

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT BETWEEN THE TOWN OF ADDISON AND JOE GODDARD ENTERPRISES, LLC, FOR THE PURCHASE AND INSTALLATION OF NEW OUTDOOR EARLY WARNING SYSTEMS SPEAKERS AND ADDITIONAL AMPLIFIER MODULES IN AN AMOUNT NOT TO EXCEED \$114,619.48 AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Agreement between the Town of Addison and Joe Goddard Enterprises, LLC, for services related to a new outdoor early warning system in an amount not to exceed \$114,619.48, a copy of which is attached to this Resolution as **Exhibit A** and which incorporates the Town of Addison's General and Specific Conditions for construction contracts, and the Advertisement for Bids, Instruction to Bidders, General Provisions, Special Provisions, Plans and other bid documents, 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 26th day of March, 2019.

Joe Chow, Mayor

ATTEST:

By: _____

Irma Parker, City Secretary

APPROVED AS TO FORM:

By: _____

Brenda N. McDonald, City Attorney

EXHIBIT A

**AGREEMENT BETWEEN TOWN OF ADDISON
AND JOE GODDARD ENTERPRISES, LLC FOR
INSTALLATION OF OUTDOOR EARLY WARNING SYSTEM**

STATE OF TEXAS

COUNTY OF DALLAS

THIS AGREEMENT is made and entered into this 26th day of March, 2019, by and between the Town of Addison, of the County of Dallas and State of Texas, acting through its City Manager, thereunto duly authorized so to do, Party of the First Part, hereinafter termed the "Town", and Joe Goddard Enterprises, LLC, 11950 Thousand Oaks Drive, Edmond, Oklahoma, 73034, Party of the Second Part, hereinafter termed "Contractor".

WITNESSETH: That for and in consideration of the payment and agreement hereinafter mentioned, to be made and performed by the Town, the said Contractor hereby agrees with the Town to commence and complete the services of the following bid:

Town of Addison Outdoor Early Warning System Bid No. 19-71

and all extra work in connection therewith, under the terms as stated in the General and Specific Provisions of the Agreement; and at his own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said service, in accordance with the conditions and prices stated in the Bid attached hereto and in accordance with the Advertisement for Bids, Instructions to Bidders printed or written explanatory matter thereof, and the Technical Specifications and Addenda thereto, as prepared by the Town, each of which has been identified by the endorsement of the Contractor and the Town thereon, together with the Contractor's written Bid and the General Provisions, all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

The Town agrees to pay the Contractor for purchase and installation of new outdoor early warning systems speakers and additional amplifier modules in an amount not to exceed \$ 114,619.48 in current funds for the performance of the Agreement in accordance with Exhibit "A" attached hereto and incorporated herein for all purposes, subject to additions and deductions, as provided in the General Provisions, and to make payments of account thereof as provided therein.

This Agreement shall commence on the Effective Date and terminate upon the Town providing a notice of final completion to the Contractor, subject to the terms and conditions of this Agreement.

The Contractor recognizes that the Agreement shall commence upon the Effective Date and continue in full force and effect until termination in accordance with its provisions. Contractor and Town herein recognize that the continuation of any Agreement after the close of any given fiscal year of the Town, which fiscal year ends on September 30th of each year, shall be subject to Town Council approval. In the event that the Town Council does not approve the appropriation of funds for the Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder. However, if the Agreement is terminated, Town is obligated to pay all amounts due Contractor based on service performed before termination under the existing Agreement, notwithstanding other provisions of this Agreement. Agreement may be terminated by the Town at any time upon providing Contractor thirty (30) days written notice of the termination date.

This Agreement may be terminated for any reason or for no reason whatsoever, by either party upon the terminating party giving the non-terminating party at least thirty (30) days written notice of such termination. Upon termination, Contractor shall be paid in accordance with the terms provided herein, unless Contractor is in default of the Agreement.

If any party fails to perform any of its obligations under the Agreement Documents, such failure shall constitute a default. The non-defaulting party shall give the defaulting party written notice of the default. The defaulting party shall have ten (10) business days after the receipt of such notice in which to cure the default. Failure to cure the default shall constitute a breach of this Agreement. In the event of a breach, the non-breaching party may terminate this Agreement and may obtain any remedy available to it at law.

The Contractor shall procure and keep in full force and effect throughout the term of this Agreement all insurance policies with those coverage amounts deemed necessary by the Town.

CONTRACTOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN AND ITS OFFICERS, COUNCIL MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "TOWN" FOR PURPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS (INCLUDING COPYRIGHT AND INFRINGEMENT), DEMANDS, DAMAGES, INJURIES (INCLUDING DEATH) LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OR INDIRECTLY OUT OF THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. THE TOWN WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN

NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, TOWN SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY TOWN, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY TOWN IN WRITING. TOWN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, TOWN IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY TOWN IS NOT TO BE CONSTRUED AS A WAIVER OF TOWN'S OBLIGATION TO DEFEND TOWN OR AS A WAIVER OF TOWN'S OBLIGATION TO INDEMNIFY TOWN PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN TOWN-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF TOWN'S WRITTEN NOTICE THAT TOWN IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, TOWN SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND OWNER SHALL BE LIABLE FOR ALL COSTS INCURRED BY TOWN.

THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

This Agreement shall be constructed under and in accordance with the laws of the State of Texas and venue shall be in Dallas County, Texas.

This Agreement may not be assigned without the written agreement of both parties.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing "force majeure" events shall deliver written notice of the commencement of any such delay resulting from such "force majeure" event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a "force majeure" event causing such delay and the other party shall not otherwise be aware of such "force majeure" event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

IN WITNESS WHEREOF, the parties of these presents have executed this AGREEMENT in the year and day first above written.

TOWN OF ADDISON

ATTEST:

By: _____
Wesley S. Pierson, City Manager

City Secretary

Date: _____

Joe Goddard Enterprises, LLC

(CONTRACTOR)

By: *Joe Goddard*

Printed Name: Joe Goddard

Title: Owner

Date: 3/14/19

ATTEST:

By: *Linda Goddard*

Linda Goddard

Printed Name: _____

Title: Business Mgt.

Date: 3/14/19

The following to be executed if the CONTRACTOR is a corporation:

I, Courtney Goddard, certify that I am the secretary of the corporation named as CONTRACTOR herein; that Joe Goddard, who signed this Contract on behalf of the CONTRACTOR is the Owner of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Signed: *Courtney Goddard*

Corporate Seal



EXHIBIT A**ESTIMATE**

Quote000077

Joe Goddard Enterprises, LLC
 11950 Thousand Oaks Drive
 Edmond Oklahoma 73034
 U.S.A

Bill To
 Addison, Texas

Estimate Date : January 21, 2019

Reference# : Bid No. 19-71

#	Item & Description	Qty	Rate	Amount
1	Federal Signal DSA Six Horn Federal Signal Directional Speaker Array	24.00 1	3,158.57	75,805.68
2	Installation Installation of retrofit speaker arrays	6.00 1	3,200.00	19,200.00
3	UV 400 Amplifier Federal Signal UltraVoice 400 watt amplifiers.	12.00 1	582.28	6,987.36
4	DSAMK4 Mounting kit, Dir, Spkr, 4 Array	6.00	386.47	2,318.82
5	Shipping Shipping of equipment	1.00 1	4,849.55	4,849.55
6	Bid Bond Bid Bond 5%	1.00 1	5,458.07	5,458.07
Sub Total				114,619.48
Total				\$114,619.48

Notes

For questions in regard to this quote, please contact Andy Goddard.
 Andy Goddard
 405-830-9057

Terms & Conditions