



**REGULAR MEETING & WORK SESSION  
OF THE CITY COUNCIL**

**August 28, 2018**

**ADDISON TOWN HALL**

**5300 BELT LINE RD., DALLAS, TX 75254**

**5:30 PM DINNER**

**6:00 PM EXECUTIVE SESSION & WORK SESSION**

**7:30 PM REGULAR MEETING**

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**

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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.
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## WORK SESSION

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3. Present and Discuss **Options to Recognize and Honor Former City Manager Ron Whitehead and Former Director of Development Services Carmen Moran for Their Service to the Town of Addison.**
  4. Present and Discuss an **Update on the Electric Service from Oncor to Customers in the Town of Addison.**
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## REGULAR MEETING

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### Pledge of Allegiance

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Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

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5. 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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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.*

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6. Consider Action to Approve the **August 14, 2018 Regular Meeting Minutes.**

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7. Consider Action to Approve a **Resolution for a License Agreement with Seven Owls, L.P. Located at 4940 Landmark Boulevard (Exponent HR Building) for the Use of an Easement Area Located on the Property of 4940 Landmark Boulevard and Authorize the City Manager to Execute the Agreement.**
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8. Consider Action to Approve a **Resolution for the North Dallas County Water Supply Corporation's Fiscal Year 2019 Budget to Furnish and Supply Sewer Services for the Town of Addison.**
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9. Consider Action to Approve the **Quarterly Update from the Finance Committee to the City Council for the Period from April 2018 to June 2018.**
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#### Regular Items

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10. Hold a Public Hearing, Present, and Discuss the **Town of Addison's Proposed Property Tax Rate for the Fiscal Year Commencing October 1, 2018 and Ending September 30, 2019.**
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11. Present, Discuss, and Consider Action on an **Ordinance Amending Various Sections of Chapter 70, Street, Sidewalks and Other Public Places, of the Code of Ordinances to Allow for the Placement of Public Safety Facilities Within Designated Underground and Design Districts.**
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#### Adjourn Meeting

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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.

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Posted: \_\_\_\_\_  
Irma Parker, City Secretary  
August 23, 2018  
Time: 6:00p.m.

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH  
DISABILITIES. PLEASE CALL (972) 450-7090 AT LEAST  
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

## Work Session and Regular Meeting

3.

Meeting Date: 08/28/2018

Department: City Manager

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### AGENDA CAPTION:

Present and Discuss **Options to Recognize and Honor Former City Manager Ron Whitehead and Former Director of Development Services Carmen Moran for Their Service to the Town of Addison.**

### BACKGROUND:

Mayor Pro Tempore Walden and Council Member Quintanilla requested this item be placed on the July 10, 2018 agenda to discuss options for recognizing and honoring former City Manager Ron Whitehead and former Director of Development Services Carmen Moran. During the discussion, Council came to a consensus to do something to recognize both former Town employees. Council directed City Manager Wes Pierson to contact Mr. Whitehead and inquire if he would welcome this type of recognition for himself and Ms. Moran.

City Manager Wes Pierson contacted Mr. Whitehead. Below is a summary of Mr. Whitehead's response:

- He would really like to see something named after Carmen Moran, perhaps the Vitruvian Amphitheatre;
- He does not want a statue in his likeness;
- He would prefer that nothing be named after him;
- He would request that any effort only use private funding; and
- Ideally, any recognition would be something understated and humble that communicates that people (he and others) really cared about Addison. Something that communicates the beauty/creativity/story of how Addison Circle or Vitruvian came about.

### RECOMMENDATION:

Staff requests direction from Council.

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**Work Session and Regular Meeting**

**4.**

**Meeting Date:** 08/28/2018

**Department:** City Manager

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**AGENDA CAPTION:**

Present and Discuss an **Update on the Electric Service from Oncor to Customers in the Town of Addison.**

**BACKGROUND:**

Mayor Joe Chow and Council Member Ivan Hughes requested this item to be placed on the agenda. Representatives from Oncor will update the Council concerning electric service to customers in Addison, including the circumstances surrounding recent power outages and what plans are in place to address them in the future.

**RECOMMENDATION:**

Information only, no action required.

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**Work Session and Regular Meeting**

**6.**

**Meeting Date:** 08/28/2018

**Department:** City Manager

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**AGENDA CAPTION:**

Consider Action to Approve the **August 14, 2018 Regular Meeting Minutes.**

**BACKGROUND:**

City Secretary prepared the meeting minutes.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Minutes-August 14, 2018

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# DRAFT

## OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL MEETING & WORK SESSION

August 14, 2018

Addison Town Hall, 5300 Belt Line Rd., Dallas, TX 75254  
5:00 p.m. Executive Session & Work Session  
7:30 Regular Meeting

**Present:** Mayor Joe Chow; Mayor Pro Tempore Paul Walden; Deputy Mayor Pro-Tempore Tom Braun; Councilmember Ivan Hughes; Councilmember Lori Ward; Councilmember Guillermo Quintanilla; Councilmember Marlin Willesen

1. **CLOSED (EXECUTIVE) SESSION:**

The Addison City Council will conduct a Closed Executive Session 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; and
- Budget Suites of America located at 15130 Marsh Lane, Addison, Texas, 75001

Mayor Chow convened the City Council into Closed Executive Session at 5:05 pm.

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.

Mayor Chow reconvened the City Council into Regular Session at 7:05 pm. NO ACTION TAKEN.



## WORK SESSION

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### 3. **Present and Discuss an Update on the Final Design and Updated Cost Estimate of the Combined U.S. Customs and Border Protection Federal Inspection Station and Airport Administration Office Facility located at 4545 Jimmy Doolittle Drive.**

**PRESENTATION: Infrastructure & Development Services Director Lisa Pyles** - On April 24, 2018, Council approved the design of the U.S. Customs and Border Protection Federal Inspection Station combined with the Airport Administration offices to be located at 4545 Jimmy Doolittle Drive near the intersection of Keller Springs Road and Addison Road. Page Southerland Page, Inc., (Page) was engaged to design the combined facility. Design Development and Cost Estimate Update have been completed, with Construction Documents Phase now underway. The updated timetable for this project is as follows:

- August 2018 - Demolition package to be advertised
- October 2018 – Public hearing: Council considers resolution authorizing Notice of Intent Publication for Certificates of Obligation
- October 2018 - Construction documents complete
- October 2018 - Construction advertised on BidSync
- November 2018 – First and Second Publication of Notice of Intent to Issue Certificates of Obligation
- December 2018 - Public hearing: Council considers adoption of Bond Ordinance and approval of sale
- January 2019 - Construction to begin - 18 months duration

Work has begun on the construction documents and the interior and exterior materials have been selected. Staff and Page updated the Council on the final design and the latest cost estimates. The cost estimates (see below) that have been updated since the schematic design phase. The estimated cost of the facility has increased from \$6,186,248 to \$6,239,193, a difference of \$52,945, or a .85% increase. The primary elements that have increased are the concrete cost and systems such as plumbing and electronic safety and security. Other elements estimates have decreased such as HVAC and communications.

**Preliminary Design Development Facility Costs**

Scope	7/11/2017 Council Presentation	3/26/2018 Schematic Design Preliminary Cost Estimate	7/27/2018 Design Development Preliminary Cost Estimate
Facility + Landside Site Work	\$4,210,721	\$4,428,760	\$4,481,705
Airfield Improvements	\$1,445,000	\$880,400	\$880,400
Construction Subtotal	\$5,665,721	\$5,309,160	\$5,362,105
Demolition	\$180,486	\$516,650	\$516,650
Furniture	Not Included	\$275,738	\$275,738
Equipment	Not Included	\$84,700	\$84,700
Facility Grand Total	\$5,836,207	\$6,186,248	\$6,239,193

**NOTE:** Facility and site costs (airside and landside) include 3.6% escalation and 10% contingency.  
Site costs include all landside elements outside the building footprint – utilities, driveway, parking, sidewalks, landscaping and fencing.

The presentation will also include the floor plans of both the Customs and Airport office spaces

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and artist renderings of the exterior and interior spaces. There have been no changes to the previous rendition presented to Council. **COUNCIL COMMENTS:** Mayor Chow commented on the abbreviation of Texas – “TX” shown on the side of the building. He prefers that Texas be spelled out.

4. **Present and Discuss the Findings of the Addison Circle/Cotton Belt Special Area Study.**

**PRESENTATION: Infrastructure & Development Services** - In November 2017, the City Council approved a contract with Kimley-Horn and Associates, Inc. to facilitate a special area study for two areas adjacent to Addison Circle. The first area includes the properties adjacent to the Cotton Belt Rail Line consisting of approximately 29 acres. The second area includes the 8 acres abutting Addison Circle on the east side of Addison Road from Airport Parkway to Morris Avenue.

During the study process, the consultant and staff completed a strategic assessment of the study area to review existing conditions, identify opportunities and constraints, and conduct a high-level market analysis. The team received stakeholder and community input using stakeholder interviews, four committee meetings, and two community workshops. As part of the study process, the consultant developed two alternatives for the study area for consideration before crafting a preferred development concept based on the committee and community feedback.

Staff and the consultant will present the findings of the study to the Council and answer any questions. Additionally, the full draft report on the study is attached. The report describes the study process, discusses the strategic assessment of the study area, details the proposed vision statement, guiding principles and the preferred development concept, and establishes an implementation plan for the study area. Should Council approve of the study findings, staff will begin the process of formally amending the Comprehensive Land Use Plan. Short question and period followed. **COUNCIL COMMENTS:** No action to be taken at this time. Staff to proceed to finalize.

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## REGULAR MEETING

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### **Pledge of Allegiance**

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**Announcements and Acknowledgements** regarding Town and Council Events and Activities. Discussion of Events/Meetings

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**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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No citizens requested to address the City Council on any item not on the agenda.

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### **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.*

5. **Consider Action to Approve the July 10, 2018 Regular Meeting Minutes.**
6. **Consider Action to Approve a Resolution to Give Consent to the Proposed Second Amendment to the Ground Lease to Concourse Plaza II, LTD., for the Real Property Located at 16051 Addison Road at Addison Airport, at the Far East End of Taxiway Sierra, and Authorize the City Manager to Execute the Agreement.**
7. **Consider Action to Approve a Resolution for a Non-Exclusive Food and Beverage Vending Agreement with the Crowne Plaza Hotel and Authorize the City Manager to Execute the Agreement to Provide Food and Beverage Services to Event Patrons at Oktoberfest 2018.**
8. **Consider Action to Approve a Resolution for a Non-Exclusive Food and Beverage Vending Agreement with The Taste of Cuba Food Truck and Catering, LLC and Authorize the City Manager to Execute the Agreement to Provide Food and Beverage Services to Event Patrons at Oktoberfest 2018.**
9. **Consider Action to Approve a Resolution for a Non-Exclusive Food and Beverage Vending Agreement with Prime Steak Management, Inc. DBA Chamberlain's Brau Haus and Authorize the City Manager to Execute the Agreement to Provide Food and Beverage Services to Event Patrons at Oktoberfest 2018.**
10. **Consider Action to Approve a Resolution for a Non-Exclusive Food and Beverage Vending Agreement with Marriott Quorum Hotel and Authorize the City Manager to Execute the Agreement to Provide Food and Beverage Services to Event Patrons at Oktoberfest 2018.**
11. **Consider Action to Approve a Resolution for an Events Sponsorship Agreement with DCO Reality, Inc., (UDR) for the Purposes of Sponsoring Events at Vitruvian Park to Include, but not limited to, Vitruvian Nights Live, Vitruvian Salsa Nights and the Vitruvian Holiday Lights Display and Authorize the City Manager to Execute the Agreement in an Amount not to Exceed \$185,000 for Fiscal Year 2018.**

Mayor Chow called for any requests to remove Items from *CONSENT AGENDA* for separate discussion. There were no requests. Mayor Chow called for a motion.

**MOTION:** Mayor Pro-Tempore Walden moved to approve *CONSENT AGENDA* Items 5 thru 11 as presented. Council Member Ward seconded the motion. Motion carried unanimously.

**Resolution No. R18-60:** Give Consent to the Proposed Second Amendment to the Ground Lease to Concourse Plaza II, LTD., 16051 Addison Road at Addison Airport, at the Far East End of Taxiway Sierra

**Resolution No. R18-61:** Non-Exclusive Food and Beverage Vending Agreement with the Crowne Plaza Hotel - Oktoberfest 2018.

**Resolution No. R18-62:** Non-Exclusive Food and Beverage Vending Agreement with The Taste of Cuba Food Truck and Catering, LLC - Oktoberfest 2018.

**Resolution No. R18-63:** Non-Exclusive Food and Beverage Vending Agreement with Prime Steak Management, Inc. DBA Chamberlain's Brau Haus - Oktoberfest 2018.

**Resolution No. R18-64:** Non-Exclusive Food and Beverage Vending Agreement with Marriott Quorum Hotel - Oktoberfest 2018.

**Resolution No. R18-65:** Events Sponsorship Agreement with DCO Reality, Inc., (UDR) for Sponsoring Events at Vitruvian Park to Include, but not limited to, Vitruvian Nights Live, Vitruvian Salsa Nights and the Vitruvian Holiday Lights Display - Amount not to Exceed \$185,000 for Fiscal Year 2018.

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## REGULAR ITEMS

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12. **Hold a Public Hearing, Present, Discuss, and Consider Action on an Ordinance Changing the Zoning on Property Located at 4535 Belt Line Road, formerly Macaroni Grill, which Property is Currently Zoned PD, Planned Development, through Ordinance 089-015, by Approving a Special Use Permit for a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption Only, in Order to Allow for Revised Development Plans. Case 1780-SUP/LupeTortilla.**

Assistant Director of Development Services Charles Goff presented Case 1780-SUP/Lupe Tortilla for Council consideration. This site was previously operated as Romano's Macaroni Grill. The restaurant was constructed in 1990 and subsequently expanded in 1998 to add an interior bar and an exterior patio. In 2014, the SUP was amended to approve an extensive renovation necessary to convert the building to Brick House Tavern and Tap, which ultimately did not come to fruition. The property is currently zoned as Planned Development (PD) through Ordinance 089-015.

The applicant is proposing to convert the building to Lupe Tortilla. Lupe Tortilla is a Mexican restaurant with multiple locations centered around the Houston, Austin, and San Antonio areas. This would be their first North Texas location, with a second planned in Las Colinas.

- *Proposed Plan:* The existing restaurant space is 8,991 square feet, which includes an existing exterior patio of 761 square feet. The applicant is proposing to renovate and expand the existing building and patio area to a total of 9,073 square feet. The interior dining space is proposed at 8,282 square feet and seats a total of 281 people, and the outdoor patio space is 790 square feet and seats 50 people. Because the applicant is proposing to increase the total square footage of this restaurant space, relocate and expand the bar area, and revise the site plan and building elevations, these actions require a new Special Use Permit.

- *Site Plan:* The site plan has been amended to show the additional 82 square feet of the building footprint, which includes the patio expansion as well as expansion and relocation of the bathroom area, which would now align with the existing northernmost edge of the building. The site plan also shows additional parking and landscaping improvements.
- *Landscaping:* As a redevelopment site, the property does not meet the Town's current landscape requirements and there are limitations in meeting these requirements without losing required parking spaces. The applicant has worked with staff to retain most of the existing landscape coverage while adding additional landscaping where possible to meet as many of the requirements as feasible. The submitted landscape plan provides 15.7% site coverage for landscaping, which is slightly more than the existing 15.5%. The Parks Department has reviewed the landscape plans and deemed this sufficient given the existing site constraints.
- *Building Elevations:* Ordinance 089-015 requires at least 80% of the exterior walls of all structures to be of masonry construction, with the front and side walls of the building to be of brick or stone veneer. Because the existing building is constructed primarily of stucco, with some brick and stone veneer elements, staff instructed the applicant that any new additions to the exterior walls must comply with the above masonry requirements. The submitted façade plans show new stone and brick veneer additions, while the remainder of the façades maintain the existing stucco material.
- *Parking:* The proposed restaurant including the patio, is 9,073 square feet, which requires a total of 130 parking spaces, at a ratio of one parking space per 70 square feet. The proposed site plan shows 130 provided parking spaces.

Staff believes that redeveloping this currently vacant building will be a positive contribution to the surrounding area. Furthermore, the building additions and site improvements attempt to move the site toward compliance with the existing zoning requirements. The Addison Planning and Zoning Commission, meeting in regular session on July 17, 2018, voted to recommend approval the Special Use Permit for a restaurant with the sale of alcoholic beverages for on-premises consumption only, in order to allow for revised development plans, with the following condition: the applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage. Staff recommends approval by the City Council.

Mayor Chow commented that this facility has been the location of several restaurants in the past. Mayor Pro-Tempore Walden asked if Staff was familiar with the company and if their businesses were successful. Mr. Goff reported that Lupe Tortilla is a Mexican restaurant with multiple locations centered around the Houston, Austin, and San Antonio areas. This would be their first North Texas location, with a second planned in Las Colinas. By all indications the restaurant chain is popular enterprise.

Mayor Chow commented that this facility has been the location of several restaurants in the past. Mayor Pro-Tempore Walden asked if Staff was familiar with the company and if their businesses were successful. Mr. Goff reported that Lupe Tortilla is a Mexican restaurant with multiple locations centered around the Houston, Austin, and San Antonio areas. This would be their first North Texas location, with a second planned in Las Colinas. By all indications the restaurant chain is popular enterprise.

City Manager Pierson stated the Council has discussed how do we start to trigger the implementation of the Master Transportation Plan when you have properties that do not conform. We have talked about the need to do that, but not how do we want to do that. That decision has not been made. City Attorney McDonald added that she would like to provide a legal opinion in Executive Session on the implementation of a Master Transportation Plan and how it impacts a zoning case.

Deputy Mayor Pro-Tempore Braun concurred with Ms. McDonald that the Council does need to have that conversation, this issue has been ongoing. He added that the Master Transportation Plan was recently discussed during the Beltline Beautification Plan and efforts needed to carve out areas for bus stops. In some cases, the language in the easement does not allow the addition of these types of improvements but only provides the use for utilities. Ms. McDonald advised there is a process to acquire easement apply our easement right. She opined that this zoning case would not be the appropriate place to do insert this stipulation.

Mayor Chow noted this is a Public Hearing and called for any questions and/or comments from the audience on this agenda item. There were no such questions. Mayor Chow called for a motion.

**MOTION:** Council Member Hughes moved to adopt ***Ordinance No. 018-24*** Changing the Zoning on Property Located at 4535 Belt Line Road, formerly Macaroni Grill, which Property is Currently Zoned PD, Planned Development, through Ordinance 089-015, by Approving a Special Use Permit for a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption Only, in Order to Allow for Revised Development Plans. Case 1780-SUP/Lupe Tortilla. Deputy Mayor Pro-Tempore Braun seconded the motion. Motion carried unanimously.

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**13. Hold a Public Hearing, Present, Discuss and Consider Action on an Ordinance Changing the Zoning on Property Located at 5000 Belt Line Road, Suite 850, at the Southwest Corner of Dallas North Tollway and Belt Line Road, which Property is Currently Zoned PD, Planned Development, Through Ordinance 004-001, by Approving a Special Use Permit for a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption Only, in Order to Allow an Additional Restaurant Concept and Floor Plan Revision within the Existing Restaurant. Case 1781-SUP/Cinco Tacos Cocina & Tequila and 67 Street Food.**

Assistant Director of Development Services Charles Goff presented this item for Council consideration. After reading the Ordinance Caption Mayor Chow noted the word “Tequila” in the restaurant’s name. He asked how this was allowed within the Town. Mr. Goff provided a brief synopsis of this business related to this Special Use Permit.

***Background:*** This restaurant space is currently operating as Cinco Tacos Cocina & Tequila, previously approved as La Zaranda in 2011. The restaurant is part of the Addison Walk shopping center, which is zoned as Planned Development (PD) through Ordinance 004-001. The applicant is proposing to renovate a small portion of the existing interior space to introduce a second restaurant concept, 67 Street Food. Both Cinco Tacos and 67 Street Food will operate out of the same suite, under the same Certificate of Occupancy, and under one operator, and will be regulated



under one Special Use Permit.

Proposed Plan: The existing restaurant space is 7,201 square feet. This includes an exterior patio of 1,292 square feet. The interior space currently consists of one bar area and two dining areas. The applicant is proposing to maintain the same overall square footage but would like to renovate one of the existing dining areas, a total of 800 square feet, to create a new restaurant concept, 67 Street Food that would include a bar. The interior dining space for Cinco Tacos will now seat a total of 114 people inside and 60 on the patio. 67 Street Food will seat a total of 52 people. Revising the floor plan and adding a second bar area requires a new Special Use Permit.

Site Plan: There are no site plan changes proposed as part of this request.

Landscaping: There are no landscape plan changes proposed as part of this request.

Building Elevations: The submitted façade plan shows a new door as the entrance to 67 Street Food, to the right of the existing double door, which will remain as the entrance for Cinco Tacos. The rest of the facades remain unchanged.

Parking: The existing restaurant space, inclusive of the patio area, is a total of 7,201 square feet, which require a total of 45 parking spaces, at a ratio of one parking space per 160 square feet. The shopping center requires 460 parking spaces and provides a total of 509 parking spaces. There is sufficient parking on this site.

The proposal is an interior renovation of an existing restaurant space, which has been operating in this location for over seven years but has struggled. Adding the second concept is intended to help them improve their business. From a regulatory standpoint, this will remain one space operated together under one certificate of occupancy and one Special Use Permit. This set up is necessary because they both utilize the same kitchen and restroom facilities. Staff recommends approval of the request subject to no conditions.

Staff is not including the typical condition regarding the use of terms or graphic depictions relating to the sale of alcoholic beverages because the City Council previously revised this Special Use Permit specifically to remove this requirement to allow them to use such terms, including “tequila.” Mayor Chow asked when this condition was removed. Mr. Goff stated that this was approved by a previous Council prior to 2011. Mayor Chow added that he was against approving this Ordinance unless the word “tequila” was removed. He expressed concern that the Town was not following established laws consistently. Council Member Hughes commented that the Planning & Zoning Commission had addressed this as well. The Commission felt that this was the time to add the ‘condition’ to comply with the current Code. Mr. Goff reported that a SUP followed the property.

The Addison Planning and Zoning Commission, meeting in regular session on July 17, 2018, voted to recommend approval of an ordinance changing the zoning on property located at 5000 Belt Line Road, Suite 850, which property is currently zoned PD, Planned Development, through Ordinance 004-001, by approving a Special Use Permit for a restaurant with the sale of alcoholic beverages for on-premises consumption only, in order to allow an additional restaurant concept and floor plan revision within the existing restaurant, with the following condition: ‘the

applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.’

The restaurant owner, Mario Letayf, addressed the City Council during the Public Hearing and advised he had no issues with the addition of the condition. Originally, the addition of the word ‘Tequila’ was to distinguish the restaurant as authentic Mexican Food and not the Tex-Mex type food. Council asked the owner various questions about this new restaurant concept. There being no further questions, comments during the Public Hearing, Mayor Chow closed the Public Hearing and called for a motion.

**MOTION:** Deputy Mayor Pro-Tempore Braun moved to adopt **Ordinance No. 018-25** Changing the Zoning on Property Located at 5000 Belt Line Road, Suite 850, at the Southwest Corner of Dallas North Tollway and Belt Line Road, which Property is Currently Zoned PD, Planned Development, Through Ordinance 004-001, by Approving a Special Use Permit for a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption Only, in Order to Allow an Additional Restaurant Concept and Floor Plan Revision within the Existing Restaurant. Case 1781-SUP/Cinco Tacos Cocina & Tequila and 67 Street Food. Council Member Willesen seconded the motion. Motion carried unanimously.

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**14. Present, Discuss, and Consider Action on an Ordinance Amending Chapter 62, Signs, of the Code of Ordinances by Amending Article VI, Special Districts, Section 62-289(g), Vitruvian Park, to Allow for Two Pylon Signs as part of Brookhaven Village Shopping Center at 14280 Marsh Lane at the Southeast Corner of Marsh Lane and Spring Valley Road.**

Assistant Director of Development Services Charles Goff presented this request to the City Council for consideration. He stated UDR is currently under construction on the Brookhaven Village Shopping Center redevelopment at the southeast corner of Marsh Lane and Spring Valley Road. As part of this project, UDR demolished two buildings, is constructing a new multi-tenant retail building adjacent to the existing Tom Thumb store and is creating three developable pad sites for future retail/restaurant development. UDR is requesting the Town consider amending the Sign Code to allow for two detached pylon signs for the center that do not comply with the Town’s current regulations.

Starting in April of 2017, UDR’s representatives began discussing signage for the shopping center with Town staff. At that time, a pylon sign was proposed that did not comply with several of the design requirements in the Town’s Sign Code. Most notably, the sign was 25 feet tall, 99 square feet, and contained a mixture of stone and aluminum. The Sign Code contains very specific design requirements for detached signs and restricts such signs to exactly 20 feet tall and 72 square feet in area.

Staff shared several concerns with UDR regarding the originally proposed pylon sign. First, that the proposed sign did not comply with several requirements in the Sign Code. Second, staff expressed a growing concern that signage within the district was being designed in a very piecemeal fashion. The existing signs in the area and the proposed signs had little relation to each other, and therefore were not creating a cohesive identity for the Vitruvian neighborhood.



Staff suggested that UDR look at signage more broadly and work with the Town to revise the Vitruvian Park Special Sign District to include design specifications and material pallets that would establish a common look for detached signs. Due to time constraints associated with the construction schedule of the shopping center, UDR would like to address the proposed pylon signs separately now and then work on revisions to the Special Sign District requirements.

UDR and their representatives have revised the design of the proposed pylon sign, reduced the height of the sign to 20 feet and the area of the tenant signage to 79.75 square feet. Additionally, the proposed signs include text at the base showing the Vitruvian leaf logo and the text “Brookhaven” which adds approximately 12 square feet of signage area. The proposed sign can be seen in the attachments to this agenda item.

Staff supports the design and materials of the proposed sign as well as allowing the Vitruvian leaf logo and “Brookhaven” text at the base of the sign. Staff believes that the area of the tenant signage, however, should be reduced to 72 square feet to comply with the Sign Code provision. Staff has explained to UDR that most, if not all, retailers desire as much signage as possible. Additionally, retailers are very aware of the type, number, and size of signs that their competitors are allowed. Staff is concerned that allowing larger signage in this location without a compelling justification would be used by other retail properties in the future to request equal treatment by the Town; therefore, Staff recommends denial of the request, but would support the proposed sign if the area of the tenant signage was reduced to 72 square feet.

Deputy Mayor Pro-Tempore Braun stated that larger signage may be needed for larger shopping centers. He requested clarification on the requirements for signage versus frontage. Mayor Chow added that two pylon signs could be used due to the size of frontage at the center. Mr. Goff concurred; however, he added that the long-term plan for this shopping center included two out-parcels that have yet to be constructed. Potentially, a total of three signs could be located on one frontage. Council Member Willesen commented that Staff’s Agenda Memo opined that the signage was being done in a piece-meal fashion. He stated that he had driven through the District and thought it looked great, he asked if there was some framework in place for standalone signs. Mr. Goff stated there was no standard in the Code and each request was done on a case by case basis. Council Member Willesen recommended that a framework be established and that the Town work with the requestor to reach a consensus. Mr. Goff stated that due to time constraints UDR moved forward with this request using the current process.

Council Member Hughes asked for clarification regarding the process for amending or re-writing a signage ordinance. Mayor Chow asked if any variances have been granted for larger signs. Mr. Goff reported there was one that comes to mind and this was approved due to the location along the Toll Road. The increase was approved due to the location. Mayor Chow and Council Member Ward concurred that the Town needs to be consistent in administering the Code. Staff expressed concern about the developer having to go back to re-submit this sign request. Mr. Goff requested that Council deny the construction of two pylon signs as submitted but support signage at the reduced 72 square feet.

**MOTION:** Mayor Pro-Tempore Walden moved to approve an **Ordinance No. 018-24** to Allow for Two Pylon Signs as part of Brookhaven Village Shopping Center at 14280 Marsh

Lane at the Southeast Corner of Marsh Lane and Spring Valley Road at 72 square feet. Council Member Ward seconded the motion. Motion carried 6-1 with Deputy Mayor Pro-Tempore Braun casting the dissenting vote.

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**15. Present, Discuss, and Consider Action on a Resolution for an Agreement with 308 Construction, LLC, for Infrastructure Construction and Services Associated with the Kellway Lift Station Improvements and Authorize the City Manager to Execute the Agreement in an Amount Not to Exceed \$222,919.**

Assistant Director of Infrastructure Jason Shroyer presented this project. Sewer services are designed to flow on a gravity basis. It is sometimes necessary to install a lift station that will pump wastewater or sewage from a lower elevation to a higher elevation so that it can continue to flow by gravity.

The Kellway Lift Station was built in 1998 to move wastewater from the northern part of Town to a sewer tunnel system that is then treated at a Trinity River Authority (TRA) wastewater treatment plant in Dallas. The Kellway Lift Station has very complex components, such as pumps, motors, intricate piping, complex electrical and control systems, and detailed structural elements that require routine maintenance based on industry best practices, and periodic refurbishment and replacement. Although Staff does perform routine maintenance tasks, a more in-depth assessment was performed by Garver in 2017. This data is being incorporated into the Town's comprehensive asset management plan.

The assessment by Garver included the following services:

- Preparation of an asset inventory;
- Assessment of each asset and documentation of its condition including structural, electrical, and pumping equipment;
- Recommendations for improvements to the Town's supervisory Controls and Data Acquisition System (SCADA);
- Evaluation of and recommendations for improvements to capacity and process control systems;
- Evaluation of the facility's current compliance with state regulatory requirements;
- An opinion of probable costs for the recommended projects; and
- Preparation of Capital Improvements Plan (CIP).

One of the projects that was recommended in the first year's CIP, was to update old and outdated electrical equipment and an additive alternate for the installation of a dump station that will be used when cleaning and inspecting sanitary sewer lines. Garver completed the design of these improvements in June 2018 and the project was placed on Bidsync. The Town received four bids on July 31, 2018. A bid tabulation is provided below:

Company Name	Base Bid	Additive Alternate	Total Bid
308 Construction	\$91,000	\$131,919	\$222,919
Rey-mar Construction	\$83,310	\$171,377	\$254,687
Fryer Construction	\$81,800	\$297,700	\$379,500
Felix Construction	\$128,000	\$290,000	\$418,000

308 Construction, LLC has been determined to be the lowest bidder, with a total bid of \$222,919. The engineer's estimate for the project was \$274,000 and the project is within the Town's available budget of \$375,000 in the Utility Fund, of which \$44,227 has been spent on design, leaving \$330,773 for the construction of the improvements. A reference check on 308 Construction finds them capable of performing this work. Once the pre-construction meeting is held and the lead times for the electrical equipment is determined, the Notice to Proceed will be issued. The contract specified duration of the project, which is currently set at 120 days, may be adjusted depending on the availability and lead time to procure the electrical equipment. Staff recommends awarding a contract to the low bidder, 308 Construction, LLC.

City Manager Pierson noted that this project is under budget. Mayor Chow added that there were several bidders on this project compared to those projects where only one bid is received there is no competition for being awarded the project.

**MOTION:** Council Member Hughes moved to approve **Resolution No. R18-66**, a Resolution approving the Agreement with 308 Construction, LLC, for Infrastructure Construction and Services Associated with the Kellway Lift Station Improvements and Authorize the City Manager to Execute the Agreement in an Amount Not to Exceed \$222,919. Council Member Willeesen seconded the motion. Motion carried unanimously.

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#### **16. Present and Discuss an Update on the HVAC Improvements for the Addison Athletic Club.**

Assistant Director of Infrastructure Jason Shroyer presented the update to the Addison Athletic Club Master Plan process which began in 2014 when Council funded a study in the amount of \$40,000 to complete a facility assessment and master plan. Staff selected Barker Rinker Seacat Architecture (BRS) as the most qualified firm through a Request for Qualifications (RFQ) to perform this service. The Master Plan was adopted by Council on October 11, 2016. A preferred list of renovation projects was finalized at Council's October 20, 2016 meeting. The total cost of those improvements is \$1,047,000 and they include: air conditioning and heating system; elevator replacement; general painting, carpet replacement; conversion of 2 racquetball courts to exercise space and new lighting in the gym.

At the July 11, 2017 meeting, Council discussed potential funding uses from the sale of the Belt Line Road properties. During the presentation, Staff indicated that due to consultant error, the estimate for the preferred Athletic Club master plan renovation list was not accurate. Staff reached out to the consultants and received up-to-date numbers for the list of priorities. The new cost for the entire list was estimated to be \$1,574,300, an increase of \$527,300 from the original amount. Council agreed that the two pressing priorities would be the elevator and the HVAC

system overhaul and directed staff to move forward with completing those two improvements for a total of \$1,029,700. At the September 13, 2017 meeting, Council approved the City Manager to execute an agreement with PGAL for professional services related to the Addison Athletic Club Renovations.

At the February 13, 2018, Council meeting, staff presented an extensive review of the history of the HVAC, and the consultant presented the findings from the HVAC evaluation and discussed potential design options with the Council. Council approved a resolution selecting Option 2 for the design of the HVAC system. This option includes:

- The replacement of the undersized packaged units for the expansion with an appropriately sized air-cooled chiller (200 ton); and
- The replacement of high priority air handling units

Bid #18-116 Addison Athletic Club HVAC Improvements was initiated on April 9, 2018, and closed on May 3, 2018. The Town received only one bid in the amount of \$1,589,814 which significantly exceeded the budget presented to Council. Staff presented this information at the May 22, 2018, Council meeting and recommended that Council reject the bid. At that meeting, Council rejected the bid and staff told Council that this item would be brought back to Council before it goes out to bid the second time.

A presentation was provided to update the City Council and discuss the next steps for the project by Jeff Bulla of BRS. Aguirre Roden Representative Gary Roden, who was hired to conduct a third-party peer review, addressed the City Council as did engineer representative Mike Adcock. Staff advised that Aguirre Roden reviewed both the new construction drawings, existing building drawings, and specifications to validate the new mechanical design and to evaluate the drawing scope for possible further cost reductions. The system types and capacities, design choices, and decisions regarding the chilled water HVAC design are all consistent with industry standard and practices for this type of building and occupancy. The mechanical systems are arranged efficiently minimizing installed cost and are sized to meet the building requirements. It is Aguirre Roden's opinion that the design produced by RWB as it is currently presented meets or exceeds accepted standards of good engineering practice and standards of care upon the Engineer of Record. In addition, they did not see any cost savings measures beyond the owner declining the additive alternates as outlined in the MEP documents. Changes to the original plans/specifications were discussed as were Additive Alternates.

The updated timeline included a construction start date after Labor Day. School summer projects will be complete which should allow more contractors to bid. The consultant has begun reaching out to contractors and has identified a list of potential contractors. In addition, the Town will reach out to the potential contractors when the bid goes live along with providing a more relaxed construction. The estimated base bid is \$1,119,293 and estimated Additive Alternate Bid is \$484,025. It was reported that MIINC Contractors, the only bidder, has diligently worked with the design team to find cost savings items as well as define the project scope. MIINC has continued to update cost and provide input to the design team and the City as the scope of work has been modified.

Mayor Pro-Tempore Paul Waldron expressed his dissatisfaction and concern with the services provided by the architectural firm as well as having the additional expenditure of a third-party to

review the process used to estimate this project. City Manager Pierson expressed his concern as well but did provide some insight into the bidding process and the costs associated with supply demands which do drive up associated costs for any project. Presentation and discussion only – no action taken.

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**17. Present, Discuss, and Consider Action on a Resolution for Appointments to the Development Code Review Special Project Committee.**

Assistant Director of Development Services Charles Goff reported that on June 26, 2018, the City Council approved a professional services agreement with Clarion Associates, LLC to facilitate an assessment of our current development regulations and develop a new unified development code. The scope anticipates a robust community engagement program. As part of this process, Clarion recommends that a special project committee be appointed to advise them and staff during the project. The current schedule proposes 8 meetings with the special project committee:

1. An orientation meeting to get early feedback on current development regulations and future goals;
2. A meeting to review Clarion's findings on their assessment of the Town's current development regulations and early public input;
3. A meeting to review proposed zoning districts and permissible uses within each;
4. A meeting to review proposed development and design standards;
5. A meeting to review proposed administration and procedural requirements related to the development code;
6. A meeting to review proposed signage regulations;
7. A meeting to review the draft unified development code; and
8. A meeting to review the final proposed unified development code.

Clarion has suggested that, based on their experience with different sized committees, the size should be limited to 8-10 members. Furthermore, unlike previous committees, the members will need to review materials and discuss concepts that will often involve technical code requirements. Therefore, Clarion recommends that the committee include a significant number of people with a background in zoning, development, and other codes. These may include planners, architects, landscape architects, engineers, developers, attorneys involved in development, signage professions, and others that are accustomed to reading and understanding development regulations and their implications. A proposed make-up of the committee might include two-thirds (6-7 members) with this technical background, while the remaining third (2-3 members) could provide the average citizen's perspective.

Staff requests input and direction from Council on the appointments for this committee. Council Member Hughes asked how other cities have selected or acquired these professionals to assist in the development of a Code review. Mr. Goff stated that larger cities did not normally have a problem with volunteers due to their size; however, the Town is small with a much smaller pool of professionals with these qualifications. Council Member Quintanilla asked if this is the first consultant who has suggested establishing a citizens' committee to address a specific issue or policy. Mr. Goff stated that the use of advisory committees is a relatively new process being used by cities. He added that it is imperative to have the input from our citizens with expertise in

these specific areas or knowledge to assist with amending our current Code.

City Manager Pierson stated that it was necessary to recruit individuals that had the best interest of the Town at heart and not any individual who would benefit from any policy that is approved. Mayor Chow opined that it was necessary to recruit individuals with a deeper knowledge of being involved in a large development(s) but he concurred it will be difficult to get volunteers to commit to this project. Council Member Ward asked what would happen if the City could not get volunteers. Mr. Goff reported he would go back to the Consultant and ask what Plan B would be. Council Member Hughes asked Staff what they proposed to get the word out for help with the project.

Deputy Mayor Pro-Tempore Braun stated he knew several individuals that either live or work in the area that would be great on this Committee. He added that he would like to be considered for this Committee and would be happy to recuse himself from any voting of the Committee. Mayor Chow reiterated that it was essential that citizens be appointed with those specific technical experience and/or knowledge to assist the Town. He requested that each member come up with an individual to appoint and discuss at a future meeting. Mayor Chow mentioned by Council had two members with this type of expertise – Deputy Mayor Pro-Tempore Braun and Council Member Quintanilla. Council to bring forth candidates for appointment at a future council meeting. Presentation and discussion only.

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**18. Present, Discuss, and Consider Action on a Resolution to Propose a Property Tax Rate of 0.550000 cents per \$100 of Property Valuation for the Town's Fiscal Year Beginning October 1, 2018 and Ending September 30, 2019, and Scheduling Public Hearings regarding the Proposed Tax Rate and Proposed Budget for the 2018-2019 Fiscal Year.**

Budget Manager Terri Doby reported the State's Truth-in-Taxation law no longer requires the Council to take a record vote on a not-to-exceed tax rate. However, the law still requires calculation and publication of each taxing entity's effective tax and rollback tax rates. The effective rate, the rate needed to raise the same amount of property tax revenue for the Town from the same properties as in Fiscal Year (FY) 2018, is \$0.527064 per \$100 of valuation. The rollback rate, the highest tax rate that the Town may adopt before voters are entitled to petition for an election to limit the rate to the rollback rate, is \$0.553323 per \$100 of valuation. These rates will be published in the August 17, 2018 edition of the Dallas Morning News and on the Town's website.

The City Manager's proposed budget assumes a property tax rate of \$0.550000, which exceeds the effective tax rate but is lower than the FY2019 rollback rate and remains the same as the FY2018 adopted rate. Should the Council consider a rate higher than the effective rate, the Truth-in-Taxation law requires a vote of record, publication of the result of the vote of record and two public hearings.

The first tax rate public hearing is scheduled for August 28, 2018, at 7:30 pm at a meeting of the Council. The second tax rate public hearing and first budget public hearing is scheduled for September 4, 2018, at 5:00 pm at a meeting of the Council. Both public hearings will be held in Council Chambers. The final vote on the tax rate and adoption of the budget is scheduled for



September 11, 2018, at a meeting of the City Council commencing at 7:30 pm in Council Chambers.

**MOTION:** Council Member Willesen moved to approve **Resolution No. R18-67**, a Resolution approving the Proposed Property Tax Rate of 0.550000 cents per \$100 of Property Valuation for the Town's Fiscal Year Beginning October 1, 2018, and Ending September 30, 2019, and Scheduling Public Hearings regarding the Proposed Tax Rate and Proposed Budget for the 2018-2019 Fiscal Year as presented. Council Member Hughes seconded the motion. Motion approved unanimously by the Roll call vote taken and shown below.

Name	Yea	Nay	Abstain
Mayor Joe Chow	X		
Mayor Pro-Tempore Paul Walden	X		
Deputy Mayor Pro-Tempore Tom Braun	X		
Council Member Guillermo Quintanilla	X		
Council Member Ivan Hughes	X		
Council Member Lori Ward	X		
Council Member Marlin Willesen	X		

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**19. Present, Discuss, and Consider Action on a Resolution to Approve an Interlocal Agreement – Addison Cotton Belt Funding Partnership – Between the Town of Addison and the Regional Transportation Council and the North Central Texas Council of Governments and Authorize the City Manager to Execute the Agreement.**

City Manager Pierson reminded the City Council that on May 26, 2015, the City Council approved a motion to contribute \$5,000,000 to the Cotton Belt Rail Corridor project contingent upon its completion. Town staff has been working with senior staff at the North Central Texas Council of Governments (NCTCOG) and Dallas Area Rapid Transit (DART) to identify funding options for Addison's commitment. At the July 10, 2018, Council Meeting, staff presented a funding concept whereby the Regional Transportation Council (RTC) at NCTCOG would fund the Town's obligation and the Town would repay the RTC overtime. Council authorized the City Manager to seek funding from the Regional Transportation Council (RTC) to fund the \$5,000,000 obligation to DART with the following parameters:

- A repayment period between 5 and 10 years;
- An interest rate of 1% or less; and
- A claw back provision if the Cotton Belt Rail Corridor Project is not constructed.

At its August 9, 2018 meeting, the RTC unanimously approved a \$5,000,000 loan to Addison for the Cotton Belt Rail Corridor Project. The resolution presented this evening approves an interlocal agreement with the NCTCOG, as RTC's fiscal agent, to fund Addison's commitment for the Cotton Belt Corridor Rail Project with the following terms:

- RTC agrees to program funds in the amount of \$5,000,000 to DART to be available in Fiscal Year 2019 or otherwise directed by DART as Addison's Contribution to the Cotton Belt;
- Addison will repay RTC (NCTCOG) \$5,000,000 in principal with no Net

Present Value adjustments;

- Addison will pay an interest rate of 1.8% for the life of this loan with interest beginning to accrue from the date the Cotton Belt is finished;
- The repayment period is 10 years from the date the Cotton Belt is finished;
- Addison shall make annual payments of the principal and accrued interest beginning 30 days after the date the Cotton Belt is finished;
- There is no prepayment penalty related to repayment of Addison's obligation to RTC;
- Addison is not responsible for any repayment of the loan unless and until the Cotton Belt is finished. If the Cotton Belt fails to materialize, Addison has no obligation to repay the loan.

The proposed interest rate exceeds the negotiation authority the City Council gave City Manager Wes Pierson, as a result, the interlocal agreement is presented to Council for consideration and action. NCTCOG has agreed to accept these terms contingent upon this action from the Addison City Council. The RTC's funding will be transferred to DART only after Addison takes action and the agreement between Addison and the RTC is fully executed. Staff recommends approval.

**MOTION:** Council Member Hughes moved to approve **Resolution No. R18-68**, a Resolution to Approve an Interlocal Agreement – Addison Cotton Belt Funding Partnership – Between the Town of Addison and the Regional Transportation Council and the North Central Texas Council of Governments and Authorize the City Manager to Execute the Agreement. Motion was seconded by Deputy Mayor Pro-Tempore Braun. Motion carried unanimously.

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## ADJOURN MEETING

The meeting was adjourned upon a motion duly made and seconded.

**TOWN OF ADDISON, TEXAS**

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Joe Chow, Mayor

**ATTEST:**

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Irma G. Parker, City Secretary



## Work Session and Regular Meeting

7.

Meeting Date: 08/28/2018

Department: Infrastructure- Development Services

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### AGENDA CAPTION:

Consider Action to Approve a **Resolution for a License Agreement with Seven Owls, L.P. Located at 4940 Landmark Boulevard (Exponent HR Building) for the Use of an Easement Area Located on the Property of 4940 Landmark Boulevard and Authorize the City Manager to Execute the Agreement.**

### BACKGROUND:

The office building at 4940 Landmark Boulevard was built in 2006. The driveway that is used to access the property comes off Landmark Boulevard on the southwest corner of the property and it wraps around the eastside and then connects with Landmark Place in the north. This driveway is also platted as a fire lane access and includes a 24' utility easement, that houses a water line and a sanitary sewer line. Both lines extend from Landmark Place on the north to Landmark Boulevard on the southwest corner of the property.

The existing property owner, Seven Owls, L.P., is planning to add fencing and motorized vehicular gates at the parking lot entrances on the north and southwest sides to enhance security in those lots. Staff has reviewed the plans and understands the need for the enhanced security and is, therefore, supportive of the fence installation. The location of the vehicular gates, however, are a concern because they need to be located within the fire lane access and utility easement at the southwest entrance.

Typically, structures are not allowed to be built within the easement area. The Fire Department and Infrastructure and Development Services Department have reviewed the plans and the request and find it to be reasonable in this case since the only structure actually located within the easement is the automatic gate and the track on which it runs. All of the other components, such as the electrical, structural, and gate operators will be located out of the easement area.

The property owner has agreed to enter into a license agreement for the use of the easement area with the stipulation that access will be granted to the Town for meter reading and repairs and maintenance to the water and sanitary sewer lines. The license agreement allows for the construction of the vehicular gates and gate track within the easement area, Seven Owls L.P.'s use, operation and maintenance of the license area, insurance and indemnification requirements for

Exponent HR, and termination conditions. Seven Owls L.P. requests approval of the license agreement so that they can apply for the permits necessary to install the fence and vehicular gates.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Resolution - Seven Owls, L.P. License Agreement

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**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE LICENSE AGREEMENT BETWEEN THE TOWN OF ADDISON, TEXAS AND SEVEN OWLS, L.P. TO AUTHORIZE THE GRANT OF A REVOCABLE LICENSE FOR THE CONSTRUCTION AND MAINTENANCE OF AN AUTOMATIC VEHICULAR GATE OVER A TOWN OF ADDISON UTILITY EASEMENT; 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 License Agreement between the Town of Addison, Texas and Seven Owls, L.P. to authorize the grant of a revocable license for the construction and maintenance of an automatic vehicular gate over a Town of Addison utility easement, 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 28<sup>th</sup> day of August, 2018.

\_\_\_\_\_  
Joe Chow, Mayor

ATTEST:

By: \_\_\_\_\_  
Irma Parker, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Brenda N. McDonald, City Attorney

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

**LICENSE AGREEMENT**

This LICENSE AGREEMENT (this “**Agreement**”) is entered into as of this 16 day of August, 2018, by and between the TOWN OF ADDISON, TEXAS, a Texas home-rule municipality (the “**City**”) and Seven Owls, LP, a Texas limited partnership (“**Licensee**”) (the City and Licensee are sometimes referred to herein together as “**Parties**” and individually as a “**Party**”).

**RECITALS**

A. Licensee is the owner of record of that certain real property (the “**Property**”) located in the City and more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

B. City holds certain easements for utility purposes (the “**Easements**”) under and through a portion of the Property as shown and dedicated to City on Exhibit A.

C. Licensee desires to construct an automatic vehicular gate over and upon the area encumbered by the Easements as further described on Exhibit A (such area, as may be revised pursuant to this Agreement, the “**License Area**”). A description of the automatic vehicular gate is contained in Exhibit B, attached hereto and incorporated herein for all purposes.

D. In exchange for granting Licensee authorization to construct and maintain the automatic vehicular gate over and upon the License Area, City requires Licensee to enter into this Agreement.

E. This Agreement is solely intended for the protection and well-being of City’s existing utilities within the License Area (the “**Utilities**”). This Agreement is in no way associated with or in reference to other easements in favor of the City lying outside of the License Area or other easements not owned by City that may be affected by development of the automatic vehicular gate.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Incorporation of Recitals. The above and foregoing Recitals are true and correct and are incorporated herein and made a part of this Agreement for all purposes.

2. Grant of License. Subject to Paragraph 10 below, the City does hereby grant to Licensee a revocable license to construct, maintain, repair, reconstruct, and replace the automatic vehicular gate over and upon the License Area.

The license hereby granted is subject to and shall be used by Licensee in accordance with the terms and conditions of this Agreement, and with the City Charter and all applicable laws, ordinances, rules, regulations, codes, policies, and standards of the City and of any other governmental entity, agency, or authority having jurisdiction over the License Area or any matter covered by this Agreement (whether in effect on the Effective Date or as adopted or enacted thereafter) (collectively, "**Applicable Law**"), including those related to health, safety, noise, environmental protection, waste disposal, and water and air quality, and shall provide reasonable evidence of compliance with Applicable Law satisfactory to the City upon the written request of the City. In no event shall Licensee have the right to use the License Area for any purpose other than as set forth in this Agreement, unless City has provided its prior written consent to such use.

Not by way of limitation of the foregoing, City reserves the right to approve the final plans and specifications for the automatic vehicular gate for the limited purpose of confirming that (i) the automatic vehicular gate would not reasonably be expected to jeopardize the physical integrity of the Utilities, and (ii) City will have reasonable access to the Utilities to perform maintenance and repair activities as may be reasonably necessary from time to time.

Notwithstanding any other provision of this Agreement, it is understood that the License Area shall mean the portion of the Easements upon and over which the automatic vehicular gate is actually constructed and maintained.

3. Non-exclusive license. The license granted by this Agreement is not exclusive, and is subject and subordinate to: (a) the right of the City to use the License Area for any purpose needed by the City, including the right to make any repairs, modifications, or other changes to the License Area or to any area contiguous or adjacent to the License Area; (b) any existing utility, drainage, or communication facility, or any other similar facility, located within, on, under, over, or upon the License Area; (c) all vested rights presently owned by any utility, communication, or other company; (d) any existing license, lease, easement, or other interest heretofore granted by the City; (e) the terms and conditions of this Agreement; and (f) Applicable Law.

4. Use, operation, maintenance.

(a) Other than as provided in this Agreement, all use, operation, and maintenance of the License Area under this Agreement by Licensee shall be conducted and performed in such a manner so as not to unreasonably interfere with the public use of the underlying easement. The City's approval of any use, operation or maintenance of the License Area under or in connection with this Agreement (including approval of any plans for the installation or maintenance of the automatic vehicular gate in accordance with the approval rights set forth in Paragraph 2 above) shall not and does not relieve Licensee of all responsibility and liability for such use, operation and/or maintenance.

(b) Prior to installation, removal, or replacement of the automatic vehicular gate, Licensee shall:

(i) submit to the City's Director of Infrastructure and Development Services Department or the Director's designee, or to such other person as may be directed by the

City Manager (the “**Director**”), for review and consideration of approval, plans, specifications, and final shop drawings for the automatic vehicular gate in accordance with the approval rights set forth in Paragraph 2 above, which shall show, among other things, (A) the depth and location of any footings, tracks, and/or other related equipment for the automatic vehicular gate in the License Area, and (B) the location of any utility or other facilities located within the License Area. Such plans, specifications, and shop drawings shall be signed and sealed by a professional engineer holding a current, valid engineering services license issued by the State of Texas. The automatic vehicular gate shall not be installed unless and until such plans, specifications, and drawings have been approved by the Director, such approval to be subject to the provisions of Paragraph 2 above;

- (ii) obtain any permits required by the City to install the automatic vehicular gate; and
- (iii) if any utility or other facilities not owned by the City are located in the License Area, provide written notice to the owner of the same and provide a copy of such notice to the Director.

Licensee acknowledges that any damage to or destruction of any City property located within or immediately adjacent to the License Area and arising out of Licensee’s acts or omissions under or in connection with this Agreement, is the sole responsibility of Licensee, and Licensee shall promptly repair (or restore) (or cause the repair or restoration of) any such property that is damaged or destroyed at no cost to the City and to the reasonable satisfaction of the City.

The use, operation, and maintenance of the License Area by Licensee and all work and services pursuant to this Agreement pertaining to the automatic vehicular gate, including the installation, maintenance and replacement of the automatic vehicular gate, shall be conducted and performed in a safe, clean, neat, and good and workmanlike manner to the reasonable satisfaction of the Director.

Prior to instituting any maintenance or work on or within the License Area, Licensee, as required by Applicable Law, shall secure from the City any necessary permits, including building permits. The City shall be the sole judge of the quality of the maintenance or work, and upon written notice from the City, by and through the City Manager or the City Manager’s designee, stating in general terms how and in what manner maintenance or work is required, Licensee shall perform such required maintenance or work. If Licensee fails to do so, the City shall have the right (in addition to any other rights of the City provided for herein) to perform such maintenance or work, the cost of which shall be borne by Licensee. In conducting any such maintenance or work, City shall use all ordinary care to minimize damage to the automatic vehicular gate; provided, however, that Licensee is responsible for damage to the automatic vehicular gate if City, despite exercising such ordinary care, damages the automatic vehicular gate in the course of performing such maintenance or work.

(c) In connection with this Agreement, Licensee is and shall at all times be and remain responsible and liable for the acts and omissions of Licensee, its owners, directors, partners, managers, officers, employees, authorized representatives, authorized agents,

contractors, consultants, and licensees (collectively, "**Representatives**"), and their respective Representatives. The provisions of this subparagraph (c) shall survive the termination or expiration of this Agreement.

(d) The City has and shall at all times have the right to enter into, upon, under and over the License Area for any purpose whatsoever, including to make any modifications, repairs, or other changes to the License Area, provided the City shall use reasonable efforts, as solely determined by the City, to minimize interference with Licensee's use of the License Area as set forth herein.

##### 5. Insurance.

(a) At all times in connection with this Agreement, Licensee shall purchase and maintain in a company or companies lawfully authorized to do business in Texas such insurance coverages as set forth below:

(i) Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$2,000,000 products/ completed operations aggregate), and XCU (Explosion, Collapse, Underground) hazards. Coverage for products/completed operations must be maintained for at least two (2) years after any construction work has been completed; and the insurance must include contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement.

(ii) Worker's compensation at statutory (Texas) limits, including employer's liability coverage at minimum limits of \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each-occurrence/\$1,000,000 by disease aggregate.

(b) With reference to the foregoing insurance requirement, Licensee shall specifically endorse applicable insurance policies as follows:

(i) The Town of Addison, Texas shall be named as an additional insured with respect to all liability policies.

(ii) A waiver of subrogation in favor of the Town of Addison, Texas, its officers, employees, and agents shall be contained in each policy required herein.

(iii) All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.

(iv) All insurance policies, which name the Town of Addison, Texas as an additional insured, must be endorsed to read as primary coverage.

(v) Required limits may be satisfied by any combination of primary and umbrella liability insurances.

- (vi) Licensee may maintain reasonable and customary deductibles.
- (vii) Insurance must be purchased from insurers that are licensed to do business in the State of Texas.
- (c) All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, delivered to Licensee and the City prior to the commencement of the use of the License Area by Licensee, and shall:
  - (i) List each insurance coverage described and required herein. Such certificates will also include a copy of the endorsements necessary to meet the requirements and instructions contained herein.
  - (ii) Specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.
- (d) Upon request, Licensee shall furnish the Town of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.
- (e) If Licensee fails to keep all such insurance in force and effect at all times applicable to this Agreement, the City may terminate this Agreement upon thirty (30) days' prior written notice if any breach of this Paragraph 5 has not been cured to the reasonable satisfaction of the City.

**6. Indemnification; Release.**

(a) **Licensee's Indemnity Obligations.** Licensee shall DEFEND (with counsel reasonably acceptable to the City), INDEMNIFY and HOLD HARMLESS City and its elected and appointed boards, officers, agents, and employees ( "City Persons") from and against any and all claims, liabilities, and losses of any nature whatsoever, including reasonable out-of-pocket attorneys' fees and costs, for damage or injury to property or persons (including death) arising out of or connected with the construction, use and/or maintenance of the automatic vehicular gate over and upon the License Area, including any damage to the Utilities over which the automatic vehicular gate are constructed or which are located in the immediate vicinity of the automatic vehicular gate (collectively, "Losses"). In the event of any such Losses, Licensee, in addition to defending, indemnifying and holding the City harmless, shall also reimburse City for all of its reasonable, documented out-of-pocket costs to make necessary repairs to the Utilities. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF ANY CITY PERSON, OR CONDUCT BY ANY CITY PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Licensee shall promptly advise the City in writing of any claim or demand against any City Person related to or arising out of Licensee's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Licensee's sole cost



and expense. The City Persons shall have the right, at the City Persons' option and own expense, to participate in such defense without relieving Licensee of any of its obligations hereunder. This defense, indemnity, and hold harmless provision shall survive the termination or expiration of this Agreement.

(b) **Release.** Licensee does hereby RELEASE, WAIVE, ACQUIT, AND FOREVER DISCHARGE the City and all other City Persons from, and do COVENANT NOT TO SUE the City or any other City Persons for, any and all claims, liability, judgments, lawsuits, demands, harm, losses, damages, proceedings, actions, causes of action, fees, fines, penalties, expenses, or costs (including, without limitation, attorneys' fees and court costs) whatsoever for or related to personal injury of any kind or nature whatsoever (including death), or any damage to or destruction of any property, or any other harm or loss whatsoever, (collectively, "**Damages**"), which Licensee may sustain or suffer in connection with or related to this Agreement, INCLUDING, WITHOUT LIMITATION, ANY AND ALL DAMAGES WHICH ARISE FROM, OR ARE ALLEGED OR FOUND TO HAVE BEEN CAUSED BY, IN WHOLE OR IN PART, THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY CITY PERSON, OR CONDUCT BY ANY CITY PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

7. **Utility Access.** In consideration for City authorizing Licensee to construct and maintain the automatic vehicular gate over and upon the License Area, Licensee shall design and maintain the automatic vehicular gate as to permit City's reasonable access to the Utilities for ongoing maintenance and repair, including the construction and maintenance of openings/entrances through the automatic vehicular gate and into the License Area that provide access to the Utilities. City's approval of the final plans as provided in Paragraph 4(b)(i) above shall be conclusive evidence that the initial design of the automatic vehicular gate is consistent with the requirements of this Paragraph 7.

8. **City's Right to Perform Maintenance and Repair Work.** If at any time City determines that an emergency condition exists, City reserves the right to enter the License Area (with or without reasonable notice to Licensee) to perform such work as City may determine is reasonably necessary to protect the public health and safety or to preserve the Utilities. For any event described in the foregoing sentence, City shall use ordinary care to minimize damage to the automatic vehicular gate; provided, however, that Licensee is responsible for damage to the automatic vehicular gate if City, despite exercising such ordinary care, damages the automatic vehicular gate in the course of performing such maintenance and repair work.

9. **Covenants to Run with Land.** The parties hereby covenant and agree that this Agreement shall run with the land and be binding upon themselves, their successors, assigns, heirs and legal representatives and shall continue in effect for so long as the automatic vehicular gate remains on the License Area. The burden of the covenants herein shall be on the responsible party's interest in the Property, and the benefits shall run in favor of the City.

10. **Termination.** The City may terminate this Agreement and revoke the license described herein only (i) upon a material breach of this Agreement by Licensee and its failure to cure such breach within a reasonable time, as requested by the City, after receipt of written

notice from City that states the nature of the breach and the action required to be taken to cure such breach or (ii) if the City determines in its sole, reasonable discretion that termination of this Agreement is required for the health, safety and necessity of the public. City shall provide written notice of termination of this Agreement. Within thirty (30) calendar days following receipt of any such notice, Licensee shall remove or modify that portion of the automatic vehicular gate as reasonably required by City to access the Utilities. If Licensee fails to adequately remove or modify the automatic vehicular gate within such period, then upon fifteen (15) days' prior written notice, City may remove or modify the automatic vehicular gate as reasonably required by City to access the Utilities. Licensee shall be responsible for the City's reasonable, documented, out-of-pocket costs incurred in such removal or modification.

The obligations of this Paragraph 10 shall survive termination or expiration of this Agreement.

11. Miscellaneous.

(a) *Assignment.* Licensee shall not, and has no authority to, assign, sell, pledge, transfer, encumber, sublicense, or otherwise convey (collectively, "Assign" or "Assignment" and the person to whom an Assignment is made being an "Assignee") in any manner or form whatsoever (including by operation of law, by merger, or otherwise) all or part of its rights and obligations hereunder without the prior written approval of the City. Any Assignment of any kind or by any method without the City's prior written consent shall be null and void.

Any Assignment shall be expressly subject to all of the terms, conditions, and provisions of this Agreement. Licensee shall not Assign this Agreement or any of its interest in this Agreement without first obtaining a written agreement from each such Assignee whereby each such Assignee agrees to be bound by the terms, conditions, and provisions of this Agreement applicable to Licensee. An Assignment of this Agreement does not and shall not release Licensee from any of its covenants, agreements, liabilities, and/or duties under this Agreement, and Licensee shall remain fully liable and responsible for the same.

(b) *City Work.* If and when the City, in its sole discretion, shall determine that the grade of the License Area should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the Licensed Area, automatic vehicular gate, any connections, facilities, and/or appurtenances thereto, and/or any other property of Licensee, then in such instance any modifications or changes to the automatic vehicular gate and any connections, facilities, and/or appurtenances thereto, and/or any other property of Licensee, required or necessitated by such change in grade or other work shall be made at the sole cost and expense of Licensee and to the satisfaction of the Director. If City or one of City's Representatives performs such work, City shall use ordinary care to minimize damage to the automatic vehicular gate; provided, however, that Licensee is responsible for damage to the automatic vehicular gate if City, despite exercising such ordinary care, damages the automatic vehicular gate in the course of performing such work.

(c) *Independent Contractor.* Licensee is an independent contractor, and nothing in this Agreement creates nor shall be construed to create an employer-employee relationship, a joint

venture relationship, a joint enterprise, and Licensee has and shall have exclusive control of and the exclusive right to control the details of their respective operations, and all persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees, guests, and invitees.

(d) *Notices.* Any notice, correspondence, or statement required to be given or delivered hereunder, or otherwise given or delivered in connection with this Agreement, shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested, postage prepaid, on the third business day following the date of mailing. Addresses for any such notice, statement and/or report hereunder are as follows:

To the City:  
Town of Addison, Texas  
5300 Belt Line Road  
Dallas, Texas 75254  
Attn: City Manager

To Owner:  
Seven Owls, LP  
4970 Landmark Place  
Dallas, Texas 75254  
Attn: Andrew Sutton

The addresses and addressees for the purpose of this paragraph may be changed by giving notice of such change in the manner herein provided for giving notice.

(e) *Governing Law; Venue.* This Agreement and performance hereunder shall be governed by and construed in accordance with the laws of the State of Texas, without regard to choice of laws rules of any jurisdiction. Any and all suits, actions or legal proceedings relating to this Agreement shall be maintained in the state or federal courts of Dallas County, Texas, which courts shall have exclusive jurisdiction for such purpose. Each of the parties submits to the exclusive jurisdiction of such courts for purposes of any such suit, action, or legal proceeding hereunder, and waives any objection or claim that any such suit, action, or legal proceeding has been brought in an inconvenient forum or that the venue of that suit, action, or legal proceeding is improper.

(f) *Severability.* The terms, conditions, and provisions of this Agreement are severable, and if any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

(g) *Headings; "Includes".* Paragraph headings are for convenience only and shall not be used in interpretation of this Agreement. For purposes of this Agreement, "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.

(h) *Binding Agreement; No Third Party Beneficiaries.* This Agreement shall be binding on and inure to the benefit of the parties, their respective permitted successors and permitted

assigns. This Agreement and all of its provisions are solely for the benefit of the parties hereto and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

(i) *No Waiver of Immunity.* Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which the City, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

(j) *Rights, Remedies; Waiver.* Except as set forth in or otherwise limited by this Agreement, the remedies and rights set forth in this Agreement: (a) are and shall be in addition to any and all other remedies and rights either party may have at law, in equity, or otherwise, (b) shall be cumulative, and (c) may be pursued successively or concurrently as either party may elect. The exercise of any remedy or right by either party shall not be deemed an election of remedies or rights or preclude that party from exercising any other remedies or rights in the future. Any rights and remedies either party may have with respect to the other arising out of this Agreement shall survive the expiration or termination of this Agreement. All waivers must be in writing and signed by the waiving party.

(k) *Entire Agreement; Amendment.* This Agreement represents the entire and integrated agreement between the City and Licensee with regard to the matters set forth herein and supersedes all prior negotiations, representations and/or agreements, either written or oral. Any amendment or modification of this Agreement must be in writing and signed by authorized representatives of each of the City and Licensee or it shall have no effect and shall be void.

(l) *Recording.* This Agreement or a memorandum hereof may be recorded in the public records of Dallas County, Texas by either party to this Agreement. Upon termination of this Agreement, either party may record in the public records of Dallas County, Texas a notice of such termination (and this right shall survive such termination).

(m) *Authorized Persons.* The undersigned representatives of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the respective parties hereto.

**SIGNED** by the parties on the dates set forth below, and this Agreement shall be effective as of the Effective Date set forth above.

*(Signatures on Next Pages)*

EXECUTED in the County of Dallas, State of Texas, as of the date first above written.

**TOWN OF ADDISON, TEXAS**  
a municipal corporation

\_\_\_\_\_  
By: Wesley S. Pierson, City Manager

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
Irma Parker, City Secretary

\_\_\_\_\_  
Brenda N. McDonald, City Attorney

**SEVEN OWLS, LP**  
a Texas limited partnership

By: Mother Owl, LLC  
a Texas corporation  
Its: General Partner

  
\_\_\_\_\_  
Joyce Lacerte, President

ACKNOWLEDGMENT

THE STATE OF TEXAS       §  
  §  
COUNTY OF DALLAS       §

BEFORE ME, the undersigned authority, a Notary Public in and for said state, on this day personally appeared WESLEY S. PIERSON, known or proved on acceptable evidence 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 purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this \_\_\_\_ day of \_\_\_\_\_, 2018.

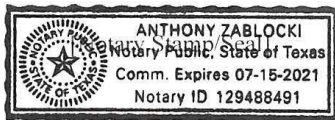
[Notary Stamp/Seal]

\_\_\_\_\_  
Notary Public, State of Texas

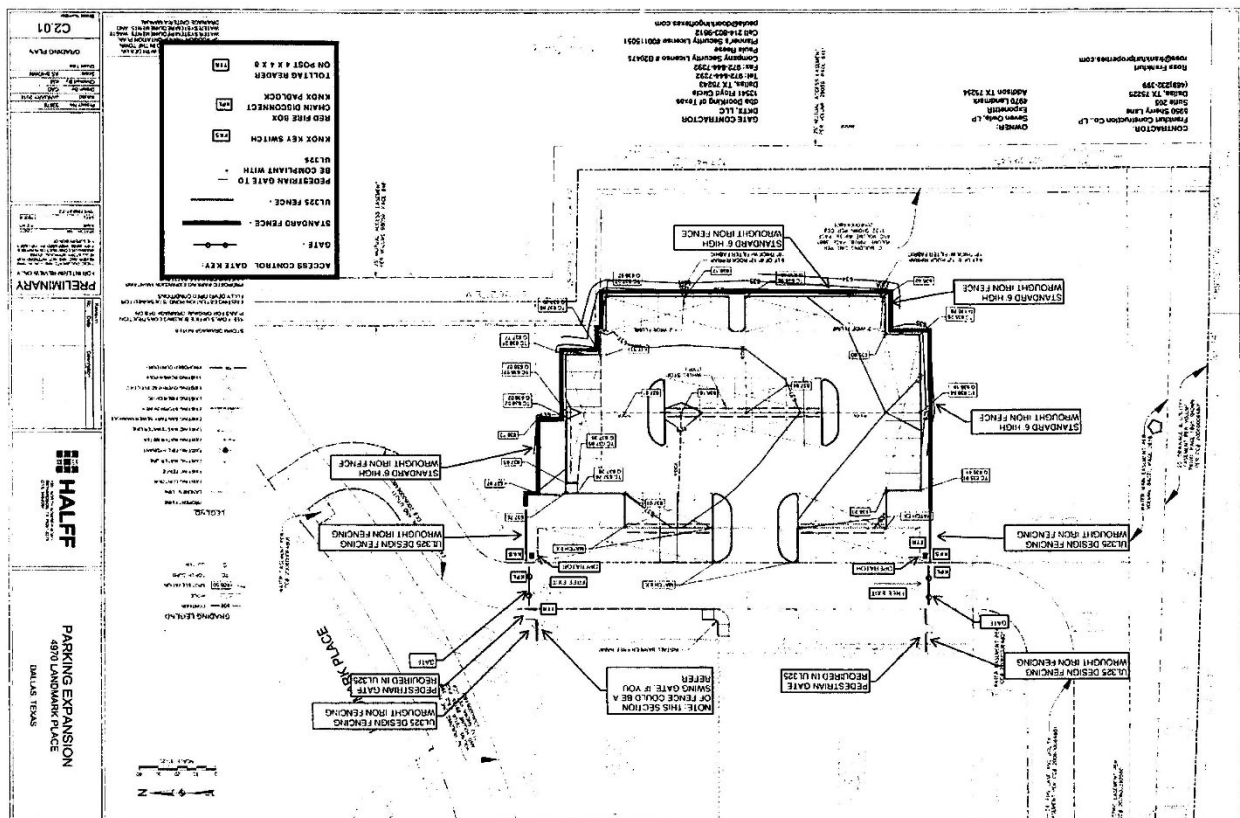
THE STATE OF TEXAS       §  
  §  
COUNTY OF DALLAS       §

BEFORE ME, the undersigned authority, a Notary Public in and for said state, on this day personally appeared Joyce Lacerre known or proved on acceptable evidence 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 purposes and consideration therein expressed.

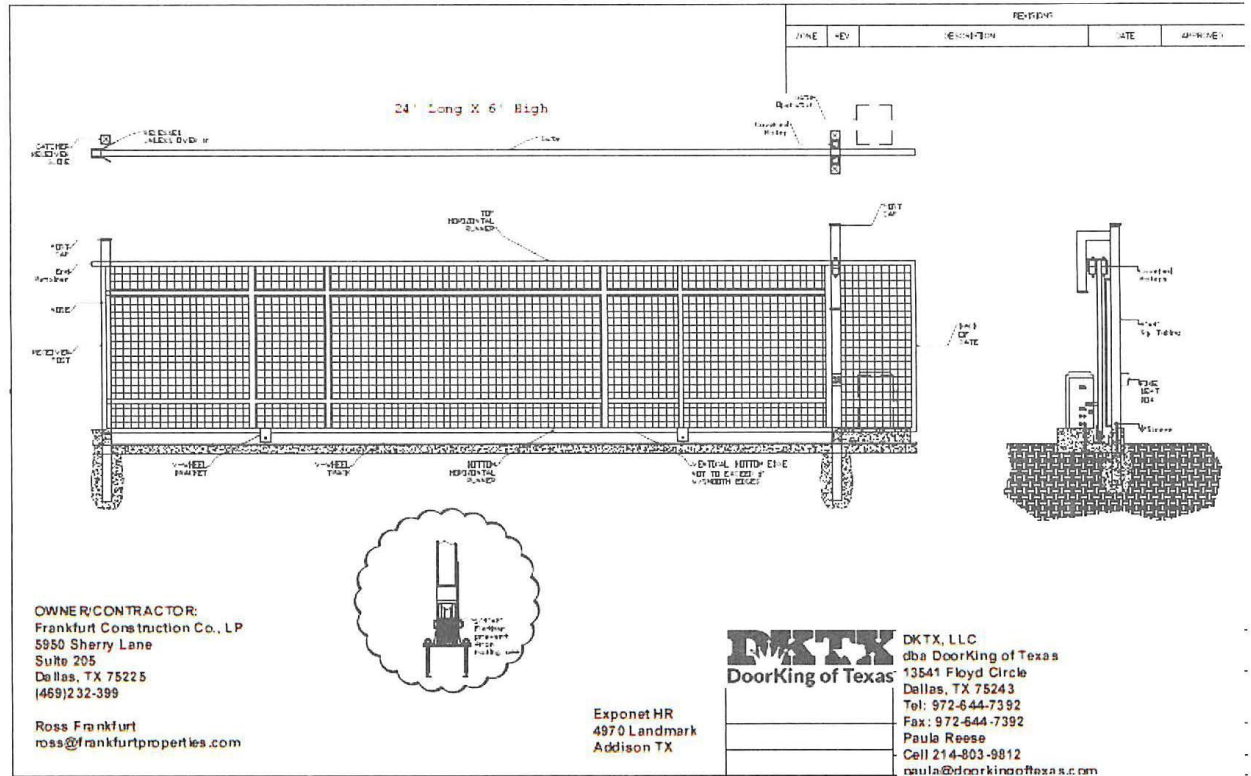
GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 16<sup>th</sup> day of August, 2018.



Anthony Zablocki  
Notary Public, State of Texas



**EXHIBIT B**





## **Work Session and Regular Meeting**

8.

**Meeting Date:** 08/28/2018

**Department:** Finance

**Pillars:** Gold Standard for Financial Health

**Milestones:** Review town ordinances and regulations with a focus on modernization in order to facilitate redevelopment

---

### **AGENDA CAPTION:**

Consider Action to Approve a **Resolution for the North Dallas County Water Supply Corporation's Fiscal Year 2019 Budget to Furnish and Supply Sewer Services for the Town of Addison.**

### **BACKGROUND:**

The North Dallas County Water Supply Corporation (NDCWSC) is a Texas non-profit corporation established in 1991 with the approval of the City Council of the City of Farmers Branch and the City Council of the Town of Addison. The purpose of the corporation, as set forth in Article Four of the Articles of Incorporation, is to furnish and provide sewer services to the cities of Farmers Branch and Addison, as well as to other towns and cities. This resolution approves NDCWSC to furnish and provide sewer services to the Town of Addison.

### **RECOMMENDATION:**

Administration recommends approval.

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### **Attachments**

Resolution - North Dallas County Water Supply Corporation Fiscal Year 2019 Budget

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**TOWN OF ADDISON, TEXAS  
RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE NORTH DALLAS COUNTY WATER SUPPLY CORPORATION OPERATING FUND BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019 TO FURNISH AND SUPPLY SEWER SERVICES FOR THE TOWN OF ADDISON AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the North Dallas County Water Supply Corporation was created by the City of Farmers Branch and the Town of Addison (collectively, the "Cities") for the purpose of joint construction, financing, and administration of certain sewer system improvements; and,

**WHEREAS**, the Bylaws of the Corporation require the Board of Directors to adopt a budget of expected revenues and proposed expenditures for the ensuing fiscal year; and,

**WHEREAS**, the Bylaws of the Corporation state that the budget is not effective until the same has been approved by the Cities.

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

**Section 1.** The Operating Fund Budget for the North Dallas County Water Supply Corporation for the year beginning October 1, 2018 and ending September 30, 2019, attached hereto as **Exhibit A**, is hereby approved.

**Section 2.** This resolution shall be effective from and after its date of passage.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this 28th day of August 2018.

\_\_\_\_\_  
Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Irma Parker, City Secretary

By: \_\_\_\_\_  
Brenda N. McDonald, City Attorney

# EXHIBIT A

## NORTH DALLAS COUNTY WATER SUPPLY CORPORATION OPERATING FUND 2018-2019 Proposed BUDGET

### EXHIBIT A

	YEAR TO DATE ACTUAL AT 09/30/16	ADOPTED BUDGET 2017-2018	YEAR TO DATE ACTUAL AT 06/30/18	PROPOSED BUDGET 2018-2019
EST. BEGINNING FUND BALANCE	\$40,367	\$35,000	\$35,226	\$32,500
<i>REVENUES:</i>				
Charges to participant cities				
Addison	\$0	\$0	\$0	\$0
Farmers Branch	0	0	0	0
Interest and miscellaneous	0	0	0	0
Transfer from Capital Projects fund	0	0	0	0
TOTAL REVENUES	\$0	\$0	\$0	\$0
TOTAL AVAILABLE RESOURCES	\$40,367	\$35,000	\$35,226	\$32,500
<i>EXPENDITURES:</i>				
General Maintenance	\$0	\$5,000	\$0	\$5,000
Total Maintenance	\$0	\$5,000	\$0	\$5,000
General Overhead				
Project Administration	\$0	\$0	\$0	\$0
Supplies	0	0	0	0
Legal Fees	0	520	0	520
Insurance	0	0	0	0
Audit Fees	5,000	2,500	2,500	0
Bank Fees	0	200	142	200
Miscellaneous	0	275	0	275
Total Overhead	\$5,000	\$3,495	\$2,642	\$995
Transfer to Capital Projects Fund		\$0	\$0	\$0
TOTAL EXPENDITURES	\$5,000	\$8,495	\$2,642	\$5,995
ENDING FUND BALANCE	\$35,368	\$26,505	\$32,584	\$26,505

## **Work Session and Regular Meeting**

**9.**

**Meeting Date:** 08/28/2018

**Department:** City Manager

**Pillars:** Gold Standard for Financial Health

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### **AGENDA CAPTION:**

Consider Action to Approve the **Quarterly Update from the Finance Committee to the City Council for the Period from April 2018 to June 2018.**

### **BACKGROUND:**

The Finance Committee (Committee) serves in an advisory capacity to the City Council. The Committee includes: Deputy Mayor Pro Tempore Tom Braun, Council Member Ivan Hughes, and Council Member Marlin Willesen. The Committee reviews and make recommendations to the City Council regarding the following matters:

- Quarterly financial reports
- Comprehensive financial annual report (CAFR)
- Long-term debt capacity of the Town
- Engagement of independent accounting firms to audit the financial statements
- Review the adequacy and implementation of any internal audit function

The Committee meets monthly and is required to provide quarterly reports to the Council. The attached report cover topics discussed at the Committee meetings from April 2018 to June 2018.

### **RECOMMENDATION:**

Administration recommends approval.

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### **Attachments**

Finance Committee Quarterly Report - April-June 2018

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## Finance Committee Report

June 2018

The Finance Committee shall serve solely in an advisory capacity to the City Council. Among other matters that may be requested from time to time by the Council, the Finance Committee may review and make recommendations to the City Council regarding the following matters:

- quarterly financial reports,
- comprehensive financial annual report (CAFR),
- long term debt capacity of the Town,
- engagement of independent accounting firms to audit the financial statements,
- review the adequacy and implementation of any internal audit function.

Finance Committee members through May 2018:

- Al Angell, Council Member
- Tom Braun, Council Member
- Ivan Hughes, Mayor Pro-Tempore

Finance Committee members as of June 2018:

- Tom Braun, Deputy Mayor Pro-Tempore
- Ivan Hughes, Council Member
- Marlin Willesen, Council Member

This document covers the topics discussed by the Committee from April to June 2018.

April 9, 2018

Topic	Discussion
Internal controls program update	Finance staff presented the committee with the internal control program for the Town. Plan included actions and timelines for implementation. This presentation was also presented to the council at the April 10, 2018 meeting.
FY2019 Budget calendar	Staff reviewed the proposed budget schedule.
Quarterly Finance Committee report	Staff provided a copy of the Quarterly Finance Committee report from Jan – Mar 2018 to the committee. This report was placed of the consent agenda for April 24, 2018.
Future Finance Committee meeting dates	The next Finance Committee meeting date is May 7, 2018.

Attendees: Al Angell, Tom Braun, Ivan Hughes, Wes Pierson, Olivia Riley, Cheryl Delaney, Amanda Turner, Terri Doby



## Finance Committee Report

June 2018

May 7, 2018

Topic	Discussion
2 <sup>st</sup> quarter financial report review (ending March 2018)	Staff reviewed the quarterly which was presented at the February 27, 2018 Council meeting.
Future Finance Committee meeting dates	The next Finance Committee meeting date is June 11, 2018.

Attendees: Al Angell, Tom Braun, Ivan Hughes, Wes Pierson, Amanda Turner, Cheryl Delaney, Deborah Beams (Accounting & Auditing Assistant Director (BKD), Synetra Richards, CPA (Audit Senior Associate II) (BKD)

June 2018

No meeting held

## Work Session and Regular Meeting

10.

**Meeting Date:** 08/28/2018

**Department:** Finance

**Pillars:** Gold Standard for Financial Health

**Milestones:** Review town ordinances and regulations with a focus on modernization in order to facilitate redevelopment

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### AGENDA CAPTION:

Hold a Public Hearing, Present, and Discuss the **Town of Addison's Proposed Property Tax Rate for the Fiscal Year Commencing October 1, 2018 and Ending September 30, 2019.**

### BACKGROUND:

This is the first of two public hearings regarding the proposed tax rate for the Town of Addison. The second public hearing will be held on September 4, 2018 at 5:00 pm in the Council Chambers.

The proposed property tax rate for the Fiscal Year (FY) 2019 is \$0.550000 per \$100 of valuation. The proposed rate is made of the following components:

<b>Tax Rate Component</b>	<b>Amount (per \$100 of valuation)</b>
Maintenance & Operations: General Fund	\$0.377435
Maintenance & Operations: Economic Development	\$0.023716
Maintenance & Operations: Infrastructure Investment	\$0.006201
Interest & Sinking (Debt)	\$0.142648
<b>Total Proposed Rate for the FY2019</b>	<b>\$0.550000</b>

The State's Truth-in-Taxation law also requires calculation and publication of each taxing entity's effective tax and rollback tax rate:

<b>Tax Rate</b>	<b>Definition</b>	<b>Amount (per \$100 of valuation)</b>
-----------------	-------------------	--

Effective Tax Rate	Rate needed to raise the same amount of property tax revenue for the Town from the same properties in 2018.	\$0.527064
Rollback Tax Rate	Highest tax rate that the Town may adopt before voters are entitled to petition for an election to limit the rate to the rollback rate.	\$0.553323

These rates were published in the August 17, 2018 edition of the Dallas Morning News. Included with this agenda item is a copy of the publication notice.

The City Manager's proposed budget recommends a property tax rate of \$0.550000 per \$100 valuation, which exceeds the effective tax rate. This proposed rate is the same as last year's adopted rate of \$0.550000 per \$100 of valuation.

The average home value for the Town of Addison is \$319,582, which generate a tax bill of \$1,757.70. Last year, the average home value was \$299,911 which generated a tax bill of \$1,649.51. The average tax payer would pay about \$108.19 more in property taxes than last year. Individual taxes may increase or decrease depending on the change in the taxable value of your property.

Two public hearings on the proposed budget will be held on September 4, 2018 at 5:00 pm and September 11, 2018 at 7:30 pm in the Council Chambers. The City Council is scheduled to consider adoption of the proposed tax rate and budget on September 11, 2018 during a meeting of the Council to be held in Council Chambers at 7:30 pm.

#### **RECOMMENDATION:**

Information only, no action required.

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#### **Attachments**

Presentation - Proposed Fiscal Year 2019 Tax Rate

Notice - Proposed Fiscal Year 2019 Tax Rate

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1<sup>st</sup> Public Hearing  
Tax Rate  
Fiscal Year 2019

# Property Tax Rate Approval Process

Key Dates	Council Action
Tuesday, July 25 <sup>th</sup>	Receipt of Certified Value from DCAD.
Tuesday, Aug. 14 <sup>th</sup>	Proposal to set date and time of public hearings.
Friday, Aug. 17 <sup>th</sup>	Publication of Notice of Proposed Tax Rate.
Tuesday, Aug. 28 <sup>th</sup>	First public hearing on tax rate.
Tuesday, Sept. 4 <sup>th</sup>	Second public hearing on tax rate; first public hearing on budget.
Tuesday, Sept. 11 <sup>th</sup>	Second public hearing on budget. Adoption of FY2019 Budget and Tax Rate.
Monday, Oct. 1 <sup>st</sup>	Begin Fiscal Year.



# Property Tax Values and Tax Rate

Certified Assessed Value FY2019 ~\$4.73B

Current Certified Assessed Value FY2018 ~\$4.45B

Current Property Tax Rate FY2018 \$.550000/100

Proposed Property Tax Rate FY2019 \$.550000/100



# Property Tax Rates

	FY2017	FY2018	FY2019
Effective	\$0.545760/100	\$0.542963/100	\$0.527064/100
Rollback	\$0.562533/100	\$0.551854/100	\$0.553323/100
Proposed	\$0.560472/100	\$0.550000/100	\$0.550000/100

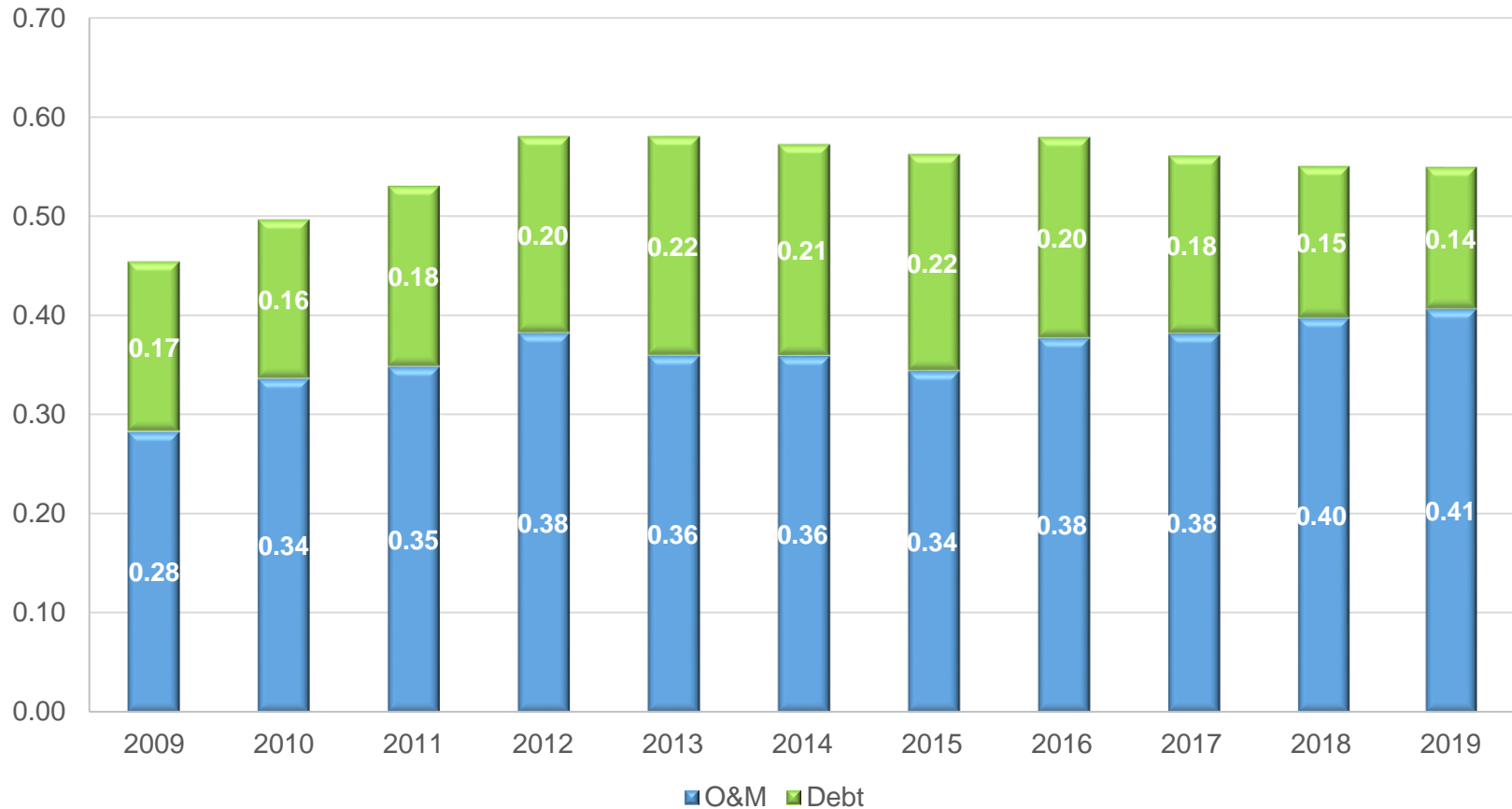


# Property Tax Revenues

	FY2017 Actual	FY2018 Budget	FY2019 Proposed	% Change FY18 to FY19
General Fund (O&M)	\$14,702,022	\$15,753,469	\$16,965,737	7.7%
Economic Development Fund (O&M)	991,761	1,017,859	1,081,534	6.3%
Infrastructure Investment Fund (O&M)	259,322	266,275	282,788	6.2%
Debt Service Fund (I&S)	7,502,679	6,826,542	6,751,908	(1.1%)
Total Tax Revenue	\$23,455,784	\$23,864,145	\$25,081,967	5.1%



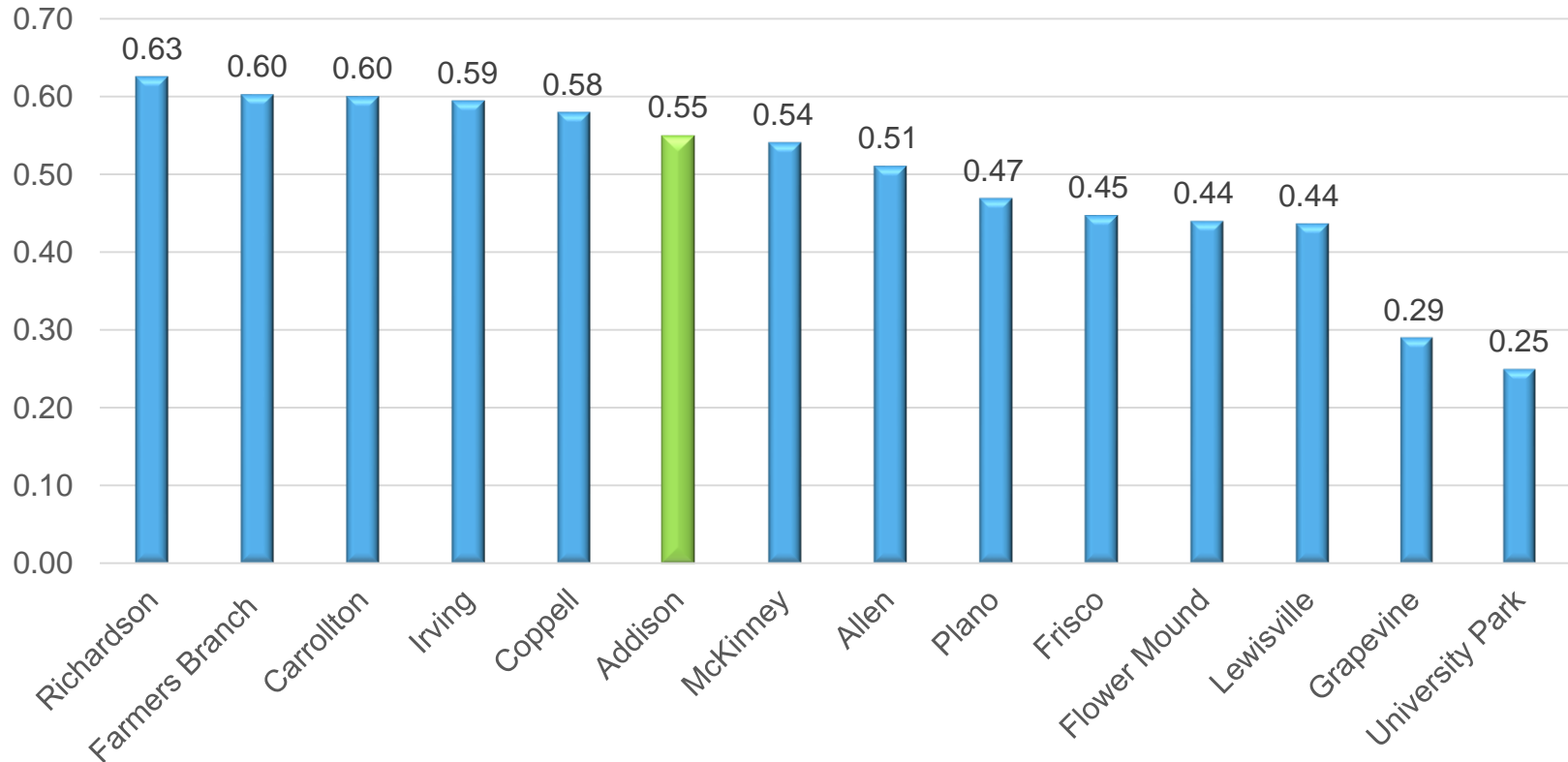
# Property Tax Rates



\* Rates are rounded to the nearest penny.

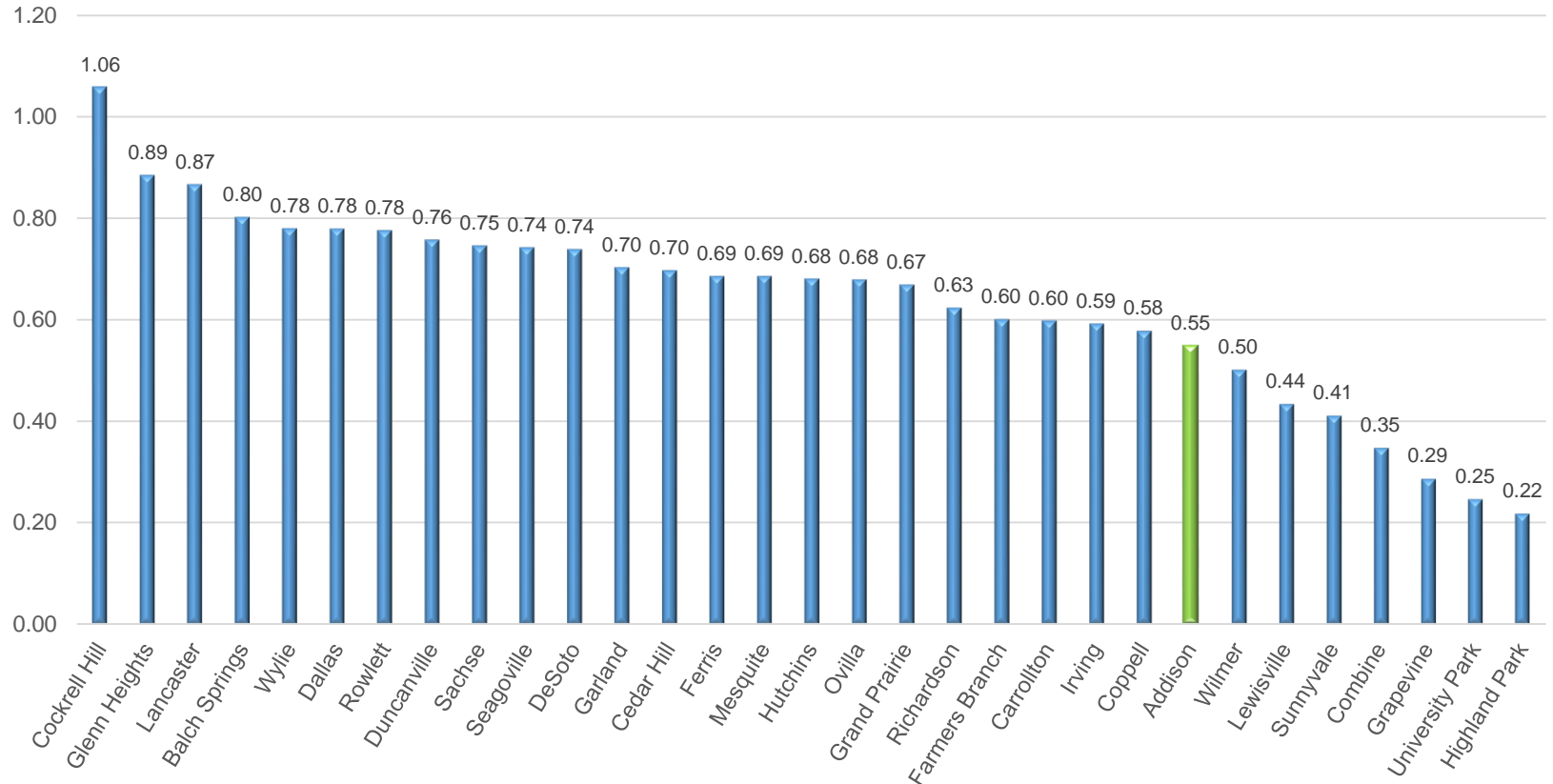


# FY2018 Tax Rates - Comparison Cities



Median: 0.525100  
Mean: 0.494946

# FY2018 Tax Rates – Dallas County



Median: 0.682459

Mean: 0.637547



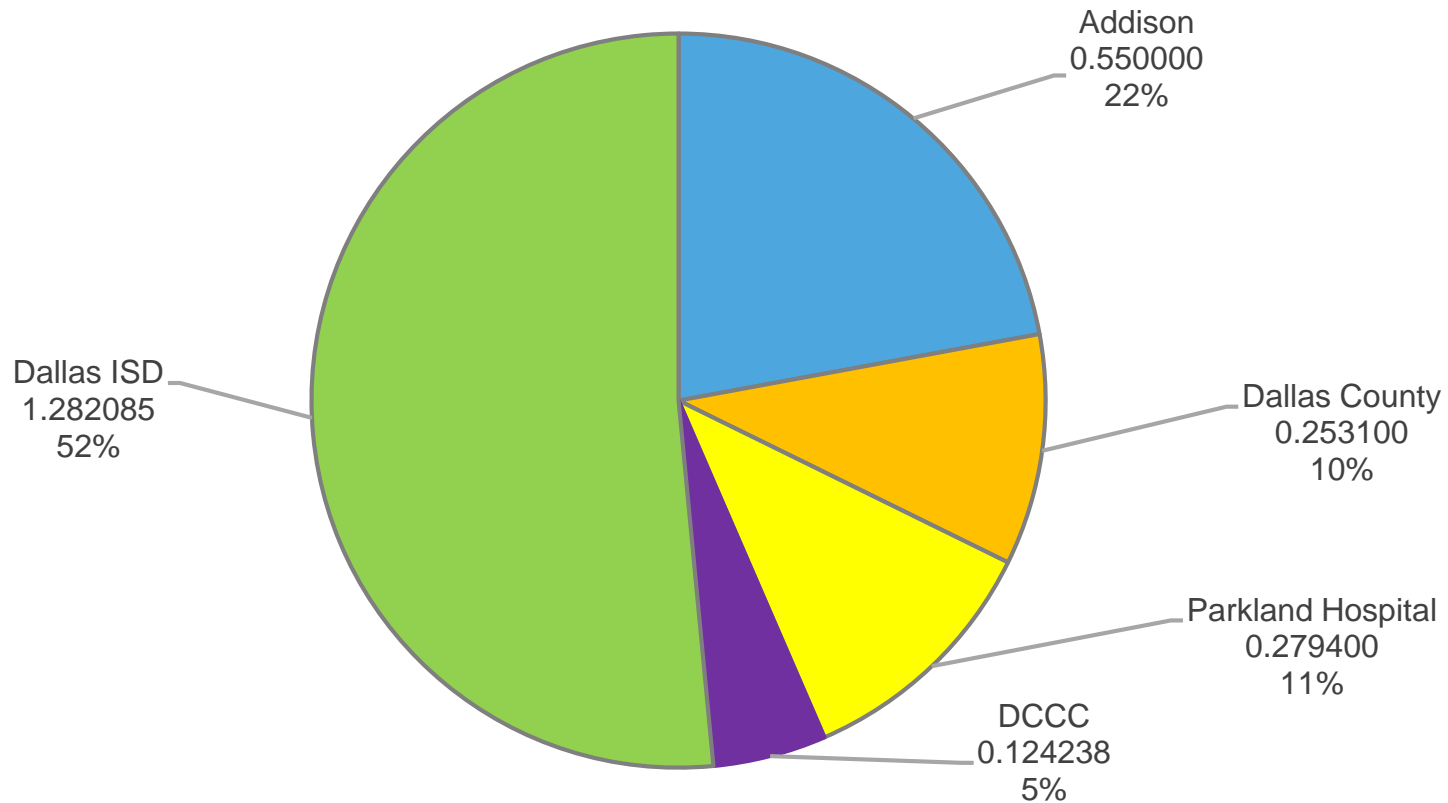
# Impact on Average Homeowner

	FY2018	FY2019
Average Home Value	\$299,911	\$319,582
Tax Rate	55.0000	55.0000
Annual Tax Bill	\$1,649.51	\$1,757.70

**The average residential taxpayer would pay about \$108.19 (≈\$9.02 per month) more than last year, depending on their home value.**



# FY2018 Property Tax Rates Combined



**Combined Tax Rate**  
**\$2.488823**

# NOTICE OF 2018 TAX YEAR PROPOSED PROPERTY TAX RATE FOR TOWN OF ADDISON

A tax rate of \$0.550000 per \$100 valuation has been proposed for adoption by the governing body of Town of Addison. This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate.

The governing body of Town of Addison proposes to use revenue attributable to the tax rate increase for the purpose of enhancing traditional government services including public safety and maintaining Town's infrastructure.

PROPOSED TAX RATE	\$0.550000 per \$100
PRECEDING YEAR'S TAX RATE	\$0.550000 per \$100
EFFECTIVE TAX RATE	\$0.527064 per \$100
ROLLBACK TAX RATE	\$0.553323 per \$100

The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for Town of Addison from the same properties in both the 2017 tax year and the 2018 tax year.

The rollback tax rate is the highest tax rate that Town of Addison may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate.

**YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN  
BE CALCULATED AS FOLLOWS:**

property tax amount= (rate) x (taxable value of your property)/100

For assistance or detailed information about tax calculations, please contact:

John R. Ames, PCC, CTA  
Dallas County Tax Assessor/Collector  
1201 Elm Street, Suite 2600, Dallas TX  
214.653.7811  
TNTHelp@dallascounty.org  
www.addisontexas.net

You are urged to attend and express your views at the following public hearings on the proposed tax rate:

First Hearing: August 28, 2018 at 7:30 pm at 5300 Belt Line Rd., Dallas TX 75254.

Second Hearing: September 4, 2018 at 5:00 pm at 5300 Belt Line Rd., Dallas TX 75254.

## Work Session and Regular Meeting

11.

**Meeting Date:** 08/28/2018

**Department:** Infrastructure- Development Services

**Pillars:** Gold Standard in Public Safety

**Milestones:** Maximize use of cutting edge technology to enhance public safety

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### **AGENDA CAPTION:**

Present, Discuss, and Consider Action on an **Ordinance Amending Various Sections of Chapter 70, Street, Sidewalks and Other Public Places, of the Code of Ordinances to Allow for the Placement of Public Safety Facilities Within Designated Underground and Design Districts.**

### **BACKGROUND:**

On August 22, 2017, the City Council approved major revisions to Addison's Right-of-Way Management Ordinance establishing underground districts that require that all aerial utilities be placed underground and also prohibits the installation of new poles in the underground district. Additionally, certain areas were also designated as design districts that require certain design standards for new aerial utility installations.

The Town has explored the deployment of public safety technology within the public right-of-way in these districts. The proposed ordinance changes clarify that the undergrounding and design requirements as specified in the current ordinance do not apply to infrastructure that is used to support public safety activities and traffic management systems. This change will clarify that the placement of technology such as license plate readers and closed-circuit cameras in the underground and design districts is allowed by ordinance. No other changes to the ordinance are being proposed.

### **RECOMMENDATION:**

Administration recommends approval.

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### **Attachments**

Ordinance - Right-Of-Way Management Amendment

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## **ORDINANCE NO. XXX-XXX**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF ADDISON, TEXAS, AMENDING SECTION 70-36 (DEFINITIONS) OF DIVISION 1 (GENERALLY), SECTION 70-65 (UNDERGROUNDING; UNDERGROUNDING REQUIREMENTS) OF DIVISION 2 (TECHNICAL SPECIFICATIONS), SECTION 70-91 (GENERAL CONSTRUCTION AND MAINTENANCE STANDARDS, SIZE OF NETWORK NODES AND EQUIPMENT CABINETS; UNDERGROUND CONSTRUCTION) AND SECTION 70-93 (INSTALLATION IN UNDERGROUND DISTRICTS; INSTALLATION IN DESIGN DISTRICTS) OF DIVISION 6 (NETWORK PROVIDERS), ALL OF ARTICLE III (RIGHT-OF-WAY MANAGEMENT) OF CHAPTER 70 (STREETS, SIDEWALKS AND OTHER PUBLIC PLACES) OF THE CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/REPEALING CLAUSE; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison is a Home-Rule Municipality located in Dallas County created in accordance with provisions of the Texas Local Government Code and operating pursuant to the legislation of the State of Texas (“Town”); and

**WHEREAS**, the Town is charged with maintaining control of and access to the right-of-way in order to protect the public health, safety, and welfare; and

**WHEREAS**, the Town is also charged with the provision of public health, safety and welfare; and

**WHEREAS**, the City Council of the Town (the “City Council”) has investigated and determined that the provision of public safety facilities is an essential function of the Town; and

**WHEREAS**, public safety facilities, generally, must be installed aboveground and in accordance with recommended installation design to best perform their function and provide for the public’s safety (i.e. traffic lights, stop signs, red light cameras); and

**WHEREAS**, the City Council has investigated and determined that it is in the best interest of the Town to amend Section 70-36 (Definitions) of Division 1 (Generally), Section 70-65 (Undergrounding; undergrounding requirements) of Division 2 (Technical Specifications), Section 70-91 (General construction and maintenance standards; size of network nodes and equipment cabinets; underground construction) and Section 70-93 (Installation in Underground Districts; Installation in Design Districts) of Division 6 (Network Providers), all of Article III (Right-of-Way Management) of Chapter 70 (Streets, Sidewalks and other Public Places) to stipulate that public safety facilities shall be installed above ground and according to recommended installation design in order to perform their function so as to keep the public safe.

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

**SECTION 1: Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**SECTION 2: Amending Sec. 70-36 (Definitions) of Division 1 (Generally) of Article III (Right of Way Management) of Chapter 70 (Streets, Sidewalks and Other Public Places) of the Code of Ordinances of the Town of Addison.** Sec. 70-36 (Definitions) of Division 1 (Generally) of Article III (Right-of-Way Management) of Chapter 70 (Streets, Sidewalks and other Public Places) of the Code of Ordinances of the Town of Addison is hereby amended as follows:

**“Sec. 70-36 Definitions**

The following definitions apply in this article, except as otherwise specifically noted otherwise. The terms, phrases, words, abbreviations and their derivations shall have the same meanings herein. When not inconsistent with the context words used in the present tense include the future; words in plural number include the singular number, and words in the singular include the plural. The word “shall” is mandatory and not merely permissive.

...

*Public safety facilities* means any facilities installed in the right-of-way, regardless of the technology employed, by or on behalf of a governmental entity, necessary to promote the public safety, including but not limited to traffic control signs and signals, traffic signal preemption systems, traffic management systems, license plate readers, and closed-circuit cameras.

...”

**SECTION 3: Amending Sec. 70-65 (Undergrounding; Underground service requirements) of Division 2 (Technical Specifications) of Article III (Right of Way Management) of Chapter 70 (Streets, Sidewalks and Other Public Places) of the Code of Ordinances of the Town of Addison.** Sec. 70-65 (Undergrounding; Underground service requirements) of Division 2 (Technical Specifications) of Article III (Right-of-Way Management) of Chapter 70 (Streets, Sidewalks and other Public Places) of the Code of Ordinances of the Town of Addison is hereby amended as follows:

**“Sec. 70-65 Undergrounding; Underground service requirements; Public safety facilities**

...

- (c) *Public safety facilities*. Notwithstanding the provisions of Sec. 70-91 or any other City ordinance requiring the underground installation of facilities in the right of

way, public safety facilities shall be installed as specified by the governmental entity completing the installation and as approved by the Town and are, therefore, not required to be installed underground.

...”

**SECTION 4: Amending Sec. 70-91 (General construction and maintenance standards; Size of network nodes and equipment cabinets; Underground construction) of Division 6 (Network Providers) of Article III (Right of Way Management) of Chapter 70 (Streets, Sidewalks and Other Public Places) of the Code of Ordinances of the Town of Addison.** Sec. 70-91 (General construction and maintenance standards; Size of network nodes and equipment cabinets; Underground construction) of Division 6 (Network Providers) of Article III (Right-of-Way Management) of Chapter 70 (Streets, Sidewalks and other Public Places) of the Code of Ordinances of the Town of Addison is hereby amended as follows:

**“Sec. 70-91. General construction and maintenance Standards; Size of network nodes and equipment cabinets; Underground construction**

...

(c) Underground Construction. As required by this Ordinance, and when required by Applicable Codes, general ordinances, deed restrictions, regulations or rules of the Town or applicable state or federal law, right-of-way users, network provider’s, or public infrastructure contractor’s new facilities shall be placed underground at right-of-way user’s, network provider’s, or public infrastructure contractor’s expense. Underground facilities are required for network provider’s in Underground Districts as provided in this Ordinance. Related equipment, such as pedestals, must be placed in accordance with the Town’s applicable code requirements and rules, including all visibility triangle requirements. In areas not designated as an Underground District, where existing facilities are aerial, network provider or public infrastructure contractor may install aerial facilities. Following the original adoption of this Ordinance, if a location is subsequently designated by the Town to be an underground requirement area, then a right-of-way user’s or network provider’s permit for the location of the facilities, at such location will be revoked 90 days after the designation, with removal of said facilities at such location within 90 days of such designation, or as otherwise reasonably allowed by the Town for the transition of other overhead facilities. Placement of street-related poles and facilities above ground in the right-of-way, including but not limited to stop signs, street lights and public safety facilities, does not preclude an area from designation as an area requiring undergrounding and placement of facilities on street-related poles in an area requiring undergrounding is prohibited. Notwithstanding the placement of street-related poles and facilities, including but not limited to stop signs, street lights and public safety facilities above ground in the right-of-way in an Underground District, right-of-way users, network provider’s and public infrastructure contractor’s new facilities shall be placed underground.

...”

**SECTION 5: Amending Sec. 70-93 (Installation in Underground Districts; Installation in Design Districts) of Division 6 (Network Providers) of Article III (Right of Way Management) of Chapter 70 (Streets, Sidewalks and Other Public Places) of the Code of Ordinances of the Town of Addison.** Sec. 70-93 (Installation in Underground Districts; Installation in Design Districts) of Division 6 (Network Providers) of Article III (Right-of-Way Management) of Chapter 70 (Streets, Sidewalks and other Public Places) of the Code of Ordinances of the Town of Addison is hereby amended as follows:

**“Sec. 70-93 Installation in Underground Districts; Installation in Design Districts**

...

(b) Installation in Design Districts

1. Installation. A network provider shall obtain advance written consent from the Director before collocating new network nodes or installing new node support poles in an area of the Town that has been zoned or otherwise designated as a design district. The network provider shall be required to comply with the requirements described in the Design Manual and as set forth in this Section. The Town has the authority and discretion to designate new historic and design districts any time, including subsequent to the adoption of this Division. Notwithstanding the provisions of this ordinance or any other City ordinance requiring the compliance with design standards, including the Design Manual, for installation of facilities in the right of way, public safety facilities shall be installed as specified by the governmental entity completing the installation and as approved by the Town and are, therefore, not required to comply with this Section, the Design Manual or other City ordinance.

...”

**SECTION 6: SEVERABILITY.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Addison hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 7: SAVINGS/REPEALINGS.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 8: PENALTY.** It is the intent of the City Council of the Town of Addison in adopting this Ordinance that an offense under this Ordinance be a strict liability offense; in the prosecution



of an offense under this Ordinance, no pleading or proof of intent shall be required to establish the guilt of an accused. Any person, firm, corporation or business entity violating this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of \$500.00, unless the violation relates to fire safety or public health and sanitation, including dumping and refuse, in which the fine shall not exceed the sum of \$2,000.00. Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this Chapter shall not preclude the Town from filing suit to enjoin the violation.

**SECTION 9: EFFECTIVE DATE.** This Ordinance shall take effect immediately upon and after its passage and publication as provided by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS** this 28<sup>th</sup> day of August, 2018.

\_\_\_\_\_  
Joe Chow, Mayor

ATTEST:

\_\_\_\_\_  
Irma Parker, City Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Brenda N. McDonald, City Attorney