT FOR MAYOR AND COUNCIL MEMBERS

A. During Council meetings, Members of the Council shall preserve order and decorum, shall not interrupt or delay proceedings, and shall not refuse to obey the orders of the Mayor (or presiding officer) or the rules of the Council. Members of the Council shall demonstrate respect and courtesy to each other, Town staff members, and citizens appearing before the Council. Members of the Council shall refrain from rude and derogatory remarks.

B. The Mayor and Council members should comply with the Town's Code of Ethics (included in Chapter 2, Article III, Division 2 of the Town's Code of Ordinances and attached hereto as Appendix A) and with all conflict of interest laws.

C. In accordance with the Town's Code of Ethics and with applicable law, the Mayor and Council members shall abstain from participating in or voting on items in which they have a conflict of interest as set forth in the Code of Ethics or applicable law. If the Mayor or a Council member has such a conflict of interest, he or she shall file a "Conflict of Interest Affidavit" with the City Secretary's office. Upon introduction of the agenda item in which the Mayor or Council member has a conflict of interest, the Mayor or Council member should announce that he or she has a conflict of interest, and must refrain from participation in or voting on the agenda item, but shall not be required to leave the meeting room.

SECTION 5. CITIZEN PARTICIPATION AT MEETINGS

A. The Council is, in certain instances (e.g., changes in zoning), required to hold public hearings. If an item is identified on the agenda of a Council meeting as a public hearing, persons attending the Council meeting will be given the opportunity to speak regarding the item after being recognized by the Mayor (or presiding officer). The Mayor (or presiding officer) may set time limits on persons who speak at a public hearing.

B. Except as set forth in paragraph A of this Section, as a general rule, persons attending a meeting of the Council may not participate in the discussions of the Council.

SECTION 6. COUNCIL AND STAFF RELATIONS

A. Members of the Council should attempt to ask questions to the City Manager about the Council agenda packet issued for a Council meeting prior to the meeting. This will allow the Town staff time to respond to the Council member's questions and, if necessary, to provide additional information to all members of the Council.

B. The City Manager shall designate the appropriate Town staff member to address each agenda item and shall see that each presentation informs the Council on the issues which require Council action. The presentations should be professional and timely, and should list options available for resolving any issue.

C. The City Manager is directly responsible for providing information to all members of the Council concerning any inquiries by a specific member of the Council. Should the City Manager find his or his staff's time being dominated by a single member, he should inform the Mayor of the concern.

D. Any conflicts between the staff and the Council will be addressed by the Mayor and the City Manager.

E. The City Manager is responsible for the professional and ethical behavior of himself and his staff. He is also responsible for seeing that his staff remains educated and informed on the issues facing municipal government.

F. All members of the Council and Town staff members shall show respect and courtesy to each other and citizens at all times.

G. The City Manager is responsible for seeing that all newly (first time) elected members of the Council are provided with a thorough orientation on Town staff procedures, municipal facilities, and other information of interest to municipal officials.

SECTION 7. COUNCIL AND MEDIA RELATIONS

A. Agenda packets shall be provided upon request to all interested news media in advance of the Council meetings.

B. Responses to media inquiries concerning Town matters will be made as determined by the Mayor (or Mayor Pro-Tempore in the absence of the Mayor, or in the absence of the Mayor Pro-Tempore, the Deputy Mayor Pro-Tempore) and the City Manager.

AI-2095

19.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Council

AGENDA CAPTION:

Discussion And Possible Action Regarding A Review Of **Current Council Ethics Guidelines And The Need For Process And Sanctions.**

BACKGROUND:

Mayor Meier requested this item be placed on the agenda to review and discuss current City Council ethics guidelines and the need for process and sanctions.

The Town's Code of Ethics in it's entirety can be found in the Town's Code of Ordinances at the following link:

https://www.municode.com/library/tx/addison/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIIIIFEM_DIV2COET

(Please copy and paste to your browser if the link does not work.)

RECOMMENDATION:

Information only, no action required.

AI-2094

20.

Work Session and Regular Meeting

Meeting Date: 02/28/2017

Department: Council

AGENDA CAPTION:

Discussion And Possible Action Regarding A Review Of **The Current Transparency Policy And Practice.**

BACKGROUND:

Mayor Meier requested this item be placed on the agenda to review and discuss the current policy and practice regarding transparency.

RECOMMENDATION:

Information only, no action required.
