

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT BETWEEN THE TOWN OF ADDISON AND CASTEEL & ASSOCIATES, INC. FOR THE BELTLINE ROAD DIGITAL STREET SIGNS PROJECT IN AN AMOUNT NOT TO EXCEED \$455,006.04, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The Agreement between the Town of Addison and Casteel & Associates, Inc., for the Beltline Road Digital Street Signs Project in an amount not to exceed \$455,006.04, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

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

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the 9th day of **FEBRUARY 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Brenda N. McDonald, City Attorney

EXHIBIT A

**AGREEMENT
BETWEEN
THE TOWN OF ADDISON, TEXAS
AND
CASTEEL & ASSOCIATES, INC.**

FOR

DIGITAL STREET SIGN SERVICES

Made as of the 28th day of JANUARY in the year 2021,

BETWEEN the Town: The Town of Addison, Texas
5300 Beltline Road
Addison, Texas 75254
Telephone: (972) 450-7001

and the Service Provider: CASTEEL & ASSOCIATES, Inc.
11106 Morrison Lane
Dallas, Texas 75229
Telephone: (214) 352-7446

for the following Project: Beltline Road Digital Street Signs

The Town and Casteel agree as set forth below.

THIS AGREEMENT is made and entered by and between the **Town of Addison, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "**Town**," and, **Casteel & Associates, Inc.**, a corporation, incorporated under the law of the state of Texas, hereinafter referred to as "**Casteel**," to be effective from and after the date as provided herein, hereinafter referred to as "**Agreement**."

WHEREAS, the Town desires to engage the services of Casteel to provide services which shall include, but not be limited to, providing digital street signs, remote management software for signs and its/their content, including security features and an equipment warranty within the Town of Addison, Texas Belt Line Road right-of-way; hereinafter referred to as "**Project**"; and

WHEREAS, Casteel desires to render such services for the Town upon the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

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ARTICLE 1 CONSULTANT'S SERVICES

- 1.1 **Employment of Casteel** – The Town hereby agrees to retain Casteel to perform services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Casteel shall perform such services as are set forth and described in **Exhibit "A,"** which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit "A," in the form of written change orders, may be authorized from time to time by the Town as allowed under Section 252.048 of the Texas Local Government Code.
 - 1.2.1 **Requirement of Written Change Order** – "[E]xtra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the Addison City Manager, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Addison City Council's authorization for the Addison City Manager to execute said change order.
 - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE ADDISON CITY MANAGER.** Project Managers, Superintendents, and/or Inspectors of the Town are not authorized to issue verbal or written change orders.
- 1.3 **Schedule of Work** – Casteel agrees to commence work immediately upon the execution of this Agreement and receipt of written Notice to Proceed, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as **Exhibit "B"** and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than **180 consecutive days.**
- 1.4 **Failure to Meet Established Deadlines** – Casteel acknowledges that time is of the essence in the performance of services under this Agreement as set forth in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B." The parties agree that Casteel shall not be responsible for any delays whatsoever where occasioned by any causes beyond Casteel's control, as reasonably determined by the Town.

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- 1.5 **Equitable Adjustment** – Casteel shall be entitled to an equitable adjustment in the time of performance due to unforeseeable delays or disruptions beyond Casteel's control or for the cumulative impact of any changes directed by the Town.

ARTICLE 2 THE TOWN'S RESPONSIBILITIES

Town shall do the following in a timely manner so as not to delay the services of Casteel:

- 2.1 **Project Data** – The Town shall furnish required information that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Casteel shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **Town Project Manager** – The Town shall designate, when necessary, a representative authorized to act on the Town's behalf with respect to the Project (the "Project Manager"). The Town or such authorized representative shall examine the documents submitted by Casteel and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of Casteel's services. The Project Manager is not authorized to issue verbal or written change orders for "extra" work or "claims" invoiced as "extra" work.

ARTICLE 3 CASTEEL'S COMPENSATION

- 3.1 **Compensation for Casteel's Services** – As described in "Article 1, Casteel's Services," compensation for this Project shall be on a Type of Payment Basis not to exceed **Four Hundred Fifty-Five Thousand Six and 04/100 Dollars (\$455,006.04)**, ("Casteel's Fee") and shall be paid in accordance with Article 3 and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B." **The final five percent (5%) of Casteel's Fee, or Twenty-Two Thousand Seven Hundred Fifty and 30/100 Dollars (\$22,750.30), shall not be paid until Casteel has completed all of the services described in Exhibit "A" and delivered to the Town all of the applicable documents, plans, data, maps, and/or other information required in Exhibit "A."**
- 3.1.1 **Completion of Project** – Town and Casteel agree that the completion of the Project shall be completed, submitted to, and accepted by the Town prior to payment of the **final five percent (5%) of Casteel's Fee, or Twenty-Two Thousand Seven Hundred Fifty and 30/100 Dollars (\$22,750.30)**. Completion of any record documents shall be included in Casteel's Fee and

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considered to be within the Scope of Services defined under this Agreement.

- 3.1.2 **Consultation and Approval by Governmental Authorities and Franchised Utilities** – Casteel shall be responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and to participate in consultation with said agencies in order to obtain all necessary approvals and/or permissions. Casteel shall be responsible for preparation and timely submittal of documents required for review, approval, and/or recording by such agencies. Casteel shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by such agencies at no additional charge to Town.
- 3.2 **Direct Expenses** – Direct Expenses are included in Casteel's Fee as described in Article 3.1 and include actual reasonable and necessary expenditures made by Casteel and Casteel's employees and subcontractors in the interest of the Project, hereinafter referred to as "Direct Expenses". All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with Exhibit "C," Town of Addison Guidelines for Direct Expenses, General and Administrative Markup, and Travel and Subsistence Expenses. Casteel shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the Town for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the Town for errors in submittals for reimbursement may be deducted from Casteel's subsequent payment for services; provided, however this shall not be the Town's sole and exclusive remedy for said overpayment.
- 3.3 **Additional Services** – Casteel shall provide the services as described in the and Scope of Services as set forth in Exhibit "A" of this Agreement. If authorized in writing by the Town, Casteel shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph ("Additional Services"). These services may include, but are not limited to:
- 3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in Exhibit "A."
- 3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in Exhibit "A." Drafts or revisions required as the result

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of errors or omissions by Casteel shall not be considered Additional Services, but shall fall within the Scope of Services.

- 3.3.3 Compensation for Additional Services authorized by the Town shall be in addition to Casteel's Fee and shall be based on direct billable labor rates and expenses.
- 3.4 **Invoices** – No payment to Casteel shall be made until Casteel tenders an invoice to the Town. Invoices are to be mailed to Town immediately upon completion of each individual task listed in Exhibit "B." On all submitted invoices, Casteel shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.
- 3.5 **Timing of Payment** – Town shall make payment to Casteel for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by Town to Casteel is considered to be complete upon mailing of payment by Town and receipt by Casteel. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by Town, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. Town shall notify Casteel of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date the Town receives the invoice. Town shall provide Casteel an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Casteel, Town shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the Town, Casteel shall submit to Town a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid Town in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. Town agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges. No back-charge or payment withholding action by the Town shall be taken or considered valid against Casteel unless Casteel has failed to commence and diligently proceed with curative measures for any alleged failure/default/defect within not

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less than three (3) business days following actual receipt of reasonably detailed written notice from the Town therefor.

- 3.7 **Failure to Pay** – Failure of the Town to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to Casteel within forty-five (45) days from the date of the invoice shall grant Casteel the right, in addition to any and all other rights provided, to, upon written notice to the Town, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Casteel shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to Town, in accordance with Chapter 2251, Subchapter “D” (“Remedy for Nonpayment”) of the *Texas Government Code*. The Town shall not be required to pay any invoice submitted by Casteel if Casteel breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project or if Casteel’s services are materially changed due to no error on behalf of Casteel in the performance of services under this Agreement, the amounts of Casteel’s compensation shall be equitably adjusted as approved by Town. Any additional amounts paid to Casteel as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed. Commencement of work by Casteel shall not constitute a waiver of Casteel’s right to a written change order upon later discovery of any concealed or unforeseen condition that would otherwise justify the issuance of a written change order.
- 3.9 **Project Suspension** – During the pendency of any dispute, other than an uncured default of and/or breach, both parties agree to continue their contractual obligations to one another. If the Project is suspended or abandoned in whole or in part for more than three (3) months, Casteel shall be entitled to compensation for any and all work completed to the satisfaction of Town in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Casteel shall deliver to Town all finished or unfinished items prepared by Casteel in connection with this Agreement prior to Casteel receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Casteel’s compensation shall be equitably adjusted as approved by the Town. Any additional amounts paid to Casteel after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

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ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of the Town** – The Project is the property of the Town, and Casteel may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials for any other purpose not relating to the Project without Town's prior written consent. Town shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit "A." Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 7, Casteel will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project and promptly furnish the same to the Town in an acceptable electronic format. All such reproductions shall be the property of the Town who may use them without Casteel's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Casteel acknowledges that Town is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Casteel (and Casteel's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the Town and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (*Texas Government Code*, Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5 CASTEEL'S INSURANCE REQUIREMENTS

- 5.1 **Required Professional Liability Insurance** – Consistent with the terms and provisions of **Exhibit "D,"** Town of Addison Insurance Requirements, Casteel shall maintain, at no expense to Town, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by

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the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Casteel shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

- 5.2 **Required General Liability Insurance** – Consistent with the terms and provisions of Exhibit “D,” Town of Addison Insurance Requirements, Casteel shall maintain, at no expense to Town, a general liability insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Casteel shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit “D,” Town of Addison Insurance Requirements, Casteel shall maintain, at no expense to Town, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Casteel shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.
- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, and if identified on the checklist located in Exhibit “D,” Town of Addison Insurance

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Requirements, Casteel shall maintain, at no expense to the Town, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Consistent with the terms and provisions of Exhibit "D," such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that the same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Casteel shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CASTEEL'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the Town as indicated in Article 3.4. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be included in all submitted invoices as applicable.

ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE

Casteel agrees that at any time during normal business hours and as often as the Town may deem necessary, Casteel shall make available to representatives of the Town for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the Town to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Casteel agrees that it is aware of the prohibited interest requirement, which is repeated on the Affidavit, attached hereto as **Exhibit "E"**, and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Casteel shall execute the Affidavit attached hereto as Exhibit "E". Casteel understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

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Casteel agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Casteel shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit "F" and incorporated herein for all purposes.

If the Agreement is required to go to the City Council for approval, then Casteel shall execute and deliver to the Town the Form 1295 Certificate of Interested Parties, as required by section 2252.908, Texas Government Code, as amended, prior to the Town's execution of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES

Town may, upon thirty (30) days written notice to Casteel, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If Town terminates this Agreement due to an uncured default of and/or breach by Casteel and the expense of finishing the Project exceeds Casteel's Fee at the time of termination, Casteel waives its right to any portion of Casteel's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the Town is required to pay in order to finish the Project. On any uncured default and/or breach by Casteel, Town may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from Casteel's Fee due Casteel as set forth in Article 3 herein. If Town terminates this Agreement and Casteel is not in default and/or breach of the Agreement, Casteel shall be entitled to Direct Expense compensation for (i) any and all work completed to the satisfaction of the Town in accordance with the provisions of this Agreement prior to termination; (ii) reasonable overhead and profit derived therefrom; (iii) all accrued retainage; and (iv) reasonable demobilization costs.

In the event of any termination, Casteel shall deliver to Town all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Casteel in connection with this Agreement prior to Casteel receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION / MEDIATION

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this

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Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

ARTICLE 10 INDEMNITY

CASTEEL SHALL HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENTS), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, WILLFUL MISCONDUCT, INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CASTEEL, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR ANY OTHER ENTITY OVER WHICH CASTEEL EXERCISES CONTROL, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF PROFESSIONAL SERVICES PROVIDED BY CASTEEL PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CASTEEL AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CASTEEL, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. THIS

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INDEMNIFICATION SHALL EXTEND TO THE PAYMENT OR REIMBURSEMENT OF THE TOWN'S REASONABLE ATTORNEY'S FEES AND ASSOCIATED COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO CASTEEL'S LIABILITY. NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY.

CASTEEL SHALL PROMPTLY NOTIFY TOWN OF THE DEFENSE COUNSEL RETAINED BY CASTEEL IN FULFILLING ITS OBLIGATION HEREUNDER, AND TIMELY NOTIFY TOWN OF ANY AND ALL LEGAL ACTIONS TAKEN BY THE DEFENSE COUNSEL REGARDING ANY AND ALL CLAIMS.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Casteel agrees that all notices or communications to Town permitted or required under this Agreement shall be delivered to Town at the following address:

**Hamid Khaleghipour
Executive Director of Business Performance and Innovation
16801 Westgrove Drive
Addison, Texas 75001
972-450-2568**

Town agrees that all notices or communication to Casteel permitted or required under this Agreement shall be delivered to Casteel at the following address:

**Warren Casteel
11106 Morrison Lane
Dallas, Texas 75229
214-352-7446 office**

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Notice shall be deemed delivered three (3) days following the post-mark date if deposited in US Mail. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

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ARTICLE 12 MISCELLANEOUS

- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. In the event of conflicting terms or provisions, this Agreement shall control then Exhibit “A,” then Exhibit “B,” then Exhibit “C,” then Exhibit “D,” then Exhibit “E,” then Exhibit “F.” The following exhibits are attached below and made a part of this Agreement:
- 12.1.1 Exhibit “A,” Scope of Services.
 - 12.1.2 Exhibit “B,” Compensation Schedule / Project Billing / Project Budget.
 - 12.1.3 Exhibit “C,” Town of Addison Guidelines for Direct Expenses.
 - 12.1.4 Exhibit “D,” Town of Addison Insurance Requirements.
 - 12.1.5 Exhibit “E,” Affidavit.
 - 12.1.6 Exhibit “F,” Conflict of Interest Questionnaire, Form CIQ.
- 12.2 **Assignment and Subletting** – Casteel agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the Town. Casteel further agrees that the assignment or subletting or any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Casteel of its full obligations to the Town as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Casteel, and there shall be no third-party billing.
- 12.3 **Successors and Assigns** – Town and Casteel, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.4 **Severability** – In the event a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or

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provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.

- 12.5 **Venue** – This entire Agreement is performable in Dallas County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Dallas County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.

EXHIBIT A

- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.14 **No Third Party Beneficiaries** – Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- 12.15 **No Boycott Israel** – Pursuant to Texas Government Code Chapter 2271, Casteel's execution of this Agreement shall serve as verification that the Casteel does not presently boycott Israel and will not boycott Israel during the term of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Effective Date: _____

TOWN:
Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

CASTEEL:
Casteel and Associates, Inc.

By: Warren J. Casteel

Name: WARREN J. CASTEEL

Title: PRESIDENT

Date: 1/28/2021

Master Service Agreement
Bellline Road Digital Street Signs – Casteel & Associates, Inc.

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EXHIBIT A

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Wesley S. Pierson, Town of Addison, Texas City Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

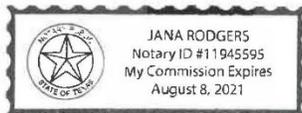
GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 2021.

Notary Public In and For the State of Texas
My commission expires: _____

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared WARREN CASTEEL, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of JANUARY, 2021.



[Signature]
Notary Public In and For the State of Texas
My commission expires: 08/08/2021

EXHIBIT A

**Exhibit "A"
Scope of Services
Agreement by and between the Town of Addison, Texas (Town)
and Casteel & Associates, Inc. (Casteel)
to provide hardware and perform Services for
Beltline Road Digital Street Signs**



Casteel Sign
A unit of Casteel & Associates, Inc.
11106 Morrison Lane
Dallas TX 75229

November 23, 2020

Town of Addison Digital Display Project
Scope of Services – Summary

Casteel Sign will provide Design, Engineering, Manufacturing and electronic unit procurement for a two (2) sided electronic display system for the Town of Addison. Casteel will excavate and pour a concrete foundation, fabricate and install a bent steel structure, provide electrical service, provide a concrete safety barrier system and install the complete display. Casteel will connect the electrical service, set up cloud-based software, start up, configure and test the display system and train Town of Addison employees in the operation of the system.

Master Service Agreement
Beltline Road Digital Street Signs – Casteel & Associates, Inc.

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EXHIBIT A



Casteel Sign
A unit of Casteel & Associates, Inc.
11106 Morrison Lane
Dallas TX 75229

Town of Addison Digital Display Project Scope of Services

Casteel Sign:

- 1) Design Concept Services:
 - a) Design alternative structural concepts meet and discuss with Town of Addison (TOA). Complete
 - b) Final review of barricade system. Complete, and initial approval from TOA
- 2) Architectural Design Services:
 - a) Done as part of Design Concept Services
- 3) Architectural Engineering Services:
 - a) Incorporated into Design Concept Services, and primarily into Engineering Services
- 4) Engineering Services:
 - a) This will be outsourced to Hill Engineering
 - b) Casteel will provide full sealed engineering of the foundations, steel structure and safety barricade system.
 - c) Approximate time from Notice to Proceed with Engineering: 3.5 weeks
- 5) Permitting:
 - a) TOA permits: Casteel to pull sign permits from the TOA, and building permits if needed. Electrical permits will be procured by the electrical subcontractor.
 - b) Timeline: 2 weeks after Notice to Proceed with Project, or City may choose to do this internally.
- 6) Construction Services:
 - a) Foundations
 - i) Utility locate – Texas 811; 1 week after Notice to Proceed
 - ii) Utility locate – TOA; 1 week after Notice to Proceed
 - iii) Resolve utility issues; 6 weeks after locates are complete. (This is unlikely to be needed, but no certainty.)
 - b) Manufacturing
 - i) Casteel will provide bent steel supports. Lead time: Approx. 3 weeks after Notice to Proceed and permit acquisition
 - ii) Structure: Made in Casteel's Dallas shop: Main fab: 6 weeks after Notice to Proceed.
 - iii) Final integration of Casteel structure and Watchfire will be done after the Watchfire display units arrive. Approx. 4 weeks after arrival of Watchfire units.
- 7) Electrical Services:
 - a) Permitting; 3 weeks after Notice to Proceed
 - b) Construction of electrical service: 4 weeks after Permit is received
 - c) Final electrical connection is part of the installation process.

EXHIBIT A

- 8) Safety Barrier Engineering Services
 - a) This is part of Engineering Services, above.
- 9) Electronic Signage Hardware, Software, Installation, Licenses, and On-going Support
 - a) Electronic Signage Hardware: 10 weeks after receipt of permits until arrival in Dallas
 - b) Software: Will be activated within 2 weeks after Watchfire order is placed. Software Training can start at any time after this, even without the display unit being here.
 - c) Software license is perpetual, and guaranteed to be available for at least ten (10) years.
 - d) Casteel will provide local ongoing support. Watchfire will provide call in support.
- 10) Construction Materials and Labor Services
 - a) Casteel will provide all foundation materials – concrete, reinforcing steel, etc.
 - b) Casteel will provide up to three (3) concrete color samples for review and approval.
 - c) Casteel will provide and fabricate the steel structure to support the displays, along with the cladding around the displays.
 - d) Casteel will provide the labor and equipment to install the foundations, structure and the displays, along with commissioning, configuration and testing.
- 11) Construction Materials Testing Services
 - a) Casteel will provide any testing requested. (This has not been discussed, so it needs to be. Typically, testing is at the Town's cost. We can provide full concrete testing through a 3rd party lab, and provide certs on the steel and other structural components.)
- 12) Location Survey Services
 - a) This is included above
- 13) Geotechnical Services
 - a) Casteel has not done Geotech soil reports. If this is desired, please advise. There is likely testing reports in the very near vicinity. If drilling is desired, let us know. This will be an extra cost.
- 14) Exclusions
 - a) Street closure and barricades
 - b) Construction fencing or other protective elements, if
 - c) Relocation of underground utilities, if required
 - d) Landscape changes / tree removal
 - e) Landscape remediation after job completion
 - f) Cost of permits. Casteel & its subcontractors will procure permits with fees waived.

EXHIBIT A

EXHIBIT "B" COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

**Agreement by and between the Town of Addison (Town)
and Casteel & Associates, Inc. (Casteel)
to perform Services required under**



Casteel Sign a unit of Casteel & Associates, Inc.
Custom Architectural Signage & Graphics
11106 Morrison Ln, Dallas, Texas 75229-5607
(214) 352-7446 FAX (214) 352-7448 www.casteelsign.com

QUOTATION
Page 1 of 2
Revision 7
Date: 10-Nov-20

BID TO: Town of Addison

ATTN: Hamid Khaleghipour

REF: Electronic Display - Beltline Road
Steel structure, center median, 10' x 20'
Contingent on final engineering

PRESENTED BY: Warren Casteel
warren@casteelsign.com

| QTY. | Manufacture and Install | AMOUNT |
|---|---|---------------|
| 1 | 10' x 20' electronic display - choice of resolution - 10 mm <ul style="list-style-type: none"> • Shaped steel structure; 4 curved pipes • Drilled pier foundation with formed pier cap • Watchfire RGB full color display 300 x 600 matrix, 10 mm resolution (pixel spacing) • Aluminum and steel frame to attach displays to supports • Includes full cladding between displays and walkway • Rear service from walkways • Includes ignite OS software with training • 5 year parts warranty from Watchfire; Casteel to provide 1 year warranty on labor and all Casteel provided materials; extended labor warranty quoted on request. | \$ 326,364.00 |
| 1 | Electrical Service plus bonding, if desired <ul style="list-style-type: none"> • From designated Oncor pole Southeast of sign site on side of roadway • Includes meter base, disconnect, rack, bored conduit and conductors • Oncor to run to our equipment near base of pole | \$ 51,531.00 |
| | Exclusions: Street closure & barricades (by Town of Addison) Relocation of utilities, if required Landscape changes / tree removal Landscape remediation Protective elements, fencing, plastic waterfilled barricades, etc. | |
| PLUS TAX & PERMITS IF REQUIRED | | |

This Quotation will remain in effect for sixty(60) days from the date above and is subject to change thereafter.
 TERMS: 50% deposit, balance on completion. If payment by credit card, please add 3% as a convenience charge.
 THIS QUOTATION IS SUBJECT TO THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS QUOTATION. PLEASE READ THEM BEFORE SIGNING. IF THIS QUOTE IS RECEIVED BY FAX, BE SURE TO REVIEW A COPY WITH THESE TERMS & CONDITIONS.

ACCEPTED: _____ **Date:** _____

Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599
 website: www.tdlr.texas.gov Electrical Sign Contractor # 18003
 Addison Digital Street Signs QT v3

Master Service Agreement
Beltline Road Digital Street Signs– Casteel & Associates, Inc.

EXHIBIT A



Casteel Sign a unit of Casteel & Associates, Inc.
 Custom Architectural Signage & Graphics
 11106 Morrison Ln, Dallas, Texas 75229-5607
 (214) 352-7446 FAX (214) 352-7448 www.casteelsign.com

QUOTATION
 Page 2 of 2
 Revision 7
 Date: 10-Nov-20

BID TO: Town of Addison

ATTN: Hamid Khaleghipour

REF: Electronic Display - Beltline Road
 Steel structure, center median, 10' x 20'
 Contingent on final engineering

PRESENTED BY: Warren Casteel
warren@casteel.com

| QTY. | Manufacture and Install | AMOUNT |
|------|---|----------------------|
| 1 | <p>Traffic Safety Barrier system</p> <ul style="list-style-type: none"> • Per concept drawings submitted • Subject to final engineering approval • Cast in place concrete - base bid is natural concrete with a rubbed finish • Mounted on grade beam with piers per the concept drawings • Includes changes to the central pier • Includes changes to the steel structure to make it more impact resistant <ul style="list-style-type: none"> • Heavier, larger steel; larger and more anchor bolts, etc. | |
| | <p>ADD for color in pigmented concrete plus bonding, if desired</p> <ul style="list-style-type: none"> • Includes forming and pouring up to 3 full samples \$ 56,183.64 | \$ 56,183.64 |
| | <p>plus bonding, if desired</p> <ul style="list-style-type: none"> • Includes forming and pouring up to 3 full samples \$ 2,927.40 | \$ 2,927.40 |
| | <p>The central pier and cap have been changed, as discussed. The additional cost related to this is included here.</p> <p>Engineering allowance plus bonding, if desired</p> | \$ 18,000.00 |
| | <p>Exclusions:</p> <ul style="list-style-type: none"> Street closure & barricades (by Town of Addison) Relocation of utilities, if required Landscape changes / tree removal Landscape remediation Protective elements, fencing, plastic waterfilled barricades, etc. | |
| | PLUS TAX & PERMITS IF REQUIRED | \$ 455,006.04 |

This Quotation will remain in effect for sixty(60) days from the date above and is subject to change thereafter.
 TERMS: 50% deposit, balance on completion. If payment by credit card, please add 3% as a convenience charge.
 THIS QUOTATION IS SUBJECT TO THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS QUOTATION. PLEASE READ THEM BEFORE SIGNING. IF THIS QUOTE IS RECEIVED BY FAX, BE SURE TO REVIEW A COPY WITH THESE TERMS & CONDITIONS.

ACCEPTED: _____ **Date:** _____
Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-6202, 512-463-6599
 website: www.tdlr.texas.gov Electrical Sign Contractor # 18003
 Addison Digital Street Signs QT v3

Master Service Agreement
 Beltline Road Digital Street Signs – Casteel & Associates, Inc.

EXHIBIT A

CONTRACT TERMS AND CONDITIONS

A. SECURITY INTEREST: Seller has and retains security interest in the SIGN as to Buyer's obligations under this agreement. The SIGN shall be and remain in Seller until the contract balance, all interest, and the whole of any collection costs and fees properly chargeable to Buyer hereunder are paid in full, at which time it shall pass to Buyer.

B. RESALE AND MOVEMENT: Until the SIGN is paid for in full, Buyer agrees that he will not sell, lease, let, or assign all or any part of his right, title or interest in the SIGN, nor will he remove it from its place of original installation or attachment, without the written consent of Seller. Should the SIGN suffer any loss, damage or injury, Buyer agrees, not withstanding, to purchase and pay for the SIGN as full according to the terms hereof.

C. MAINTENANCE: Buyer agrees to maintain the SIGN and keep it in good repair and condition until all items payable hereunder have been paid.

D. SIGN REMAINS PERSONALTY: As a condition to the complete performance of the obligations of this agreement by Buyer, the SIGN shall be deemed personal property, and shall not, by reason of attachment or conversion of any realty, become a fixture or appurtenance to such realty but shall at all times be a severable and removable part, and shall remain the property of Seller, free of any claims or rights of Buyer, of the person to whose property the SIGN may be affixed, or the creditors of either. The security interest of Seller herein granted attaches to the SIGN and its component parts and all proceeds as soon as each given component part or material for its fabrication is selected for use in the construction or installation of the SIGN.

E. RESTRICTION OR DAMAGE: Seller shall not be liable for any damage to or destruction of the SIGN, except such as may result from the acts of Buyer's or employees, nor be obligated to repair or replace the same; provided, however, that Seller shall be obliged to carry insurance upon the SIGN and protect to any rights of ownership in connection therewith, in its sole discretion, deemed a proper exercise of rights for the purpose of protecting its security interest in the SIGN.

F. RESPONSIBILITY: If Buyer shall default in the performance of any of the conditions of this agreement, or if Seller needs their insurance, or if a proceeding in bankruptcy, receivership or insolvency for the completion or extension of debts or other obligations be instituted by or against Buyer or his property, the full amount then unpaid shall immediately become due and payable, without notice, and thereupon Seller shall have the right to take immediate possession of the SIGN without demand on it for this purpose. Seller may, without liability for trespass lawfully, enter upon the premises where the SIGN may be and remove the same and retain the same and the payments thereon made thereon. Buyer shall be liable and pay for any and all expenses incurred by Seller, including labor, in removal of such Sign so long as this can be done without a breach of peace. The waiver or indulgence of any default will not operate as a waiver of any subsequent default.

G. DEFAULT: Buyer agrees that in the event he shall be in default in the payment of any installment when due, or shall fail to perform any other of his obligations hereunder, or bankruptcy, receivership, assignment for benefit of creditors or other insolvency proceeding be commenced by or against Buyer, Buyer shall, without notice, immediately be liable to and hereby agrees to pay Seller forthwith the entire balance payable hereunder. In the event of default by Buyer in any of the aforesaid events, the exercise of the right of repossession set forth in the preceding paragraph shall be a remedy in addition to and not as an alternative to the right of Seller to recover from Buyer any damages that it may be suffered by reason of Buyer's default.

In the event this agreement is placed in the hands of an attorney at law for enforcement or collection, Buyer will pay Seller's reasonable attorney fees.

H. SCOPE OF SALES PERSON'S AUTHORITY: This agreement contains all of the covenants between the parties hereto pertaining to the SIGN and no representation shall be binding unless incorporated herein in writing.

This agreement, although signed by a salesperson of Seller, shall not be binding upon Seller for any purpose until the same is countersigned by an executive officer or another authorized agent of Seller.

I. VENUE: Any and all action under this agreement shall be brought in the State of Texas in Dallas County.

J. BUYER'S SPECIAL DUTIES: Buyer will obtain for, and will maintain for Seller full rights, title and all rights of access, egress and egress to install and maintain the SIGN on the premises for which it is ordered, and to remove the same therefrom free and clear of all liens or encumbrances. Buyer will indemnify Seller against and hold Seller harmless from damages or expenses resulting from a breach of this provision.

As to all expenses Buyer is to furnish power lines and electrical conduit of sufficient capacity to operate the SIGN and to install the same as designed by Seller yearly and in place and including for connection to the SIGN, and pay all charges for electrical current. Unless specifically provided herein to the contrary, Buyer shall provide all necessary references to the building on which the SIGN is installed.

K. DISCLAIMER OF WARRANTIES: Seller disclaims the warranties of MERCHANTABILITY and FITNESS OF PURPOSE and all other warranties not appearing in this agreement. Seller warrants that the SIGN shall comply with Buyer's specifications and all components of the SIGN shall function. This warranty, however, shall not apply where the SIGN is covered by Buyer or Buyer's agents or designees in damaged condition. Casteel & Associates, Inc. warrants design, manufacture and installation by the company for a period of ninety (90) days after installation. This warranty covers the entire display and all its components against defects in workmanship and materials. In addition to the above full coverage ninety (90) day guarantee, Casteel & Associates, Inc. extends a warranty of one (1) year on our ballasts and transformers from date of installation. Labor for the replacement of ballasts or transformers will be charged at the rate.

L. INSPECTIONS: Buyer shall inspect the SIGN before delivery and before using the SIGN from that point. When the SIGN is delivered by a common carrier, Buyer or consignee shall, besides carefully inspecting the shipment for damage before loading same, promptly notify carrier of any damage found, retain all packing material, and otherwise comply with all requirements to preserve all claims against carrier. If Buyer or consignee moves the SIGN before inspection or fails otherwise to comply with terms of this paragraph, Seller shall not be liable for any defects in said SIGN or for disturbing the warranty contained hereon.

M. LANDSCAPING, OBSTRUCTIONS UNDERGROUND: Buyer shall be responsible for all landscaping, repair, remediation and/or removal due to damage by Seller related to the installation of the sign, unless otherwise stated in writing. The price herein was agreed to on the premise that all such and substantial conditions to be encountered on installation will be normal and subject to soil readily available. In the event abnormal drilling conditions, subsurface water, hard pan, rock, or other hard substances are encountered in the course of the excavation incident to installation of the SIGN, all extra or expense of excavation or excavation shall be in excess of the cost of having normal installation conditions and readily available soil shall be paid by Buyer. Seller or its agents shall not be liable to Buyer or her third party and Buyer shall indemnify Seller for any and all liability for damage to under ground improvement unless notified in writing by Buyer of the existence of such improvements prior to commencement of work, and Seller shall be responsible for damage to above ground improvements only if such results from unreasonable or negligent installation, maintenance or removal of the SIGN.

N. MISCELLANEOUS: It is agreed by the parties hereto that the SIGN is of special construction, made for the uses and purposes of Buyer and no other, and that except for use by Buyer the SIGN has no value.

It is understood and agreed that Seller may desire to assign, pledge, alienate or in some other manner transfer or mortgage this agreement, and it is agreed that Seller may do so without notice to Buyer. Buyer will not assert against an assignee, pledgee or transferee of this agreement any claim Buyer has or may have against Seller.

Performance by Seller is subject to delay by strikes, lockouts, fire, unforeseen commercial delays, governmental requirements and acts of God.

If the SIGN remains for any reason other than fault of Seller, defective work on the premises for which it was ordered when Seller is ready to install the same, Buyer's payment obligation shall terminate; thereupon account unless a specific and minimum payment date is specified elsewhere therein.

Buyer shall be responsible for all necessary landlord approvals, taxes, and removal expenses related to the installation of the Sign.

All of the terms and conditions hereof shall be binding upon and inure to the benefit of the successors, heirs and legal representatives of the respective parties.

Electrical Sign Contractor #18003

1contract back

Master Service Agreement
Beltline Road Digital Street Signs – Casteel & Associates, Inc.

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EXHIBIT A

EXHIBIT "C" TOWN OF ADDISON GUIDELINES FOR DIRECT EXPENSES

- I. **CASTEEL'S RESPONSIBILITY.** Casteel shall be solely responsible for the auditing of all direct expense, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those to be included under a sub-contract, provided to the Town for reimbursement, and Casteel shall be responsible for the accuracy thereof. Any overpayment by the Town for errors in submittals for reimbursement may be deducted from Casteel's subsequent payment(s) for services; however, this shall not be the Town's sole and exclusive remedy for said overpayment.

- II. **GUIDELINES FOR DIRECT EXPENSES.**
 - A. **Local Transportation** – Transportation in connection with the Project or when such transportation is not a function of routine performance of the duties of Casteel in connection with the Project shall not be reimbursed by the Town.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by Town. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

 - B. **Supplies, Material, Equipment** – Town shall reimburse the actual cost of direct Project-related expenses, which are duly presented in advance and approved by Town's Project Manager in writing.

 - C. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.

 - D. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable.

EXHIBIT A

EXHIBIT "D" TOWN OF ADDISON INSURANCE REQUIREMENTS

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. The 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.

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

EXHIBIT A

Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) shall be submitted to the Finance Department by **email 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, Casteel 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 of Casteel. It is the responsibility of the Casteel to assure compliance with this provision. The Town accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

Project/Bid# DIGITAL STREET SIGN SERVICES
Company: CASTEEL & ASSOCIATES, INC.
Printed Name: WARREN J. CASTEEL
Signature: [Handwritten Signature] Date: 1/29/2021

EXHIBIT A

EXHIBIT "E"
AFFIDAVIT

THE STATE OF TEXAS §
THE COUNTY OF DALLAS §
§

I, Warren J. Casteel, having ties to Casteel & Associates, Inc., make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

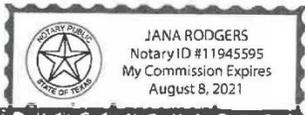
- Ownership of 10% or more of the voting shares of the business entity.
- Ownership of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty-Five Thousand and 00/100 Dollars (\$25,000.00).
- A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.
- Other: _____
- None of the Above.

Upon filing this affidavit with the Town of Addison, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of a public body which took action on the agreement.

Signed this 28th day of January, 2021.
Warren J. Casteel
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Warren J. Casteel and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 28th day of January, 2021.



Jana Rodgers
Notary Public in and for the State of Texas
My commission expires: 08/08/2021

Master Service Agreement
Beltline Road Digital Street Signs- Casteel & Associates, Inc.

EXHIBIT A

EXHIBIT "F" CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

| FORM CIQ CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity | |
|--|---|
| This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. | OFFICE USE ONLY Date Received _____ |
| 1. Name of person who has a business relationship with local governmental entity. _____ | |
| 2. Check this box if you are filing an update to a previously filed question <input type="checkbox"/> (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.) | |
| 3. Name of local government officer with whom filer has employment or business relationship. _____ Name of Local Government Officer This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire? Yes <input type="checkbox"/> No <input type="checkbox"/> B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? Yes <input type="checkbox"/> No <input type="checkbox"/> C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? Yes <input type="checkbox"/> No <input type="checkbox"/> D. Describe each employment or business relationship with the local government officer named in this section. _____ _____ _____ _____ | |

Master Service Agreement
Beltline Road Digital Street Signs– Casteel & Associates, Inc.

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EXHIBIT A

| | |
|--|--------------------------|
| 4. Signature of person doing business with the governmental entity Date: | |
|  Signature | <u>1/28/2021</u> Date |

Local Government Officers Town of Addison, Texas

For purposes of completion of the required Conflict of Interest Questionnaire for the Town of Addison Texas (required by all Vendors who submit bids/proposals), Local Government Officers are:

| | |
|------------------|---|
| Mayor: | Joe Chow |
| Council Members: | Lori Ward, Mayor Pro Tem Guillermo Quintanilla, Deputy Mayor Pro Tem Tom Braun, Council Member Ivan Hughes, Council Member Paul Walden, Council Member Marlin Willesen, Council Member |
| City Manager: | Wesley S. Pierson |