

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

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A CONTRACT AGREEMENT BETWEEN THE TOWN OF ADDISON AND LUMAR CORPORATION DBA PALM SPRINGS POOL SERVICE FOR ANNUAL FOUNTAIN / SPLASH PAD MAINTENANCE AND REPAIRS FOR THE TOWN OF ADDISON IN AN AMOUNT NOT TO EXCEED \$126,888 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 Contract Agreement between the Town of Addison and Palm Springs Pool Service includes fountain maintenance for the Town of Addison for an \$99,900 annually. The contract of which is attached to this Resolution as **Exhibit A**, and which incorporates the Town of Addison’s General and Specific Conditions, the Advertisement for Bids, Instructions to Bidders, General Provisions is hereby approved. The City Manager is hereby authorized to execute the Agreement.

**SECTION 2.** The Contract Agreement between the Town of Addison and Palm Springs Pool Service includes as needed fountain repairs in an amount not to exceed \$26,988 and will require prior authorization by staff. Repairs will be billed at an hourly rate, plus equipment and mark-up as defined in the contract of which is attached to this Resolution as **Exhibit A**.

**SECTION 2.** This Resolution shall take effect from and after its date of adoption and made be renewed annually up to five renewals.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the **22nd** day of **SEPTEMBER** 2020.

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

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



FINANCE DEPARTMENT / PURCHASING DIVISION      5350 Belt Line Road  
(972) 450-7071 – Facsimile (972) 450-7074      Post Office Box 9010 Addison, Texas 75001

## **INVITATION TO BID**

The Town of Addison is accepting bids from all interested parties for the: **Fountain and Splash Pad Maintenance – Annual Contract.**

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

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

Questions concerning the bidding process shall be posted through BidSync. Questions will be answered in a timely manner. All participating vendors will be able to see all answers.

## INVITATION TO BID

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

Bid No: 20-178

Bid Name: **Fountain and Splash Pad Maintenance – Annual Contract**

Pre-Bid Meeting: **July 22, 2020, 9:30AM, CST  
Addison Circle Park Pavilion  
4970 Addison Circle  
Addison, Texas 75001  
No Private Tours**

Bid Closing: **August 4, 2020; 2:00PM, CST  
Finance Department  
Town of Addison  
5350 Belt Line  
Dallas, Texas 75254**

### SCOPE OF WORK

Provide turnkey cleaning and maintenance of display fountains and associated hardware and equipment along with the application of chemicals necessary to keep the water within the display fountains at the highest level of cleanliness and water quality possible.

Please pay specific attention to receipt and preparation of the bid.

Questions concerning the bidding process must be posted through BidSync. Questions will be answered in a timely manner. All participating vendors will be able to see all answers.

### INSTRUCTIONS TO BIDDERS

#### 1.0 RECEIPT AND PREPARATION OF THE BID

- 1.1 Bids will be received by the Town of Addison until time specified in the Invitation to Bid. Bids must be received by the specified time to be considered. Bids cannot be submitted after this closing time. No changes may be made to bids after closing.
- 1.2 Bid responses may be submitted in hard copy to the Finance Department address above or posted using the BidSync system. [www.bidsync.com](http://www.bidsync.com)
- 1.3 Bidders are responsible for submitting responses in a timely manner.
- 1.4 Bids may be withdrawn prior to the above scheduled time set for closing of the bids. Any bid received after the time and date specified will not be considered.

- 1.5 The Town of Addison reserves the right to postpone the date and time for opening bids through an addendum.
- 1.6 No changes to bid, including pricing structure, time to completion, and references may be made following submission of the bid packet.

## **2.0 ADDENDA AND EXPLANATIONS**

- 2.1 Bidders having any questions regarding the true meaning of the specifications or terms and conditions shall submit these questions through the BidSync system. All addenda are issued through BidSync and acknowledgement must be returned with your bid.

## **3.0 TAXES**

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

## **4.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITES**

- 4.1 Before submitting a bid, each bidder must thoroughly examine the contract documents and project site to ensure that the services you are proposing meets the intent of these specifications.
- 4.2 The Town of Addison is not responsible for incomplete bid packets.

## **5.0 BIDDING**

- 5.1 Bidders are instructed to consider the following factors in preparation of your bid:
  - a. Exceptions to any specifications, or part thereof, must be clearly stated and included with your response.
  - b. Bidders are instructed to include all necessary charges related to this solicitation.

## **6.0 AWARD OF CONTRACT**

- 6.1 The Town of Addison reserves the right to accept or reject any bid without compensation to bidders and to waive irregularities and informalities. The Town of Addison Parks Department will select the bidder(s) with the nest overall value for the Town. The evaluation committee will open, read, and evaluate the submittals with each representative providing scores.

The selected best overall value will be based on the following criteria and associated value of each:

- Two references for the Maintenance Contractors (30 points maximum) – Include with your submittal references for two other clients in which you have provided similar services in the past 5 years. Include the name and contact information for the clients representative and describe the number and types of fountains maintained for client.

- Price – lowest price receives maximum points (70 points maximum) – The bid will be awarded, and value paid to the contractor based on the cumulative costs of the total bid items. Payment will not be made based on the actual quantities installed. Quantities for the individual unit cost items shown in the scope of work are for the contractors’ convenience only. It is the intent of the Town to be billed monthly for services rendered and approved. Any services provided outside of the scope must first be preapproved by Town staff.
- Alternate items or services maybe or may not be awarded. Addition or deletion of other items or schedules will be governed by the Standard Specifications for Public Works Construction – North Central Texas, 4<sup>th</sup> Edition item 104.2 Change or modification of contract. Alternate items/service samples will be provided to the Town at no cost to the Town, upon request.

6.2 Award will be based upon an analysis of the criteria detailed in the specifications.

6.3 The anticipated start date is October 1, 2020.

**7.0 CERTIFICATES OF INSURANCE AND INDEMNIFICATION REQUIRED**

7.1 Insurance and indemnification requirements are attached as a separate document and must be submitted with response. Submission of response confirms all requirements will be met within the time frame necessary.

**8.0 RESOLUTION OF DISPUTES**

Pursuant to subchapter I, Chapter 271, TEXAS LOCAL GOVERNMENT CODE, Contractor agrees that, prior to instituting any lawsuit or other proceeding arising from any dispute or claim of breach under this Agreement (a “Claim”), the parties will first attempt to resolve the Claim by taking the following steps: (i) A written notice substantially describing the factual and legal basis of the Claim shall be delivered by the Contractor to the Town within one-hundred eighty (180) days after the date of the event giving rise to the Claim, which notice shall request a written response to be delivered to the Contractor not less than fourteen (14) business days after receipt of the notice of Claim; (ii) if the response does not resolve the Claim, in the opinion of the Contractor, the Contractor shall give notice to that effect to the Town whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in a effort to resolve the Claim; (iii) if those persons cannot or do not resolve the Claim, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the Claim.

**9.0 NON-DISCRIMINATION POLICY**

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

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

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

## 10.0 GENERAL CONDITIONS

- 10.1 All invoices are to be submitted to the Town of Addison, Accounts Payable, P.O. Box 9010, Addison, Texas 75001. The Town of Addison shall make payment within 30 days of receipt of invoice and acceptance of all goods and services by authorized town employees. Invoicing shall be itemized according to the awarded unit cost. Unit cost shall not change for the initial contract.
- 10.2 The Town may wish to change the scope of this contract by adding or deleting goods or services. In this case, payments for extra work will be based upon agreed lump sums or agreed unit prices. The Contractor and Town shall agree upon such prices before the extra work is started. The Contractor shall submit to the Town a written estimate of the cost of the extra work.
- No Change Order shall be made without a written order from the Town of Addison, in which event the Contractor shall proceed with such extra work or change, and no claim for an addition to the Contract Sum shall be valid unless so ordered. All Change Orders which shall exceed the sum of \$50,000 or 25% of the original contract shall not be made without first obtaining City Council approval. All Change Orders less than \$50,000 or 25% of the original contract shall be first approved by the City Manager (or City Manager's designee) before such work shall be done. No employee of the Town shall have the right to waive or authorize Change Orders in contradiction to the above provisions. Notwithstanding any provision to the contrary contained in this agreement, Contractor shall not be entitled to claim any delay or additional compensation for the time which it takes to obtain the consents required herein.
- 10.3 No Waiver - One or more waivers to any covenant, term or condition of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other covenant, term, or condition; nor shall any delay or omission by either party to seek a remedy for any breach of this Agreement or to exercise a right accruing to such party by reason of such breach be deemed a waiver by such party of its remedies or right with respect to such breach. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any similar act.
- 10.4 Entire Response Contractual Obligation – This response, submitted documents, and any negotiations, when properly accepted by the Town, shall constitute a contract equally binding between the successful vendor and Addison. No different or additional terms will become part of this contract except as properly executed in an addendum or change order.
- 10.5 Vendor shall familiarize himself with the nature and extent of the specifications, site conditions and comply with all traffic and safety requirements, federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 10.6 The vendor agrees that he will retain personal control and will give his personal attention to the fulfillment of this contract and that he will not assign by Power of Attorney, or otherwise, or sublet said contract without the written consent of the Town of Addison,

and that no part or feature of the work will be sublet to anyone objectionable to the Owner. The vendor further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this contract, shall not relieve the vendor from his full obligations to the Owner.

- 10.7 Town of Addison and vendor each binds himself, his partners, successors, assigns and legal representative to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 10.8 The Contractor agrees to pay not less than the minimum wage rates established by law.
- 10.9 Interlocal Agreement: Successful bidder agrees to extend prices to all entities that have entered into or will enter into joint purchasing interlocal cooperation agreements with the City. The city is a participating member of several interlocal cooperative purchasing agreements. As such, the city has executed interlocal agreements, as permitted under Chapter 791 and 271 of the Texas Government Code, with certain other political subdivisions, authorizing participation in a cooperative purchasing program. The successful supplier may be asked to provide products/services based upon the bid price, to any other participant.
- 10.10 Silence of Specifications: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
- 10.11 Prior or pending litigation or law suits: Each supplier must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the proposer or in which the proposer has been judged guilty or liable.

## **11.0 TERMINATION OF AGREEMENT**

- 11.1 BY TOWN: Failure to perform the work in accordance to the specifications shall constitute a material default. The Town of Addison, at its sole option, shall have the right to terminate the contract without further cause.
  - a. Should the Contractor at any time refuse or neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality or fail in any respect to prosecute the work contemplated herein with promptness and diligence or fail in the performance of any of the covenants herein contained, or,
  - b. If the Town is dissatisfied with the quality of the Contractor's performance, or if the Contractor fails to comply with the terms of this Agreement, the Town shall so inform the Contractor by telephone, noting all areas of dissatisfaction. The Contractor shall start the process of correcting the deficiencies by noon of the following day communicating the date of completion. If the Contractor fails to correct the deficiencies within the said period, the Town may elect to:

1. Perform the services itself, or obtain others to perform the services, in which case the Town shall recover those costs by deducting 200% of the "out of pocket expense" from the Contractor's monthly invoice; and/or,
2. Terminate the Agreement immediately by giving written notice to the Contractor. Termination by the Town under this section shall be in addition to all other remedies that the Town may have against the Contractor.
3. The Town of Addison reserves the right to cancel this agreement, without cause with 10 days written notice.
4. The Town may be required to cancel the contract if the governing body does not provide funding for any fiscal year beginning October 1.

#### 11.2 BY CONTRACTOR

- a. Should the Contractor elect to cancel the Contract prior to the original or extended termination date, at least sixty (60) days written notice shall be given to the Purchasing Manager of the Town of Addison.
- b. The Town shall deduct any out of pocket costs, associated with re-bidding this contract, from money owed the Contractor. Also, any cost of services for the balance of the contract term shall be deducted by the Town from amounts owed to the Contractor.



# FOUNTAIN & SPLASH PAD MAINTENANCE SPECIFICATIONS

## 1.0 INTENT

It is the intent of the Town of Addison to select a fountain maintenance firm to maintain five (5) areas with fountains located in the Town of Addison for a one-year period beginning October 1 until September 30. The contract may be extended for five (5) twelve-month periods. See the Contract – Item #4 for conditions. A price increase based upon the Consumer Price Index (CPI) - Dallas area for each (12) month extension period not to exceed 3% will be considered for approval during each year of contract renewal.

## 2.0 PRE-BID MEETING

There will be a Pre-Bid Meeting on July 22, 2020 at the Addison Circle Park, 4970 Addison Circle. The meeting is not mandatory, but it is recommended.

## 3.0 ADDRESSES

**Quorum Park**, 16201 Quorum Drive, 1 large fountain and 1 small fountain each with a vault

**Le Grande Park**, 14816 Le Grande Drive, 1 fountain with pump house

**Bosque Park**, 15675 Quorum Drive, 1 fountain with a small vault

**Addison Circle Park**, 15500 Addison Rd., Splash Pad interactive fountain, Scupper and Grove fountain with a primary vault.

**Vitruvian Development**, Vitruvian Way at Bella Ln., 1 fountain with a small vault

## 4.0 SCOPE OF SERVICES

4.1 Supply and apply chemicals and clean each fountain and vault as necessary to maintain proper water chemistry. Fountains and vaults shall receive service a **minimum** of **once per week; however, the fountains in Quorum Park and Addison Circle Park shall require more frequent visits due to the complexity of these fountains and the need to remove debris more often during inclement weather as well as during and following special events. Please see section 4.11 regarding maintenance of the Quorum Park and Addison Circle Park fountains.**

4.2 Maintain the waterways and fountains at Quorum Park, Le Grande Park, Bosque Park, Addison Circle Park Grove and Scupper fountain, and Vitruvian development to the highest level of cleanliness and water quality. Keep all plaster and rock surfaces free of algae and all tile surfaces clean. Maintain a high level of water clarity at all times. Supply and add chemicals needed to maintain water quality.

Maintain the Addison Circle Park Splash Pad and vault to the highest level of cleanliness, state standards and water quality. Test water daily, monitor chemical controllers, date operating times, clean vault / Pad area, clean canisters and provide chemicals as needed. **Meet State of Texas and or Town of Addison Health Inspectors on site with all documentation and daily inspection paperwork, when or if requested. The Contractor shall take all safety precautions to ensure staffs safety entering, exiting and working inside the vault.**

## Splash Pad located at Addison Circle Park

*Adjust timers as needed for day light changing and special event times.*

### 1. Daily

- a. Monitor Wind gauge each time in the vault to ensure it is operational.
- b. Adding commercial grade enzymes solution during peak operating periods in the months of May thru September.
- c. Monitoring of Effects controller and emailing any new alarms to Contract Manager.
- d. Clean all trash and debris from the fountain basins, excluding dry deck area.
- e. Monitoring vault sump pump and cleaning of sump drain area as needed.
- f. Check and cleaning all pump baskets as needed.
- g. Test water for chemical balance with test kit (FAS-DPD). Add chemicals as needed. Daily document, Monday thru Sunday, and email Contracts Manager [mansted@addiosntx.gov](mailto:mansted@addiosntx.gov) with results. Operating ranges are as follows, ideal range should be ORP 650-800 and PH 7.4-7.6 with a maximum being 7.8, per State of Texas, code 265.306. If chemicals need to be added, use liquid chlorine and Acid Magic to bring numbers within State Guidelines.
- h. Monitor Variable Speed motors for each effects pump.
- i. Monitor all pressure gauges and vacuum gauges, noting daily operating pressure.
- j. Monitor pressure on cartridge filter to make sure it does not exceed 10 psi above clean pressure. If pressure is greater then 10 psi clean or replace filter cartridge.
- k. The contractor shall immediately contact the Parks Contract Manager if there are any irregularities with the fountains, pumps, vaults, or any associated items. This includes pumps not running, electrical issues, etc.

### 2. Weekly

- a. Clean all the wye strainers as necessary. Replacing any damaged screens in strainers if needed.
- b. Clean the water level probes.
- c. Monitor display canisters to ensure that they remain unclogged and operating. If canisters are clogged and need to be cleaned notify the Contract Manager.

### 3. Monthly

- a. Testing water every 30 days for Cryptosporidium during peak operational periods, May thru September, once a month using an accredited /certified outside testing company. This price should be figured into monthly maintenance cost.
- b. Visually inspect water levels and that LevelSmart Auto-fill is operating correctly.
- c. Clean water switch on splash pad canisters.

### 4. Yearly

- a. Lubricate filter are vents twice a year O-ring pump lids.
- b. Inspect all equipment for wear and loose bolts.
- c. Drain water from the system and refill with fresh water yearly or as needed. This includes the 2500-gallon storage tank. This will need to be drained, vacuum and pressure washed. *This will be at labor cost quoted on page 21, listed as Addison Circle Park Splash Pad labor.*
- d. Inspect all equipment for wear and loose bolts.

5. Emergency Maintenance as needed
  - a. In case of contaminants, contractor will need to drain water from the reservoir or basin, 2 times, flushing the system, depending on contaminants.
  - b. Remove the cartridge filter element and re-assemble the filter housing.
  - c. Refill the water reservoir and add “shock” treatment of chlorine then begin the normal start-up procedure, following the manufacture recommendations.
  - d. Re-circulate the water through the filtration pump and effects pump for 10 minutes
  - e. Drain the reservoir.
  - f. Replace the cartridge filter element, if so equipped.
  - g. Respond to accidents, in case of diarrhea the splash pad will need to be shut down and above steps followed to ensure it does not contaminate the system. Parks Contract Manager and Parks Director shall need to be notified once system has to be shut down.
  
6. Special Event run time dates when system should be shut down are as follows.
  - a. Taste of Addison turn system off by 7am day of event and 9 am the day after event.
  - b. Addison Kaboom Town turn system off by 7am day of event and 9 am the day after event.
  - c. Addison Oktoberfest turn system off by 9 am day of event and 7am the day after event.

**Fountains located at Le Grande Park, Bosque Park, Vitruvian Development, Addison Circle Park and Quorum Park.**

- 4.1 Skim water surface of fountains and waterways and remove any trash and debris.
- 4.2 Monitor and adjust all related time clocks according to a schedule specified by the Parks Operations Manager. Reset clocks for Daylight Saving Time changes.
- 4.3 The contractor shall immediately contact the Parks Department Operations Manager if there are any irregularities with the fountains, pumps, vaults, or any associated items. This includes pumps running not, electrical issues, etc.
- 4.4 Clean and maintain sump pumps and pits, backwash and clean filters, maintain and clean strainers, clean intakes, skimmers, and main drains, and keep all vaults clean.
- 4.5 As needed, clear display nozzles or intakes that become clogged.
- 4.6 Adjust and maintain nozzle heights.
- 4.7 Remove and wash decorative river rocks surrounding the fountain in Bosque Park and the small fountain in Quorum Park twice per year: Once in the spring (May) and once in the fall (December). Thoroughly clean the fountain channels in both locations and the balance tube at Quorum Park. Replace the clean river rock.
- 4.8 Maintain all fountain, vault, etc., lights in good operating condition at all times, changing

lamps as needed. All gaskets, lamps, and related items are the responsibility of the maintenance company to order and install. These items will be paid for on a cost-plus basis (see bid form).

- 4.10 Fax a weekly maintenance report to the Addison Parks Department describing work performed and any damaged or malfunctioning equipment. Addison Park Splash Pad shall have daily test emailed to Contracts and Park Manager. Additional repairs outside the normal scope of services requires a written quote and approval by the Parks Operations Manager prior to the commencement of any work.
- 4.11 Weekly check operation of sump pump(s) in vaults where installed; clean sumps and pumps as necessary or minimally once per year; ensure vaults are clean following each visit. Inspect fountain sump of Large Quorum and clean as needed.
- 4.12 Consideration needs to be given to the frequency of maintenance of the large fountain in **Quorum Park and the Addison Circle Park fountains**. The fountains at both locations are at the lowest elevation on the sites and during periods of heavy or prolonged rain, an influx of varying amounts of debris and/or sediment occurs. Also, during the fall and spring, a larger volume of leaves and other plant debris may be deposited into the fountains. In addition, usage of the Addison Circle Park fountains by patrons during special events greatly increases the amount of debris within the fountains. ***Frequency is dependent upon the time of year, timing of special events, and periods of inclement weather. Additional cleanings may be charged at an hourly rate. See Bid Form.*** The contractor will need to clean these fountains on an as needed basis following such occurrences.

The following services must be rendered as a minimum for maintenance of the Addison Circle Park fountains and are to be included as part of the bid:

- 1) Dip daily
- 2) Remove and hand wash cartridge filters (3) times per week
- 3) Vacuum twice weekly
- 4) Drain scupper receiving pond and clean main drains once monthly
- 5) Blow out upper channel display nozzles with compressed air every two weeks or as often as needed
- 6) Test water quality during each visit
- 7) Balance water as needed
- 8) Fill Brominators as needed
- 9) Fall (October-November) and Spring (March-April).
- 10) Scupper Fountain Steps – Wash to remove/prevent algal growth during the summer months of June, July, and August as often as is needed
- 11) Eight major special events are currently scheduled yearly that will require major cleaning of the fountains on the day immediately following each event. During these events, the contractor must also provide services needed on each day of the event to maintain high water quality and fountain cleanliness. This will require weekend (Saturday and/or Sunday) visits during these times.

The following services must be included within the maintenance of the Quorum Park large fountain and are to be considered as part of the bid:

- 1) Drain and clean (6) times per year (weather dependent; represents historical frequency)
- 2) Dip daily during the Fall (October- November) and Spring (March-April) months.
- 3) Vacuum as debris / dust settles on the bottom of the fountain, during the Fall and Spring months (as specified in #2 directly above).

- 4.13 Remove from the premises any trash or debris generated from the emptying of strainers or skimmers baskets. Do not leave it on the vault floor, wash into the sump, or utilize Town trash receptacles. Keep vaults always clean. **No storage of chemicals within the vaults is permitted at any time. Except closed bottle of liquid cholorine, Acid Magic, Enzymes, Alkalinity Increaser and filter cleaner.**
- 4.14 The fountains and Splash Pad will **not** be drained and winterized. The interactive geysers in Circle Park will be turned off during the winter, during temperatures below 36 degrees, but all circulation systems will remain operational with the fountain being operational when above mentioned temperature.
- 4.15 The contractor shall enforce all safety standards, meeting all Town and Government guidelines, to ensure the safety of staff working in vault or on dry deck areas.

## **5.0 EQUIPMENT**

- 5.1 The contractor shall not be responsible for equipment that fails due to manufacturer's defects.
- 5.2 The contractor shall be responsible for damaged equipment due to maintenance neglect and/or for damage caused by contractor neglect or negligence.
- 5.3 Repair to equipment not resulting from maintenance neglect/negligence shall be priced and repaired on an as needed basis. The Parks Operations Manager must approve all additional work prior to commencement.

## **6.0 GENERAL REQUIREMENTS**

- 6.1 The contractor shall have a minimum of five (5) year's experience maintaining and cleaning fountains, vaults and splash pads of similar complexity to those in this quote.
- 6.2 The Contractor shall have either a Licensed Appliance Installer or a Licensed Electrician (Journeyman or Master Electrician) on staff during the length of the contract.
- 6.3 All the contractor's employees involved in working on the fountains shall be direct employees, not contract workers. Unless first approved by Parks Contract Manager, provide workers comp. and following requirements of 6.8 below.
- 6.4 The contractor shall provide **all** chemicals and necessary cleaning equipment.
- 6.5 Any additional maintenance shall be quoted on an hourly basis with an estimate of the number of hours for the repair, along with the cost of parts, stated in writing before the work is authorized.
- 6.6 This bid is for service on a weekly basis.
- 6.7 The Town of Addison shall be invoiced minimally on a monthly basis.
- 6.8 The contractor shall perform background checks on all employees to ensure the safety of residents.

## 7.0 FOUNTAIN EQUIPMENT (part numbers may differ)

- 7.1 Quorum Park, Large Fountain
  - 2 ea C-840 AM Peerless pumps, 7.5hp 230v 680 GPM
  - 2 ea 8" Mueller model 1 55 strainers
  - 56 ea Kim N-150 Geyser nozzle
  - 22 ea Kim F1035 AN underwater fountain light
  - 1 ea Kim WLC-1, combination water level control/LWCO
  - 2 ea Triton 60 24" sand filters
  - 2 ea 1½" Dial valves
  - 1 ea Control panel with timers
  - 1 ea Magnetek Century 5hp 230v pump
  - 2 ea 4" strainers
  - 1 ea 6" strainers
  - 2 ea Chlorine tablet dispensers
  - 1 ea Magnetek 1½"hp 1ph 230v
  - 1 ea Magnetek 2hp 1ph 230v model #164300-23
  - 3 ea Aqua Flo 1hp sump pumps
  
- 7.2 Quorum Park, Small Fountain
  - 1 ea A-7 Magnetek ¾hp 230v filter pump
  - 1 ea A-20 2hp 230v Magnetek pump
  - 1 ea Kim NB50 bubbler nozzle
  - 1 ea JPJj-7 Kim underwater J-Box with 2 cord seals
  - 1 ea Kim RW 57-1 water level controls
  - 2 ea Kim 235 freestanding underwater fountain lights
  - 1 ea Triton TR-40 sand filters with 1½" dial valve
  - 2 ea Intermatic 2-pole time clocks
  - 1 ea Tork time clocks
  - 2 ea FS240V freeze shields
  - 1 ea Chlorine tablet dispenser
  
- 7.3 LeGrande Fountain
  - 1 ea Aqua Flo Pump 1hp
  - 1 ea Aqua Flo in-line strainer
  - 1 ea Hayward cartridge pressure filter model #C-LE-42070
  - 1 ea light in fountain
  - 1 ea 10" basket skimmer
  - 1 ea T101 Intermatic clock
  - 1 ea Chlorine tablet dispenser
  
- 7.4 Bosque Park
  - 1 ea 1 ½" Geyser nozzle
  - 2 ea 250w underwater lights
  - 1 ea Wind speed sensor
  - 1 ea Jacuzzi 1.5hp pump
  - 1 ea Direct burial vault
  - 1 ea Chlorine tablet dispenser

1 ea Cartridge style filter

- 7.5 Addison Circle Park, Grove and Scupper system  
A Comprehensive maintenance and operations manual will be available for Bidders upon request.
- 7.6 Addison Circle Park Splash Pad (Separate from the Grove and Scupper system)  
30 ea. Display canisters (FIAC-2000-H2O-JC Fountain-in-a-can)  
1 Splash Pad controller CPL-P19781-1 (Fountain People)  
1 Filtration Pump PFF-P19781-1, Pump-1(Fountain People)  
1 Effects Pumps, 2Pumps, PFP-075-P19781-1, Pump-2 & Pump 3 (Fountain People)  
1 Effects Pump, 1 Pump, PFP-200-P19781-1, Pump 4 (Fountain People)  
1 Acid Storage Tank, 30 gallon, PWA-30, (Fountain People)  
1 Liquid Chlorine Tank, 30 gallon, PWC-30, (Fountain People)  
1 Feature Controller, CPL-P19781-2, (Fountain People)  
1 2500 balancing tank  
1 LevelSmart wireless auto-fill
- 7.7 Vitruvian Development  
8 ea Display nozzles  
8 ea Freestanding underwater fountain lights  
1 ea Wind speed sensor  
1 ea Pentair 1.5hp pump with Centurion motor  
1 ea Direct burial vault  
1 ea Chlorine tablet dispenser  
1 ea Cartridge style filter

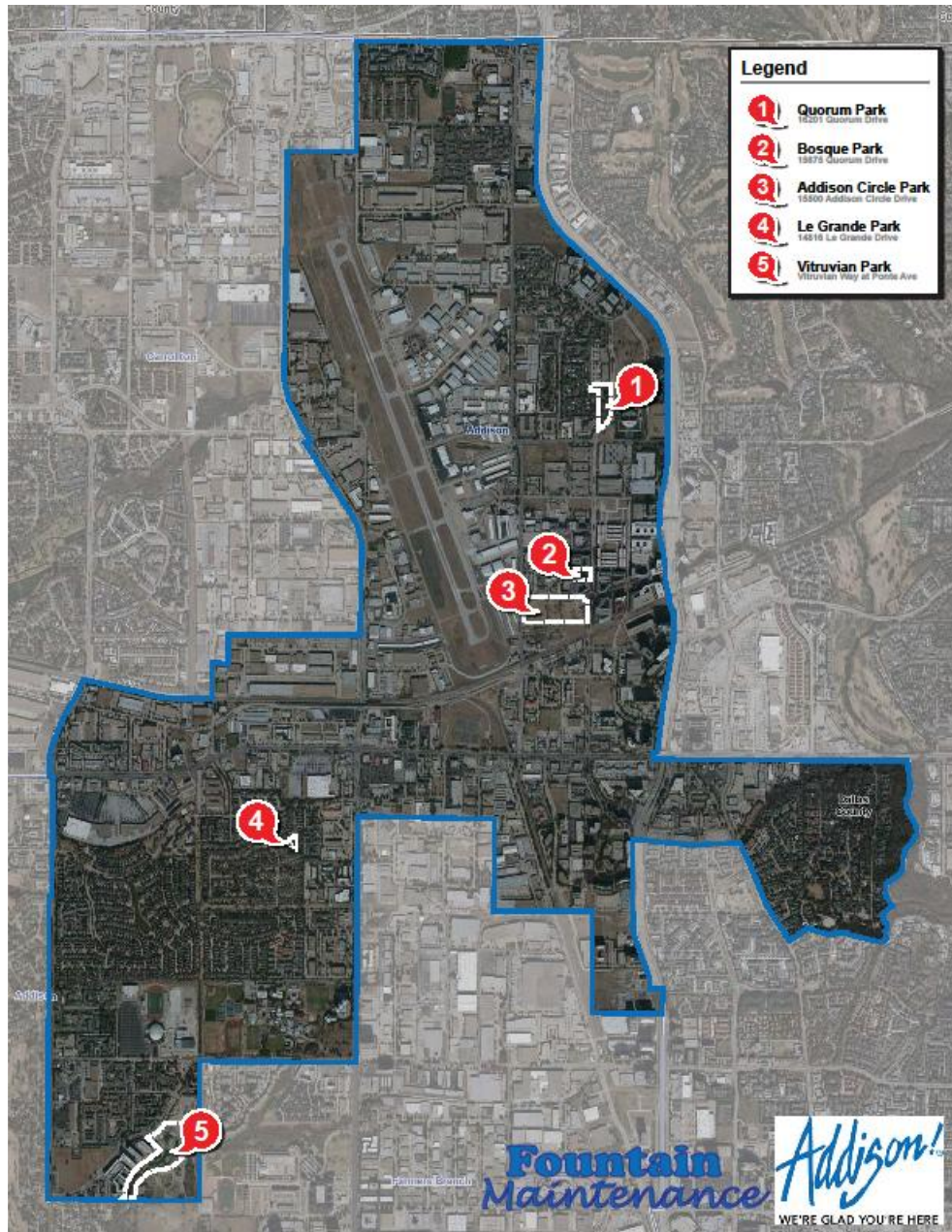
## **8.0 MISCELLANEOUS REPAIRS**

- 8.1 Contractor shall provide a written report on any fountain problems encountered, with a cost estimate for repairs based on the hourly rate from this bid along with the cost for parts deemed necessary for the repairs. If the Town determines that the repairs are necessary, the contractor shall receive authorization to perform the repairs.
- 8.2 The Town may find fountains needing repairs and will endeavor to give at least twenty-four (24) hour notice for repairs. However, there may be circumstances that will preclude this prior notification. The Town will expect the Contractor to honor this bid with prompt, reliable service regardless of length of the notification period. The contractor shall initiate repairs on requests for service within five (5) working days.
- 8.3 Timely performance standards will be considered on an individual basis for each repair or service situation or condition based upon the needs of the public, safety, coordination of Town programs, events, or projects. The Town reserves the right to initiate any corrective action necessary to overcome untimely service.
- 8.4 Purchase orders, procurement card charge, or written authorization will be issued for each repair request. The name of the Town employee requesting the service, date of request, and job location must be referenced on all invoices.

- 8.5 At the completion of each job performed, a Work Order that states starting time, ending time, all work performed, and all materials used, must be delivered or faxed to the Town of Addison Parks Department within 24-hours or be noted on lump sum quote.
- 8.6 All parts for miscellaneous fountain repairs will be invoiced at the contractor's cost plus the bid markup.
- 8.7 All invoices must include a detailed summary of replacement parts.
- 8.8 The contractor shall be responsible for returning **all** defective parts to the Town upon completion of authorized repairs.
- 8.9 The Town shall provide keys to all boxes, pump houses, vaults, etc., for the contractor to access the equipment.
- 8.10 The contractor shall not internally access any unpaved areas in vehicles before receiving prior approval from the Town. Any damage to landscaping, irrigation, etc. shall be repaired by a Town-approved company at the contractor's expense.
- 8.11 Time charged to the Town shall begin when contractor reaches the job site and ends when contractor leaves the site. Time charged shall not include travel time.

All repairs shall be made during normal business hours – 7:00 a.m. – 4:30 p.m., Monday through Thursday and 7:00 a.m. – 3:30 p.m. on Fridays, unless the Town specifically requests work be performed after normal business hours **Double click picture**





**\*Note: Double click on the map to bring up photos of each area and then scroll through them.**

## CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this the 8th day of September 2020, by and between the **TOWN OF ADDISON**, a municipal corporation located in the County of Dallas, State of Texas, hereinafter termed "Owner," and **Lumar Corporation dba Palm Springs Pool Service**, located in the County of Dallas Texas, hereinafter termed "Contractor."

In consideration of the mutual covenants herein contained, the Owner and Contractor agree as follows:

1. Contractor shall perform the following described work: **Fountain and Splash Pad Maintenance – Annual Contract Bid 20-178** as specified in the Contract Documents (hereinafter called the "Work"). The Work shall be performed at various locations in Addison as specified in the contract documents.

2. Contractor shall perform the Work in accordance and comply in all respects with the Contract Documents, together with any addenda or modifications thereto and Contractor's response to such bid request, all of which are hereinafter termed "Contract Documents." This Agreement, the Contract Documents, and Certificates of Insurance, all of which are attached hereto and made a part hereof, shall collectively evidence and constitute the entire agreement between Owner and Contractor. Contractor shall perform the Work in accordance with and comply in its business practices in all respects with, all applicable governmental laws, rules, regulations, and policies.

3. The parties hereto intend that the documents include provisions for all labor, materials, equipment, supplies and other items necessary for the execution and completion of the Work and all terms and conditions of payment.

4. Contract initial term is from **October 1, 2020 through September 30, 2021**. At the sole discretion of the Owner, the contract may be extended for five (5) twelve-month periods under the same terms and conditions as the original contract documents. If the Owner chooses to renew the contract agreement under the same terms and conditions set forth in the initial agreement, the Contractor may then, submit a written request to the Owner at least 20 days prior to the first day of an extended (renewal) period, for an increase to the original prices for the Work during the extended (renewal period) by an amount determined by the change in the Consumer Price Index- All Items for Dallas, Texas Metropolitan Area (the "Consumer Price Index") as published in the *Consumer Price Index for All Urban Consumers (CPI-U)* by the U.S. Department of Labor, Bureau of Labor Statistics for the Dallas/Fort Worth Consolidated Metropolitan Statistical Area in accordance with the following: (a) A comparison shall be made between the Consumers' Price Index as it existed on the first day of this Agreement ("Commencement Date") and as it exists on the first day of the calendar month preceding the then applicable extension (renewal) period ("Adjustment Date"); (b) the original prices for the applicable extension (renewal) period may be increased by the percentage of increase in the Consumer Price Index between the Commencement Date and the then applicable Adjustment Date. Notwithstanding the foregoing, the total proposed price increase for any extended (renewal) period shall not exceed four percent (3%) per twelve-month renewal period.

5. The Owner agrees to pay Contractor in current funds monthly after receipt of invoice, according to the prices set forth in the proposal, which forms a part of this Agreement. Such payments shall be subject to Contractor's performance of all terms and conditions of the Contract Documents.

6. This Contract or any portion thereof may not be assigned, transferred, or otherwise conveyed or sublet to another party without the prior written consent of the Town of Addison; any such assignment, transfer, conveyance or subletting shall be deemed void. The Town may assign this Agreement without the Contractor's permission.

7. The Owner may terminate the Contract for the following conditions:

Contractor's failure to perform the work in accordance to the specifications shall constitute a material default. The Owner, at its sole option, shall have the right to terminate the contract without further cause.

Should the Contractor at any time refuse or neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality or fail in any respect to prosecute the work contemplated herein with promptness and diligence or fail in the performance of any of the covenants herein contained.

If the Owner is dissatisfied with the quality of the Contractor's performance, or if the Contractor fails to comply with this Contract Agreement, the Owner shall so inform the Contractor by telephone, noting all areas of dissatisfaction and the Contractor shall correct the deficiencies by noon of the following day. If the Contractor fails to correct the deficiencies within the said period, the Owner may elect to: 1. Perform the services itself, or obtain others to perform the services, in which case the Owner shall recover those costs by deducting from any amounts owed the Contractor 200% of the "out of pocket expense"; and/or, 2. Terminate the Contract Agreement immediately by giving written notice to the Contractor. Termination by the Town under this section shall be in addition to all other remedies that the Owner may have against the Contractor.

The Owner reserves the right to cancel this Contract Agreement, without cause with 10 days written notice.

The Owner may be required to cancel the contract if the governing body does not provide funding for any fiscal year beginning October 1.

The Contractor may terminate the Contract for the following conditions:

Should the Contractor elect to cancel the Contract prior to the original or extended termination date, at least sixty (60) days written notice shall be given to the Purchasing Manager.

The Owner shall deduct any out of pocket costs, associated with re-bidding the **Fountain and Splash Pad Maintenance – Annual Contract**, from money owned the Contractor. Also, any increase in the cost of **Fountain and Splash Pad Maintenance – Annual Contract** for the balance of the contract term shall be deducted by the Owner from amounts owed to the Contractor.

IN WITNESS WHEREOF, the parties have executed this agreement the year and day first above written.

OWNER:

CONTRACTOR:

TOWN OF ADDISON

By \_\_\_\_\_

By Thomas Dittman

Title: City Manager

Title President

(Corporate Seal)

(Corporate Seal)

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: City Secretary

Title: \_\_\_\_\_

The address for Giving Notices:

To Owner:

To Contractor:

Town of Addison

Palm Springs Pool Service

P.O. Box 9010

3525 Security St

Addison, Texas 75001-9010

Garland TX 75042

THOMAS G. DITTMAN, of lawful age, being first duly sworn, an oath says that he/she is the agent authorized by Contractor to submit the above contract to the Town of Addison.

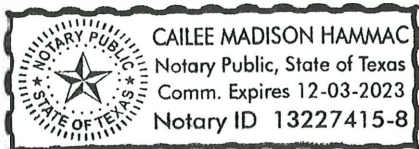
Affiant further states the Contractor has not paid, given, or donated or agreed to pay, give or donate to any officer or employee of the Town of Addison any money or other thing of value, either directly or indirectly, in procuring of the Contract.

Affiant's Signature: Thomas Dittman

Subscribed and sworn to before me this 28 day of August, 2020.

Notary Seal

Cailee Hammac  
Notary Public for the State of Texas



Cailee Hammac  
Type/Print Name of Notary if not part of seal

12/03/23 Enter date commission expires if not part of seal

## Palm Springs Pool Service

Bid Contact **Tom Dittman**  
**tom@palmspringspoolservice.net**  
**Ph 214-358-3268**

Address **3525 Security St**  
**Garland, TX 75042**

Item #	Line Item	Notes	Unit Price	Qty/Unit	Attch. Docs
20-178--01-01	Fountain & Splash Pad Maintenance as described in specifications: Quorum Park, large fountain with vault	<b>Supplier Product Code:</b>	<b>First Offer - \$1,165.00</b>	12 / month	<b>\$13,980.00</b> Y Y
20-178--01-02	Fountain & Splash Pad Maintenance as described in specifications: Quorum Park, small fountain with vault	<b>Supplier Product Code:</b>	<b>First Offer - \$129.00</b>	12 / month	<b>\$1,548.00</b> Y
20-178--01-03	Fountain & Splash Pad Maintenance as described in specifications: Le Grande fountain with pump house	<b>Supplier Product Code:</b>	<b>First Offer - \$160.00</b>	12 / month	<b>\$1,920.00</b> Y
20-178--01-04	Fountain & Splash Pad Maintenance as described in specifications: Bosque Park fountain with vault	<b>Supplier Product Code:</b>	<b>First Offer - \$243.00</b>	12 / month	<b>\$2,916.00</b> Y
20-178--01-05	Fountain & Splash Pad Maintenance as described in specifications: Addison Circle Park with vault and Splash Pad	<b>Supplier Product Code:</b>	<b>First Offer - \$2,006.00</b>	12 / month	<b>\$24,072.00</b> Y
20-178--01-06	Fountain & Splash Pad Maintenance as described in specifications: Addison Circle Park Grove and Scupper	<b>Supplier Product Code:</b>	<b>First Offer - \$4,482.00</b>	12 / month	<b>\$53,784.00</b> Y
20-178--01-07	Fountain & Splash Pad Maintenance as described in specifications: Vitruvian District with vault	<b>Supplier Product Code:</b>	<b>First Offer - \$140.00</b>	12 / month	<b>\$1,680.00</b> Y
Lot Total					<b>\$99,900.00</b>
Item #	Line Item	Notes	Unit Price	Qty/Unit	Attch. Docs
20-178--02-01	Additional Labor: Labor for Misc. Fountain Repairs to pumps, lights, etc.	<b>Supplier Product Code:</b>	<b>First Offer - \$77.00</b>	1 / hour	<b>\$77.00</b> Y
20-178--02-02	Additional Labor: Labor for Additional	<b>Supplier</b>	<b>First Offer - \$45.00</b>	1 / hour	<b>\$45.00</b> Y

Site Visits to Clean Quorum Pk Fountain & Addison Circle Pk **Product Code:**

20-178--02-03	Additional Labor: Labor for Splash Pad Emergency shut downs (including trip charge)	<b>Supplier Product Code:</b>	<b>First Offer - \$95.00</b>	1 / hour	<b>\$95.00</b>	<b>Y</b>
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Lot Total **\$217.00**

Item #	Line Item	Notes	Unit Price	Qty/Unit	Attch. Docs
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20-178--03-01	Parts Markup: Markup on parts for misc. fountain, splash pad and light repairs	<b>Supplier Product Code:</b>  <b>Supplier Notes:</b> This unit is intended to be a percentage. The percentage markup is 20%.	<b>First Offer - \$20.00</b>	1 / each	<b>\$20.00</b>	<b>Y</b>
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Lot Total **\$20.00**

Supplier Total **\$100,137.00**

**Palm Springs Pool Service**

Item: **Fountain & Splash Pad Maintenance as described in specifications:Quorum Park, large fountain with vault**

**Attachments**

Addison Fountain Bid - Exceptions - 20-178.pdf

Form 1295.pdf

**Attachment to Palm Springs Pool Service (PSPS) Bid**  
for  
Town of Addison  
Fountain and Waterfall Maintenance  
Bid 20-178

**Assumptions**

1. 4.12(1) “Dip daily”, of Fountain and Splash Pad Maintenance Specifications, assumes normal workdays in the week. Special events, per 4.12(11), may include Saturday and/or Sunday. Also see Exception 2. below.
2. In order to meet the requirements stipulated in 4.12(7) and (8) of the Fountain and Splash Pad Maintenance Specifications Specifications, PSPS assumes that Addison will repair significant leaks at the fountains to minimize chemical loss, and especially so at the Quorum large fountain and Circle Park.
3. Regarding Item 4.12 Quorum Park (1), Fountain and Splash Pad Maintenance Specifications, drain and clean Quorum Park large fountain 6 times per year – if the fountain is already flooded, and heavy rain is imminent, the cleanup may be delayed. Pricing assumes that the drains and sump pumps work properly.

**Exceptions**

1. Under Fountain and Splash Pad Maintenance Specifications, Scope of Services, Item 4.2, PSPS intends to comply with the following: **The Contractor shall take all safety precautions to ensure staff safety while entering, exiting and working inside the vault. The Town of Addison will allow for one of the Contractors to enter the vault, provided employee has a cell phone and the forced air fan is operable while in vault. If fan is not operable, no one should enter the vault till fan is repaired.**
2. Regarding 6.0, General Requirements of the Maintenance Specifications, PSPS maintains an Appliance Installers Contractor license for standard electrical work. If electrical work necessitates a licensed master or journeyman electrician, the Town will provide such electrician outside the cost constraints of this contract.
3. Regarding Splash Pad located at Addison Circle Park, Monthly - testing water every 30 days for cryptosporidium. PSPS takes exception to this requirement and will instead do the following:
  - a. If it is required that a sample be tested for Cryptosporidium (Crypto), then a sample will be collected per the guidelines of an authorized testing facility. And sent to that facility.
  - b. The cost of such collection, testing and reporting will be billed at that time and is outside the scope of this contract.
  - c. Pricing for such testing is currently \$500 and includes the container and shipping charges. The turnaround for a test is two weeks. A one week turnaround is available for \$700. Contracted markups and labor will also apply.

Addison Fountain Bid - Exceptions - 20-178.docx



4. Regarding 4.1 and 4.12 of the Maintenance Specifications, PSPS normally closes the week between Christmas Day and New Year's Day, inclusive. Instead of cleaning Circle Park five days per week that week, PSPS will go once that week and if necessary, based on debris fall, additionally that week. PSPS may check the other fountains once that week as appropriate. The other four holidays observed by PSPS will not normally be worked, e.g., Labor Day, unless it is for a special event stipulated by Addison. PSPS will be on call if service is required.
5. Regarding 8.5 of the Maintenance Specifications, work order information will be transmitted within 5 business days.
6. Regarding 8.8 of the Maintenance Specifications, PSPS will return defective parts if such request is made in advance (typically as part of the approval to perform work).
7. Regarding 8.11, there will be a one-hour minimum charge for jobs.
8. Regarding 8.11 second paragraph of the Maintenance Specifications, PSPS may work outside the normal business hours if necessary.
9. Regarding Item 7, paragraph 3 of the Contract Agreement, PSPS takes exception to "correct deficiencies by noon the following day." PSPS agrees to respond by noon the following day, but cannot guarantee resolution by that time. Many variables may prohibit such a fast resolution, e.g., vendor response for parts, weather conditions, complexity of the problem, etc. PSPS will be duly diligent in its response. Additionally, notice shall also be by email.
10. Regarding Item 7, paragraph 3 of the Contract Agreement, PSPS takes exception to Addison's recovery of 200% of "out-of-pocket expense." PSPS agrees to a recovery of 100% of actual PSPS charge to Addison in this situation rather than 200%. In addition, for this type credit to be afforded, assuming improper resolution on PSPS' part, any complaints or deficiencies must be received in writing prior to the "clock starting."
11. PSPS strives to offer a stable employment environment for its employees. Thus regarding:
  - a. Item 7, paragraph 4 of the Contract Agreement, shall be changed to 30 days notice rather than 10 days notice, considering that PSPS employees are not contract workers (see 6.2 of Maintenance Specifications).
  - b. Item 7, paragraph 7 of the Contract Agreement, contract cancellation shall be changed to 30 days notice rather than 60 days notice.
12. Item 7, paragraph 8 of the Contract Agreement shall apply only if PSPS is not able to provide reasonable services as specified in the bid. Addison and PSPS agree to communicate in a timely and reasonable manner regarding cleaning and maintenance concerns.
13. Billing for normal maintenance is averaged and spread over 12 months. Chemical usage is highest in the four hottest months (June through September). If Addison terminates the contract early for any reason, PSPS reserves the right to adjust charges based on chemicals purchased.
14. Regarding the Workers' Compensation Employers' Liability insurance, PSPS reserves the right to increase the amount billed to Addison in subsequent years for any increase in the premium above the base cost established during the 1<sup>st</sup> year of the contract.

Addison Fountain Bid - Exceptions - 20-178.docx

**Clarifications Provided**

- All regulatory requirements are assumed to be met in the design and construction of the fountain. PSPS is not liable for any regulatory deficiencies.
- Under Item 4.14, if repair work at Addison Circle Park or Quorum Large necessitates entry to the vault, then an additional person will be utilized and billed for at the corresponding rate.
- If bid is awarded to Palm Springs Pool Service, Addison agrees to pay for any required confined space entry training, e.g., OSHA.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY  
 CERTIFICATION OF FILING**

Certificate Number:  
 2020-652626

Date Filed:  
 08/03/2020

Date Acknowledged:

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Lumar Corporation dba Palm Springs Pool Service  
 Garland, TX United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Town of Addison

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

20-178  
 Fountain Maintenance

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Dittman, Ellen	Richardson, TX United States	X	
	Dittman, Thomas	Richardson, TX United States	X	

**5 Check only if there is NO Interested Party.**

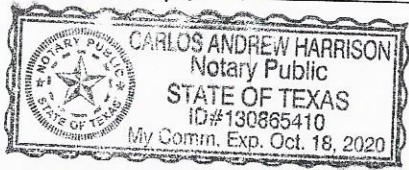
**6 UNSWORN DECLARATION**

My name is THOMAS G. DITTMAN, and my date of birth is 09/22/1958.

My address is 2556 MORNING GLORY DR, Richardson, TX, 75082, USA.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 4<sup>th</sup> day of August, 2020.  
(month) (year)



[Signature]  
 Signature of authorized agent of contracting business entity (Declarant)

**Supplier: Palm Springs Pool Service**

**QUALIFICATION AND REFERENCE STATEMENT**

**BIDDER: Lumar Corporation dba Palm Springs Pool Service**

**COMPANY INFORMATION:**

Number of years in business? **50**

Number of years at current location? **9**

Do you maintain a permanent commercial business office? **Yes**

Have you or any present partners or officers failed to complete a contract: **No** If yes, give name of owner and/or surety?

Can you be reached 24 hours a day (in an emergency)? **No**

Pager# Cell Phone# **214-557-9756**

Answer Svc# Other# **214-557-9758**

**CUSTOMER REFERENCES**

Please provide 3 to 5 users you have provided with this product or service. Use comparable projects and government entities, if any;

Company Name	Contact Name	Phone	Email
<b>City of Addison</b>	<b>Matt Ansted</b>	<b>972-405-2863</b>	<b>mansted@addisontx.gov</b>
<b>The Landing at Frisco</b>	<b>Jennifer Hodges</b>	<b>972-798-7000</b>	<b>jhodges@integratedsl.com</b>
<b>Park Fontaine</b>	<b>Laura Sparkman</b>	<b>214-914-6519</b>	<b>lspakman@gmail.com</b>

**Supplier: Palm Springs Pool Service****Town of Addison  
GENERAL TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor/Seller (hereafter called Seller) agrees the Contract/Purchase Order shall be governed by the following terms and conditions for goods and services.

1. **Applicability:** These General Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the Town of Addison's Request for Bid (collectively, "Terms and Conditions") are applicable to Contracts/Purchase Orders issued by the Town of Addison (hereinafter referred to as the "Town" or "Buyer") and the Seller (herein after referred to as the "Seller"). Any deviations must be in writing and signed by a representative of the Town's Purchasing Department and the Seller. No terms and conditions contained in the Seller's Proposal, Invoice or Statement shall modify the Terms and Conditions. If there is a conflict between the Terms and Conditions and Seller's response to the Town's request for bids or proposals documents (including the provisions of the Seller's form of contract/purchase order), the Terms and Conditions will take precedence and control.
2. **Official Solicitation Notification:** The Town utilizes the following for official notifications of solicitation opportunities: [www.bidsync.com](http://www.bidsync.com) and the Dallas Morning News of Dallas County. These are the only forms of notification authorized by the Town for notifications of solicitation opportunities. The Town is not responsible for receipt of notifications or information from any source other than those listed. It shall be the Seller's responsibility to verify the validity of all solicitation information received from any source other than the Town. There will be NO COST to the Seller for using BidSync to respond to Town of Addison solicitations.
3. **Seller to Package Goods:** Seller shall package goods in accordance with good commercial practice. Each shipping container, shall be clearly and permanently marked as follows: (a) Seller's name and address; (b) consignee's name, address and purchase order or purchase change order number; (c) container number and total number of containers, e.g., "box 1 of 4 boxes"; and (d) number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided and agreed to in writing by Buyer. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. Town's count or weight shall be final and conclusive on shipments not accompanied by packing list. Unless otherwise stated in the Town's solicitation, all goods will be new, not used, rebuilt, reconditioned or recycled, will be in first class condition, and will be in containers suitable for site.
4. **Shipment Under Reservation Prohibited:** Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.
5. **Title and Risk of Loss:** Title and risk of loss of the goods will not pass to the Town until the Town actually receives, takes possession of, and inspects and accepts the goods at the point or points of delivery.
6. **Delivery Terms and Transportation Charges:** Goods shall be shipped F.O.B. point of delivery; prices bid and quoted shall be F.O.B. point of delivery, and shall include all freight, delivery and packaging costs. Town shall have the right to designate what method of transportation shall be used to ship the goods. Town assumes and shall have no liability for goods damaged while in transit and or delivered in a damaged condition or that otherwise don't conform to the Terms and Conditions. Seller shall be responsible for and handle all claims with carriers, and in case of damaged or non-conforming goods shall ship replacement goods immediately upon notification by the Town of the same, and the Town may return such damaged or non-conforming goods at Seller's sole cost and expense, including costs and expense for freight, delivery, packaging, and shipping.

7. Right of Inspection and Rejection; Backorders: The Town shall have the right, and expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the goods at delivery before accepting them, and to reject defective or non-conforming goods. Backorders delayed beyond a reasonable period of time, as determined by the Town Purchasing Manager, may be cancelled by the Town without liability of any kind whatsoever, and payment will not be made for such cancellations.

8. Acceptance of Incomplete or Non-Conforming Goods: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming goods, Town prefers to accept such goods, Town may do so. Seller shall pay all claims, costs, losses and damages attributable to Town's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, Town may deduct such amounts as are necessary to compensate Town for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to Town by Seller.

9. Substitution: Every delivery of goods by the Seller must comply with all provisions of this bid including the specifications, delivery schedule, quantity and quality, and the Terms and Conditions. Any delivery which does not conform to the Buyer's requirements shall constitute a breach of contract. Seller does not have authorization to make or tender substitute goods unless it is agreed to in writing by the Buyer and signed by an authorized representative of Buyer.

10. Payment:

(a) All proper invoices received by the Town will be paid within thirty (30) days of the Town's receipt and acceptance of the goods or of the invoice, whichever is later, unless other terms are specified on the face of the purchase order in the original printing. If payment is not timely made, interest shall accrue on the unpaid balance at the lesser of one percent per month or the maximum lawful rate; except, if payment is not timely made for a reason for which the Town may withhold payment hereunder, interest shall not accrue until ten (10) days after the grounds for withholding payment have been resolved.

(b) If partial shipments or deliveries are authorized by the Town, Seller will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.

(c) The Town may withhold or set off the entire payment or part of any payment otherwise due Seller to such extent as may be necessary on account of: (i) delivery of defective or non-conforming goods by Seller, or (ii) failure of the Seller to submit proper invoices with all required attachments and supporting documentation, or (iii) failure of Seller to deliver quantity of goods ordered (payment will be made for actual quantities delivered).

(d) The Town's payment obligations are payable only and solely from funds appropriated, budgeted, and available for the purpose of this purchase. The absence of appropriated and budgeted or other lawfully available funds shall render the Contract/Purchase Order null and void to the extent funds are not appropriated and budgeted or available and any goods delivered but unpaid shall be returned to Seller. The Town shall provide the Seller written notice of the failure of the Town to make an adequate appropriation and budget for any fiscal year to pay the amounts due under the Contract/Purchase Order, or the reduction of any appropriation to an amount insufficient to permit the Town to pay its obligations under the Contract/Purchase Order.

11. Invoicing: Send ORIGINAL INVOICE to address indicated on the purchase order. If invoice is subject to cash discounts the discount period will begin on the day invoices are received. So that proper cash discount may be computed, invoice should show amount of freight as a separate item, if applicable; otherwise, cash discount will be computed on total amount of invoice.

12. Taxes - Exemption: All quotations are required to be submitted LESS Federal Excise and State Sales Taxes. Tax Exemption Certificate will be provided by the Town for the successful Seller
13. Warranty - Price:
- (a) Seller warrants the prices quoted in its bid are no higher than Seller's current prices on orders by others for like goods under similar terms of purchase.
- (b) Seller certifies that the prices in Seller's bid have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- (c) In the event of any breach of this warranty, the prices of the items will be reduced to Seller's current prices on orders by others, or in the alternative, the Town may cancel this Contract/Purchase Order without liability to Seller of any kind whatsoever. In addition to any other remedy available, the Town may deduct from any amounts owed to Seller, or otherwise recover, any amounts paid for items in excess of Seller's current prices on orders by others for like goods under similar terms of purchase.
14. Warranty – Title: Without limiting any provision of law, Seller warrants that it has good and indefeasible title to all goods furnished hereunder, and that the goods are free and clear of all liens, claims, security interests and encumbrances. **Seller shall indemnify and hold the Town harmless from and against all adverse title claims to the goods.**
15. Warranty (goods): If goods are sold and furnished to Seller in connection with these Terms and Conditions, Seller represents and warrants that the goods sold and furnished to the Town will be (i) free from defects in design, manufacture, materials and workmanship, (ii) be of merchantable quality and fit for ordinary use, (iii) be in full conformance with Buyer's specifications, drawings and data, with Seller's samples or models furnished in connection herewith, with Seller's express warranties, and with the terms and conditions of the Town's solicitation, and (iv) conform to all applicable Federal, State, and local laws, ordinances, rules, regulations, codes, and to all applicable standards and industry codes and standards. These warranties are in addition to all others given to the Buyer by the Seller or by law. Seller shall not limit, disclaim, or exclude these warranties or any implied warranties, and any attempt to do so shall render this Contract/Purchase Order voidable at the option of the Buyer, and any such limitations, disclaim, or exclusions shall be void and without force or effect.

Unless otherwise specified in a Contract/Purchase Order and approved by the Town in writing, the warranty period shall be at least one year from the date of acceptance of the goods or from the date of acceptance of any replacement goods. If during the warranty period, one or more of the above warranties are breached, Seller shall promptly upon receipt of demand either repair the defective or non-conforming goods, or replace the non-conforming or defective goods with fully conforming and non-defective goods, at the Town's option and at no additional cost to the Town. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by Seller. The Town shall endeavor to give Seller written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the Town's rights hereunder.

If Seller is unable or unwilling to repair or replace defective or non-conforming goods as required by Town, then in addition to any other available remedy, Town may reduce the quantity of goods it may be required to purchase under the Contract/Purchase Order from Seller, and purchase conforming goods from other sources. In such event, Seller shall pay to Town upon demand the increased cost, if any, incurred by the Town to procure such goods from another source.

If Seller is not the manufacturer, and the goods are covered by a separate manufacturer's warranty, Seller shall transfer and assign such manufacturer's warranty to Town. If for any reason the manufacturer's warranty cannot be fully transferred to Town, Seller shall assist and cooperate with Town to the fullest extent to enforce such manufacturer's warranty for the benefit of Town.

16. Warranty (services): If services are provided to Seller in connection with these Terms and Conditions, Seller represents and warrants that all services to be provided to the Town will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of this Contract/Purchase Order, and all applicable Federal, State and local laws, ordinances, rules, regulations and codes. These warranties are in addition to all others given to the Buyer by the Seller or by law. Seller shall not limit, disclaim, or exclude these warranties or any implied warranties, and any attempt to do so shall render this Contract/Purchase Order voidable at the option of the buyer, and any such limitations, disclaim, or exclusions shall be void and without force or effect.

Unless otherwise specified in the Contract/Purchase Order, the warranty period shall be at least one year from the date of final acceptance of the services by the Town. If during the warranty period, one or more of the above warranties are breached, Seller shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the Town. All costs incidental to such additional performance shall be borne by the Seller. The Town shall endeavor to give the Seller written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the Town's rights under this section.

If the Seller is unable or unwilling to perform its services in accordance with the above standard as required by the Town, then in addition to any other available remedy, the Town may reduce the amount of services it may be required to purchase under the Contract/Purchase Order from the Seller, and purchase conforming services from other sources. In such event, the Seller shall pay to the Town upon demand the increased cost, if any, incurred by the City to procure such services from another source.

17. Right to Assurance: Whenever one party to the Contract/Purchase Order in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of this Contract/Purchase Order.

18. Default: Seller shall be in default under this Contract/Purchase Order if Seller (a) fails to fully, timely and faithfully perform any of its material obligations under this Contract/Purchase Order (whether or not an obligation is "material" shall be determined by the Town), (b) fails to provide adequate assurance of performance as provided for herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States, or (d) makes a material misrepresentation in Seller's offer or response to Buyer's solicitation, or in any report or deliverable required to be submitted by Seller to the Town.

19. Termination for Cause or Convenience: The Town, at any time, by 30 days written notice to the Seller, has the absolute right to terminate this Contract/Purchase Order, in whole or in part, for cause or for convenience (that is, for any reason or for no reason whatsoever). "Cause" means the Seller's refusal or failure to perform or complete its obligations under this Contract/Purchase Order within the time specified and to the Town's satisfaction, or failure to meet the specifications, quantities, quality and/or other requirements specified in the Contract/Purchase Order. If the Town terminates this Contract/Purchase Order for cause, the Seller shall be liable for any damages suffered by the Town. If the agreement is terminated for convenience, the Seller has no further obligation under this Contract/Purchase Order. Upon receipt of a notice of termination, Seller shall promptly cease all further work pursuant to the Contract/Purchase Order, with such exceptions, if any, specified in the notice of termination. Payment shall be made to cover the cost of goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.



20. Delay: Town may delay scheduled delivery or other due dates by written notice to Seller if the Town deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract/Purchase Order, the Town and the Seller shall negotiate an equitable adjustment for costs incurred by Seller in the Contract/Purchase Order price and execute an amendment to the Contract/Purchase Order. Seller must assert its right to an adjustment within thirty (30) days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse Seller from delaying the delivery as notified. For purposes of these Terms and Conditions, "days" means calendar days.

21. SELLER'S INDEMNITY OBLIGATION; INSURANCE: See attached Town of Addison minimum requirements.

22. Gratuity: Town may, by written notice to Seller, cancel this Contract/Purchase Order without liability to Town if it is determined by Town that any gratuity, in the form of entertainment, gifts, or otherwise, was offered or given by Seller, or any officer, employee, agent or representative of Seller, to any officer, employee, or representative of Town with a view toward securing a contract or securing favorable treatment with regard to the awarding or amending, or the making or any determinations with respect to the performance of, a contract. In the event this Contract/Purchase Order is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Seller in providing such gratuities.

23. Notices: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under this Contract/Purchase Order shall be in writing and shall be deemed delivered upon being hand-delivered or upon three (3) business days after postmarked if sent by U.S. Postal Service certified or registered mail, return receipt requested. Notices to Seller shall be sent to the address as specified by Seller. Notices to the Town shall be addressed to Town at 5300 Belt Line Road, Dallas, Texas 75254 and marked to the attention of the Town Finance Director.

24. No Warranty By Town Against Infringement: Seller represents and warrants to the Town that: (i) Seller shall provide the Town good and indefeasible title to all goods being sold and/or supplied to the Town, and (ii) such goods in accordance with the specifications in this Contract/Purchase Order will not infringe, directly or indirectly, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of such goods and the Seller does not know of any valid basis for any such claims. The Town's specifications regarding the goods shall in no way diminish Seller's warranties or obligations under this paragraph, and the Town makes no warranty that the production, development, or delivery of goods according to the specifications will not give rise to such a claim or will not will not impact such warranties of Seller, and in no event will Town be liable to Seller, its officers, employees, or agents (together, "Seller Parties") for indemnification or otherwise if Seller Parties or any of them is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will or may result, Seller shall promptly notify Town of that opinion. If Seller in good faith ascertains, prior to production of the goods, that production of the goods according to the specifications will result in infringement or the like, this Contract/Purchase Order will be null and void, and neither Town nor Seller shall have any liability one to the other.

25. Assignment and Successors: The successful Seller shall not assign, transfer, pledge, subcontract, or otherwise convey (collectively, "assign" or "assignment"), in any manner whatsoever, any rights, duties, obligations, or responsibilities of Seller under or in connection with this Contract/Purchase Order, in whole or in part, without the prior written consent of the Town of Addison (and any such assignment without the prior written consent of the Town shall be null and void). Any person or entity to whom Seller assigns any right, duty or obligation shall, as a condition of such assignment, agree to comply with and abide by all

provisions of this Contract/Purchase Order, and Seller shall promptly give the Town a true and correct copy of such agreement.

This Contract/Purchase Order shall be binding upon and inure to the benefit of the City and the Seller and their respective successors and authorized assigns, provided however, that no right or interest in the Contract/Purchase Order shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. This Contract/Purchase Order does not and is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to this Contract/Purchase Order.

26. Waiver; Rights, Remedies: All waivers must be in writing and signed by the waiving party. The rights or remedies under this Agreement are cumulative to any other rights or remedies, which may be granted by law.

27. Modifications: This contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any Seller invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of this Contract/Purchase Order.

28. Independent Contractor: Seller shall operate hereunder as an independent contractor and not as an officer, agent, servant or employee of the Town. Seller shall have exclusive control of, and the exclusive right to control, the details of its operations hereunder, and all persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants.

29. Interpretation: This Contract/Purchase Order is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in this Contract/Purchase Order. Although the Contract/Purchase Order may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in this contract, the UCC definition shall control, unless otherwise defined in this Contract/Purchase Order.

30. Competitive Pricing: It is the intent of the Town to consider Interlocal Cooperative Agreements and State/Federal contracts in determining the best value for the Town.

31. Interlocal Agreement: Successful bidder (Seller) agrees to extend prices for the goods and/or services to be provided by Seller described in this Contract/Purchase Order to all entities that have entered into or will enter into joint purchasing interlocal cooperation agreements with the Town. The Town is a participating member of several interlocal cooperative purchasing agreements. As such, the Town has executed interlocal agreements, as permitted by law, including under Chapter 791 of the Texas Government Code, with certain other political subdivisions, authorizing participation in a cooperative purchasing program. The successful bidder (Seller) may be asked by the Town to provide products/services based upon the bid price to any other participant to a cooperative purchasing agreement, and the Seller agrees to do so (such provision will be pursuant to an agreement between Seller and such other participant, and the Town will have no liability or responsibility in connection therewith).

32. Right to Audit: The city shall have the right to examine and audit after reasonable notice any and all books and records. in any form or format whatsoever (including electronic), of Seller that may relate to this Contract/Purchase Order including, without limitation, the performance of Seller, its employees, agents, and subcontractors. Such books and records will be maintained in accordance with generally accepted accounting principles and shall, upon request and at the Town's request, be made available at a location designated by the Town. Seller shall, except for copying costs, otherwise bear all costs of producing such

records for examination and copying by the Town. Unless otherwise agreed by the Town, such books and records must be made available to the Town within five business days after the Seller's receipt of a written notice from the Town requesting the same. The provisions of this paragraph shall survive the termination of this agreement. Seller shall retain all such books and records for a period of three (3) years after final payment on this Contract/Purchase Order or until all audit and litigation matters that the Town has brought to the attention of the Seller are resolved, whichever is longer. The Seller agrees to refund to the Town any overpayments disclosed by any such audit. The Seller shall include a similar audit right on behalf of the Town in all subcontractor agreements entered into in connection with this Contract/Purchase Order.

33. Correspondence: The Bid number must appear on all correspondence and inquiries pertaining to the Request for Bid or to quotes. The Purchase Order number must appear on all invoices or other correspondence relating to the Contract/Purchase Order.

34. Easement Permission: The contractor shall not enter or use private property except as allowed by easements shown on the contract documents or if the contractor obtains specific written permission from the property owner.

35. Alternates - Samples: If bidding on other than the item solicited by the Town, Seller's bid must identify the item's Trade Name, Manufacturer's Name and/or Catalog Number, and certify the item offered is equivalent to the item solicited by the Town. Descriptive literature must be submitted with alternate brands. Samples shall be furnished free of expense to the Town and if requested, may be returned at bidder's expense.

36. Error - Quantity: Bids must be submitted in units of quantity specified, extended, and totaled. In the event of discrepancies in extension, the unit prices shall govern.

37. Acceptance: The right is reserved to the Town to accept or reject all or part of the bid, and to accept the offer considered most advantageous to the Town by line item or total bid.

38. Term Contracts: Except as otherwise provided herein, prices must remain firm for the entire Contract/Purchase Order period, including any periods of extension or renewal. At the time of any renewal or extension of the Contract/Purchase Order, the Town or the Seller may request a price adjustment based upon the economy. All requests for a price adjustment must include detailed documentation and rationale to support the requested adjustment. The party to whom a request for price adjustment is made may, in its sole discretion, accept or reject the request. Any price adjustment must be mutually agreed upon in writing by the parties, and shall be effective for the applicable renewal term.

39. Term Contract Quantities: The quantities (if any) in the request for bid are estimated requirements and the Town reserves the right to increase or decrease the quantities or cancel any item to be furnished. The successful bidder (Seller) shall have no claim against the Town for anticipated profits for quantities diminished or deleted.

40. Term Contract Shipments: The Seller will make shipments under this Contract/Purchase Order only when requested and only in the quantities requested. Seller shall comply with minimum shipments or standard packaging requirements (if any) included in the Contract/Purchase Order.

41. Contract Renewal Options: In the event a clause for option to renew for an additional period is included in the request for bid, all renewals will be based solely upon the option and agreement between the Town and the Seller. Either party dissenting will terminate the Contract/Purchase Order in accordance with its initial specified term.

42. Electronic Signature – Uniform Electronic Transactions Act: The Town adopts Texas Business and Commerce Code Chapter 322, Uniform Electronic Transactions Act, allowing individuals, companies, and

governmental entities to lawfully use and rely on electronic signatures.

43. Funding Out Clause: This Contract/Purchase Order may be terminated by the Town without notice and without penalty or liability in the event that (1) the Town lacks sufficient funds for this Contract/Purchase Order; (2) funds for this Contract/Purchase Order are not appropriated and/or budgeted by the City Council of the Town; and (3) funds for this Contract/Purchase Order that are or were to be provided by grant or through a third party are withheld, denied or are otherwise not available to the Town.

44. Dispute Resolution: Pursuant to subchapter I, Chapter 271, Texas Local Government Code, Seller agrees that, prior to instituting any lawsuit or other proceeding arising from any dispute or claim of breach under this Contract/Purchase Order (a "Claim"), the parties will first attempt to resolve the Claim by taking the following steps: (i) A written notice substantially describing the factual and legal basis of the Claim shall be delivered by the Seller to the Town within one-hundred eighty (180) days after the date of the event giving rise to the Claim, which notice shall request a written response to be delivered to the Seller not less than fourteen (14) business days after receipt of the notice of Claim; (ii) if the response does not resolve the Claim, in the opinion of the Seller, the Seller shall give notice to that effect to the Town whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the Claim; (iii) if those persons cannot or do not resolve the Claim, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the Claim.

45. Disclosure of Certain Relationships: Chapter 176 of the Texas Local Government Code requires that any person, as defined in the statute, considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the Records Administrator of the Town not later than the 7<sup>th</sup> business day after the later of (a) the date the person (i) begins discussions or negotiations to enter into a contract with the local governmental entity, or (b) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity, or (b) the date the person becomes aware (i) of an employment or other business relationship with a local government officer, or a family member of the officer, described by the statute, or (ii) that the person has given one or more gifts described in the statute. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. The questionnaire may be found at [www.ethics.state.tx.us/forms/CIQ.pdf](http://www.ethics.state.tx.us/forms/CIQ.pdf) By submitting a response to this request, Seller represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

46. Force Majeure: To the extent either the Town or Seller shall be wholly or partially prevented or delayed from the performance of this Contract/Purchase Order or of any obligation or duty under this Contract/Purchase Order placed on such party, by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance, then in such event, such party shall give notice of the same to the other party (specifying the reason for the prevention) and the time for performance of such obligation or duty shall be suspended until such disability to perform is removed.

47. BAFO: During evaluation process Town reserves the right to request a best and final offer upon completion of negotiations.

48. Silence of Specifications: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

49. Applicable Law: This agreement shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted by the State of Texas (excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction), as effective and in force on the date of this Contract/Purchase Order, without regard to its conflict of laws rules or the conflict of law rules of any other jurisdiction. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive or any other relief from any competent authority as contemplated herein.

50. Venue: This Contract/Purchase Order is performable in Dallas County, Texas, and venue for any suit, action, or legal proceeding under or in connection with this Contract/Purchase Order shall lie exclusively in Dallas County, Texas. Seller submits to the exclusive jurisdiction of the courts in Dallas County, Texas for purposes of any such suit, action, or proceeding hereunder, and waives any claim that any such suit, action, or legal proceeding has been brought in an inconvenient forum or that the venue of that proceeding is improper.

51. Cost of Response: Any cost incurred by the Seller in responding to the Request for Proposal is the responsibility of the Seller and cannot be charged to the Town.

52. Prohibition Against Personal Interest in Contracts: No Town of Addison officer or employee shall have a direct or indirect financial interest in any contract with the Town, or be directly or indirectly financially interested in the sale of land, materials, supplies or services to the Town.

53. Prior or Pending Litigation or Lawsuits: Each Seller must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Seller or in which the Seller has been judged guilty or liable.

54. Severability: The invalidity, illegality, or unenforceability of any provision of this Contract/Purchase Order shall in no way affect the validity or enforceability of any other portion or provision of this Contract/Purchase Order. Any void or invalid provision shall be deemed severed from this Contract/Purchase Order and the balance of the Contract/Purchase Order shall be construed and enforced as if the Contract/Purchase Order did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract/Purchase Order to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract/Purchase Order from being void should a provision which is the essence of the Contract/Purchase Order be determined to be void.

55. Headings; "Includes": The headings of this Contract/Purchase Order are for convenience of reference only and shall not affect in any manner any of the terms and conditions hereof. The words "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.

56. Conflict: When there is a conflict between the this purchase order (including, without limitation, these Terms and Conditions) and the Seller's invoice, this purchase order shall prevail.

57. Response Contractual Obligation; Waiver: This response, submitted documents, and any negotiations, when properly accepted by the Town, shall constitute a contract equally binding between the successful Seller and the Town. No different or additional terms will become part of this Contract/Purchase Order except as properly executed in an addendum or change order. **By submitting a bid, Seller waives any claim it has or may have against the Town, its officials, officers, employees, and agents, arising out of or in connection with the administration, evaluation, or recommendation of any bid, acceptance or rejection of any bid, and the award of a contract.**

58. No Waiver of Immunity. Notwithstanding any other of this Contract/Purchase Order, nothing in this Contract/Purchase Order 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 Town, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

59. No Boycotting Israel. The entity contract with the Town of Addison does not boycott Israel and will not boycott Israel during the term of the contract. Reference HB 89 as it relates to Chapter 2270 of the Texas Government Code. Boycott Israel means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

## Supplier: Palm Springs Pool Service

### TOWN OF ADDISON, TEXAS CONTRACTOR INSURANCE REQUIREMENTS & AGREEMENT

#### **REQUIREMENTS**

Contractors performing work on TOWN OF ADDISON property or public right-of-way shall provide the TOWN OF ADDISON a certificate of insurance or a copy of their insurance policy(s) (and including a copy of the endorsements necessary to meet the requirements and instructions contained herein) evidencing the coverages and coverage provisions identified herein within ten (10) days of request from TOWN OF ADDISON. Contractors shall provide TOWN OF ADDISON evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. Work shall not commence until insurance has been approved by TOWN OF ADDISON.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must have a A.M. Best's rating A-:VII or greater.

Listed below are the types and minimum amounts of insurances required and which must be maintained during the term of the contract. TOWN OF ADDISON reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

<b>TYPE OF INSURANCE</b>	<b>AMOUNT OF INSURANCE</b>	<b>PROVISIONS</b>
1. <b>Workers' Compensation Employers' Liability</b> to include: (a) each accident (b) Disease Policy Limits (c) Disease each employee	Statutory Limits per occurrence  Each accident \$1,000,000 Disease Policy Limits \$1,000,000 Disease each employee \$1,000,000	<b>TOWN OF ADDISON to be provided a <u>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</b></b>
2. <b>Commercial General (Public) Liability</b> to include coverage for: a) Bodily Injury b) Property damage c) Independent Contractors d) Personal Injury e) Contractual Liability	Bodily Injury/Property Damage per occurrence \$1,000,000, General Aggregate \$2,000,000 Products/Completed Aggregate \$2,000,000, Personal Advertising Injury per occurrence \$1,000,000, , Medical Expense 5,000	<b>TOWN OF ADDISON to be listed as <u>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</b></b>
3. <b>Business Auto Liability</b> to include coverage for: a) Owned/Leased vehicles b) Non-owned vehicles c) Hired vehicles	Combined Single Limit \$1,000,000	<b>TOWN OF ADDISON to be listed as <u>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. <b>Insurance company must be A:VII-rated or above.</b></b>

Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) may be **faxed** to the Purchasing Department: **972-450-7074** or **emailed to: purchasing@addisontx.gov**. Questions regarding required insurance should be directed to the Purchasing Manager.

With respect to the foregoing insurance,

1. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison.
2. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
3. 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.
4. All insurance policies, which name the Town of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Upon request, Contractor shall furnish the Town of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

This form must be signed and returned with your quotation. You are stating that you do have the required insurance and if selected to perform work for TOWN OF ADDISON, will provide the certificates of insurance (and endorsements) with the above requirements to TOWN OF ADDISON within 10 working days.

**A CONTRACT/PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE AND APPROVAL OF INSURANCE.**

**AGREEMENT**

I agree to provide the above described insurance coverages within 10 working days if selected to perform work for TOWN OF ADDISON. I also agree to require any subcontractor(s) to maintain insurance coverage equal to that required by the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The Town accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

**Project/Bid# 20-178**

**Company: Lumar Corporation dba Palm Springs Pool Service**

**Printed Name: Thomas Dittman**

**Signature: Thomas Dittman Date: 08/03/2020**



**Supplier: Palm Springs Pool Service****Town of Addison  
Indemnification Agreement**

**Contractor's Indemnity Obligation.** Contractor covenants, agrees to, and shall DEFEND (with counsel reasonably acceptable to Owner), INDEMNIFY, AND HOLD HARMLESS Owner, its past, present and future elected and appointed officials, and its past, present and future officers, employees, representatives, and volunteers, individually or collectively, in both their official and private capacities (collectively, the "Owner Persons" and each being an "Owner Person"), from and against any and all claims, liabilities, judgments, lawsuits, demands, harm, losses, damages, proceedings, suits, actions, causes of action, liens, fees (including attorney's fees), fines, penalties, expenses, or costs, of any kind and nature whatsoever, made upon or incurred by Owner and/or Owner Person, whether directly or indirectly, (the "Claims"), that arise out of, result from, or relate to: (i) the services to be provided by Contractor pursuant to this Agreement, (ii) any representations and/or warranties by Contractor under this Agreement, (iii) any personal injuries (including but not limited to death) to any Contractor Persons (as hereinafter defined) and any third persons or parties, and/or (iv) any act or omission under, in performance of, or in connection with this Agreement by Contractor or by any of its owners, directors, officers, managers, partners, employees, agents, contractors, subcontractors, invitees, patrons, guests, customers, licensees, sublicensees, or any other person or entity for whom Contractor is legally responsible, and their respective owners, directors, officers, directors, officers, managers, partners, employees, agents, contractors, subcontractors, invitees, patrons, guests, customers, licensees, sublicensees (collectively, "Contractor Persons"). 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 OR GROSS NEGLIGENCE OF OWNER OR ANY OTHER OWNER PERSON, OR CONDUCT BY OWNER OR ANY OTHER OWNER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Contractor shall promptly advise Owner in writing of any claim or demand against any Owner Person related to or arising out of Contractor's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Contractor's sole cost and expense. The Owner Persons shall have the right, at the Owner Persons' option and own expense, to participate in such defense without relieving Contractor of any of its obligations hereunder. This defense, indemnity, and hold harmless provision shall survive the termination or expiration of this Agreement.

The provisions in the foregoing defense, indemnity and hold harmless are severable, and if any portion, sentence, phrase, clause or word included therein shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, void, or unenforceable in any respect, such invalidity, illegality, voidness, or unenforceability shall not affect any other provision thereof, and this defense, indemnity and hold harmless provision shall be considered as if such invalid, illegal, void, or unenforceable provision had never been contained in this Agreement. **In that regard, if the capitalized language included in the foregoing indemnity is so determined to be void or unenforceable, the parties agree that:**

- (i) the foregoing defense, indemnity, and hold harmless obligation of Contractor shall be to the extent Claims are caused by, arise out of, or result from, in whole or in part, any act or omission of Contractor or any Contractor Persons; and**
- (ii) notwithstanding the provisions of the foregoing subparagraph (i), to the fullest extent permitted by law, Contractor shall INDEMNIFY, HOLD HARMLESS, and DEFEND Owner and Owner Persons from and against all Claims arising out of or resulting from bodily injury**

to, or sickness, disease or death of, any employee, agent or representative of Contractor or any of its subcontractors, regardless of whether such Claims are caused, or are alleged to be caused, in whole or in part, by the negligence, or any act or omission, of Owner or any Owner Persons, it being the expressed intent of Owner and Contractor that **IN SUCH EVENT THE CONTRACTOR'S INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATION SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF OWNER OR ANY OTHER OWNER PERSON, OR CONDUCT BY OWNER OR ANY OTHER OWNER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.** The indemnity obligation under this subparagraph (ii) shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor under workers compensation acts, disability benefit acts, or other employee benefit acts.

I understand that the indemnification provisions are required of all Town of Addison Contracts. I have read the provisions and agree to the terms of these provisions.

Project/Bid#: **20-178**

Company Name: **Lumar Corporation dba Palm Springs Pool Service**

Signature: **Thomas Dittman** Date: **08/03/2020**

**Supplier: Palm Springs Pool Service**

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Information and Instruction Form

RESPONSES THAT DO NOT CONTAIN THIS COMPLETED FORM MAY NOT BE COMPLIANT

Section I Company Profile

Name of Business: **Lumar Corporation dba Palm Springs Pool Service**

Business Address: **3525 Security St  
Garland TX 75042**

Contact Name: **Thomas Dittman**

Phone#: **214-358-3268**

Fax#: **214-358-3260**

Email: **tom@palmspringspoolservice.net**

Name(s) Title of Authorized Company Officers: **Thomas Dittman - President  
Ellen Dittman - Secretary/Treasurer**

Federal ID #: **75-1605852** W-9 Form: A W-9 form will be required from the successful bidder.

DUN #: **075122614**

Remit Address: If different than your physical address:

Section II Instructions to Bidders

**Electronic Bids:** The Town of Addison uses BidSync to distribute and receive bids and proposals. There will be **NO COST** to the Contractor/Supplier for Standard bids or proposals. For **Cooperative Bids and Reverse Auctions ONLY**, the successful contractor/supplier agrees to pay BidSync a transaction fee of one percent (1%) of the total amount of all contracts for goods and/or services. **Cooperative Bids and Reverse Auctions** will be clearly marked on the bid documents. To assure that all contractors/suppliers are treated fairly, the fee will be payable whether the bid/proposal is submitted electronically, or by paper means. Refer to [www.bidsync.com](http://www.bidsync.com) for further information.

**Contractor/Supplier Responsibility:** It is the contractor/suppliers responsibility to check for any addenda or questions and answers that might have been issued before bid closing date and time. Contractors/Suppliers will be notified of any addenda and Q&A if they are on the invited list, they view the bid, or add themselves to the watch list.

**Acknowledgement of Addenda:** #1 #2 #3 #4 #5

**Delivery of Bids:** For delivery of paper bids our physical address is:

Town of Addison

5350 Beltline Road

Dallas, TX 75254

Attn: Purchasing Department

**Contractor/Supplier Employees:** No Contractor/Supplier employee shall have a direct or indirect financial interest in any contract with the town, or be directly or indirectly financially interested in the sale of land, materials, supplies or services to the town.

**Deliveries:** All deliveries will be F.O.B. Town of Addison. All Transportation Charges paid by the contractor/supplier to Destination.

**Payment Terms:** A Prompt Payment Discount of % is offered for Payment Made Within Days of Acceptance of Goods or Services. If Prompt Payments are not offered or accepted, payments shall be made 30 days after receipt and acceptance of goods or services or after the date of receipt of the invoice whichever is later.

**Delivery Dates:** Delivery Dates are to be specified in Calendar Days from the Date of Order.

**Bid Prices:** Pre-Award bid prices shall remain Firm and Irrevocable for a Period of **90**Days.

Exceptions: Contractor/Supplier does not take Exception to Bid Specifications or Other Requirements of this Solicitation. If neither exceptions box is checked, default shall be "No Exceptions"

Contractor/Supplier take the following Exception(s) to the Bid Specifications or Other Requirements of this Solicitation (Explain in Detail). If box checked but no exceptions are listed, default shall be "No Exceptions"

Historically Underutilized Business (HUB): It is the policy of the Town of Addison to involve HUBs in the procurement of goods, equipment, services and construction projects. Prime Contractors/Suppliers are encouraged to provide HUBs the opportunity to compete for sub-contracting and other procurement opportunities. A listing of HUBs in this area may be accessed at the following State of Texas Website. <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>.

HUB Owned Business Yes No Include a current copy of your HUB certification with your response or insert Certification number and expire date .

Other Government Entities: Would bidder be willing to allow other local governmental entities to participate in this contract, if awarded under the same Terms and Conditions? Yes  No

Bid Bond: Is Bid Bond attached if applicable?  Yes  No

Termination: The town at any time after issuance of this agreement, by 30 days written notice, has the absolute right to terminate this agreement for cause or convenience. Cause shall be the contractor/supplier's refusal or failure to satisfactorily perform or complete the work within the time specified, or failure to meet the specifications, quantities, quality and/or other requirements specified in the contract/purchase order. In such case the supplier shall be liable for any damages suffered by the town. If the agreement is terminated for convenience, the supplier has no further obligation under the agreement. Payment shall be made to cover the cost of material and work in process or "consigned" to the town as of the effective date of the termination.

Bidder Compliance: Bidder agrees to comply with all conditions contained in this Information and Instruction Form and the additional terms and conditions and specifications included in this request. The undersigned hereby agrees to furnish and deliver the articles or services as specified at the prices and terms herein stated and in strict accordance with the specifications and conditions, all of which are made a part of your offer. Your offer is not subject to withdrawal after the award is made.

The Town of Addison reserves the right to reject all or part of the offer and to accept the offer considered most advantageous to the town by item or total bid.

The Town of Addison will award to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the Town.

I hereby certify that all of the information provided in sections I and II are true and accurate to the best of my knowledge.

Signature: **Thomas Dittman** Date: **8/3/2020**

Title: **President**

Signature certifies no changes have been made to the content of this solicitation as provided by the Town of Addison.

10/17/17