



**REGULAR MEETING  
OF THE CITY COUNCIL**

**August 10, 2021**

**ADDISON TREEHOUSE**

**14681 MIDWAY RD. SUITE 200, ADDISON, TX 75001  
6:00 PM**

Notice is hereby given that the Addison City Council will conduct its REGULARLY SCHEDULED MEETING on Tuesday, August 10, 2021 at the Addison TreeHouse with a quorum of the City Council physically present. Limited seating for members of the public will be available using CDC recommended social distancing measures. The Town will utilize telephone or videoconference public meetings to facilitate public participation to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting. Telephonic or videoconferencing capabilities will be utilized to allow individuals to address the Council. Email comments may also be submitted to: [iparker@addisontx.gov](mailto:iparker@addisontx.gov) by 3:00 pm the day of the meeting. Members of the public are entitled to participate remotely via Toll-Free Dial-in Number: 877.853.5247; Meeting ID: 409.327.0683 Participant ID: #. For more detailed instructions on how to participate in this meeting visit our Agenda Page. The meeting will be live streamed on Addison's website at: [www.addisontexas.net](http://www.addisontexas.net).

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**Call Meeting to Order**

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**Pledge of Allegiance**

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## **EXECUTIVE SESSION**

Closed (Executive) Session of the Addison City Council pursuant to:

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

- City Attorney

Section 551.071, Tex. Gov. Code, Consultation with an attorney to seek legal advice regarding pending or contemplated litigation or settlement offer regarding:

- Town of Addison, Texas v. CP Greenhill, LLC, and BBVA USA, f/k/a Compass Bank, Cause No. CC-20-01139-B, County Court at Law No. 2, Dallas County, Texas. (Greenhill Towers)

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

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## **WORK SESSION**

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## **REGULAR MEETING**

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### **Announcements and Acknowledgments Regarding Town and Council Events and Activities**

### **Discussion of Meetings / Events**

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### **Public Comment**

The City Council invites citizens to address the City Council on any matter, including items on the agenda, except public hearings that are included on the agenda. Comments related to public hearings will be heard when the specific hearing starts. Citizen comments are limited to three (3) minutes, unless otherwise required by law. To address the Council, please fill out a City Council Appearance Card and submit it to a staff member prior to the Public Comment item on the agenda. The Council is not permitted to take any action or discuss any item not listed on the agenda. The Council may choose to place the item



on a future agenda.

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### **Consent Agenda**

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

1. Consider Action on the **Minutes from the June 17, 2021 Special Joint Meeting of the City Council and Planning & Zoning Commission.**
2. Consider Action on the **Minutes from the July 13, 2021 Regular Meeting and Work Session.**
3. Consider Action on a **Resolution Establishing the Town's Intention to Reimburse Itself for Prior Lawful Expenditures of Funds Relating to Constructing Various City Improvements (Authorized 2019 Bond Projects such as Improvements to Parks Facilities and Repairs at Existing Municipal Facilities)** in the Amount of \$8,095,000.
4. Consider Action on a **Resolution Approving an Economic Development Program Grant Agreement with Tyton Holdings and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$100,000.
5. Consider Action on a **Resolution Approving the Agreement Between the Town of Addison and Simon Roofing and Sheet Metal Corporation for the Replacement of the Roof at 4308 Wiley Post Road and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$88,850.

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### **Regular Items**

6. Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Changing the Zoning on a 1.17 Acre Property Located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.** Case 1830-Z - 4551 Beltway Drive.

7. Present, Discuss, and Consider Action on an **Ordinance Granting a Meritorious Exception to Chapter 62 of the Code of Ordinances for Bowlero, Located at 3805 Belt Line Road, in Order to Exceed the Total Effective Area and the Maximum Allowable Logo Height for Attached Signs**. Case MR2021-007.
8. Present, Discuss, and Consider Action on a **Resolution Approving the Professional Consulting Agreement Between the Town of Addison and BKD, LLP to Perform Audits for Fiscal Years 2021, 2022, and 2023 (with the Option to Extend the Agreement for Fiscal Years 2024 and 2025 for Additional Fees), and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$287,500.
9. Present, Discuss, and Consider Action on an **Ordinance Authorizing the Issuance of Town of Addison, Texas, General Obligation Bonds, Series 2021; Awarding the Sale Thereof; Levying a Tax, and Providing for the Security and Payment of Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement; Approving the Official Statement; Enacting Other Provisions Relating to the Subject; and Declaring an Effective Date.**
10. Present, Discuss, and Consider Action on an **Ordinance Authorizing the Issuance of Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021; Awarding the Sale Thereof; Levying a Tax, and Providing for the Security and Payment of Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement and an Escrow Agreement; Approving the Official Statement; Enacting Other Provisions Relating to the Subject; and Declaring an Effective Date.**

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## Adjourn Meeting

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

Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

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

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POSTED BY: \_\_\_\_\_  
Irma G. Parker, City Secretary

DATE POSTED: Thursday, August 5, 2021

TIME POSTED: 1:30 pm

DATE REMOVED FROM BULLETIN BOARD: \_\_\_\_\_

REMOVED BY: \_\_\_\_\_

**Council Meeting**

**1.**

**Meeting Date:** 08/10/2021

**Department:** City Secretary

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**AGENDA CAPTION:**

Consider Action on the **Minutes from the June 17, 2021 Special Joint Meeting of the City Council and Planning & Zoning Commission.**

**BACKGROUND:**

The minutes for the June 17, 2021 Special Joint Meeting of the City Council and Planning & Zoning Commission have been prepared for consideration.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Minutes - June 17, 2021

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# **DRAFT**

## **OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL AND PLANNING & ZONING COMMISSION**

**June 17, 2021 @ 6:30 PM**

**Special Joint Meeting**

**Addison TreeHouse  
14681 Midway Rd., Addison, TX 75001**

The Addison City Council and Planning and Zoning Commission conducted a Special Joint Meeting on Thursday, June 17, 2021, at the Addison TreeHouse with a quorum of the City Council and the Planning & Zoning Commission physically present. Limited seating for members of the public was available using CDC recommended social distancing measures. The meeting was live streamed on Addison's website at [www.addisontexas.net](http://www.addisontexas.net).

### **City Council Present:**

Mayor Joe Chow; Mayor Pro Tempore Guillermo Quintanilla; Deputy Mayor Pro Tempore Paul Walden; Council Member Tom Braun; Council Member Lori Ward; Council Member Kathryn Wheeler; Council Member Marlin Willesen.

### **Planning & Zoning Commission Present:**

Chair Eileen Resnick; Vice Chair Tom Souers; Commissioner Robert Catalani; Commissioner Nancy Craig; Commissioner Chris DeFrancisco; Commissioner Denise Fansler; Commissioner John Meleky

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**Call Meeting to Order:** Mayor Chow called the City Council to order and welcomed the Planning & Zoning Commission to this joint meeting. Chair Eileen Resnick called the Planning & Zoning Commission to order.

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**Pledge of Allegiance:** Mayor Chow led the Pledge of Allegiance.

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**Announcements and Acknowledgements regarding Town and Council Events and Activities**

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**Discussion of Events/Meetings**

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**Public Comment:** *The City Council invites citizens to address the City Council on any matter, including items on the agenda, except public hearings that are included on the agenda. Comments related to public hearings will be heard when the specific hearing starts. Citizen comments are limited to **three (3) minutes**, unless otherwise required by law. To address the Council, please fill out a **City Council Appearance Card** and submit it to a staff member prior to the Public Comment item on the agenda. The Council is not permitted to take any action or discuss any item not listed on the agenda. The Council may choose to place the item on a future agenda.*

City Secretary Parker advised that no citizens had requested to address the City Council or Planning & Zoning Commission via telephonic means.

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## **Regular Items**

### **1. Present and Discuss the Development Code Review Process and Solicit Feedback on the Draft Unified Development Code Development Standards Addressing Flood Prevention, Grading and Drainage, Access and Circulation, and the Subdivision of Land.**

Ken Schmidt, Director of Development Services presented this item. He provided a review of what has been done on this Unified Development Code (UDC) project since it began in 2018. He introduced Matt Goebel and Gabby Hart with Clarion Associates who were present to review the second of four drafting Phases of the UDC project.

Mr. Goebel provided a review of the Project Goals and the Scope and Timeline of the project. He noted that this is the first of three planned joint meetings with the City Council and Planning & Zoning Commission for this second drafting phase. He also advised there is a project website [www.AddisonUDC.org](http://www.AddisonUDC.org) and individuals may sign up for alerts regarding this project or view project materials. He advised that so far public interest has been low and options to improve that participation were discussed.

Mr. Goebel provided a summary of the previous Phase 1 discussion that included a new consolidated Use Table, including some proposed new uses as well as eliminating some existing uses. He advised that some of the existing zoning districts for residential, mixed-use, and non-residential will be consolidated or adjusted.

Council Member Braun inquired about House Bill 2439 which mandates that a “building product or material [that] is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.” 3000.002(a)(1). Attorney Brenda McDonald briefed the City Council and Planning & Zoning Commission on the House Bill. She advised that this matter will be discussed more in the future however noted that it may be an option to contractually agree on building materials with developers.

Today’s discussion was regarding Article 4: Development Standards. Mr. Goebel presented a question to the City Council and Planning & Zoning Commission Members regarding redevelopment and whether projects should be categorized based on the scope of the

redevelopment activity. For example, adding a patio to a restaurant versus doing a major renovation could have different requirements. He noted the Advisory Committee voiced a concern that small business owners might not be able to reinvest in their business if the expense and more involved process is not feasible. Mr. Goebel added that these requirements should be calibrated to Addison's needs. He presented a "tiered" or "scaled" approach that would accommodate a broad range of redevelopment needs.

Mr. Goebel briefly reviewed the Flood Standards portion of the Code to share that those standards will largely stay the same and there will be a cross-reference to the Drainage Criteria Manual and other applicable Public Works and Engineering Department standards.

Mr. Goebel advised that a new section, Access and Circulation, will include Street Connectivity, Driveways and Access, and Pedestrian Circulation. It was noted that these will need to coordinate with the Trails Master Plan and the Transportation Master Plan. The Pedestrian Circulation component will need to be balanced with landscaping and parking requirements. A question regarding crosswalks was raised. It was noted that they are addressed by the Transportation Criteria Manual, and crosswalk improvements will typically be carried out through Town projects, not private development projects.

Feedback received from City Council and Planning & Zoning Commission Members included that since the pandemic more people are working from home, and many may continue to do so, impacting certain areas of the UDC. It was stated that restaurants that have an entertainment component may need different parking requirements. Shared office spaces, restaurant take-out business, and transportation services such as Uber or Lyft are all influencing parking lot needs. Attorney McDonald requested the consultant look at the allowable locations for sexually oriented businesses. The future need for electric charging stations for vehicles was briefly discussed.

Mr. Goebel advised that the next meeting, scheduled to be held July 22, 2021, will include discussion on Parking & Loading, Site and Building Design, and Exterior Lighting. The August meeting will cover Landscaping, Buffering, & Fences, and Parkland Dedication and Park Development Fees. Prior to each of these meetings, the project team will meet with the Advisory Committee as well. Mr. Goebel advised that in the future there will be an on-line option for the Advisory Committee members, the Commission and City Council to provide input.

It was noted that a draft of the UDC document will be available in the Spring of 2022 and adoption is planned for mid-year 2022.

*[See Attached Exhibit A: Addison UDC -Part 2]*

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## **Adjourn Meeting**

Chair Resnick adjourned the Planning & Zoning Commission. Mayor Chow adjourned the City Council meeting.

**TOWN OF ADDISON, TEXAS**  
**City Council**

**Planning & Zoning Commission**

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Joe Chow, Mayor

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Eileen Resnik, Chair

**ATTEST:**

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Irma G. Parker, City Secretary



*Exhibit A*

*Addison UDC -Part 2  
Meeting Presentation  
Special Joint Meeting City Council & Planning & Zoning  
Commission  
June 17, 2021*



# ADDISON, TEXAS

## UNIFIED DEVELOPMENT CODE

**Part 2:  
Development  
Standards**  
June 2021

**CLARION**

## TEAM MEMBERS

### **Matt Goebel, AICP**

Clarion - Project Manager  
Code Drafting

### **Gabby Hart, AICP**

Clarion - Project Associate  
Code Drafting

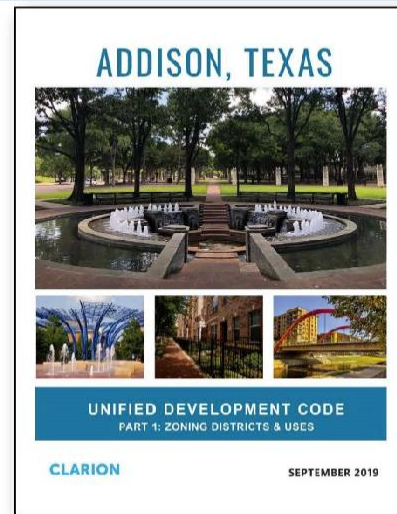
### **Jim Dougherty, Esq.**

Texas Land-use Law Expert



# MEETING AGENDA

- Overview of the Unified Development Code update project
- Review changes proposed in Part 1: Zoning Districts and Uses
- Review and discuss the following topics related to development standards:
  - General redevelopment applicability
  - Floods
  - Grading & drainage
  - Access & circulation

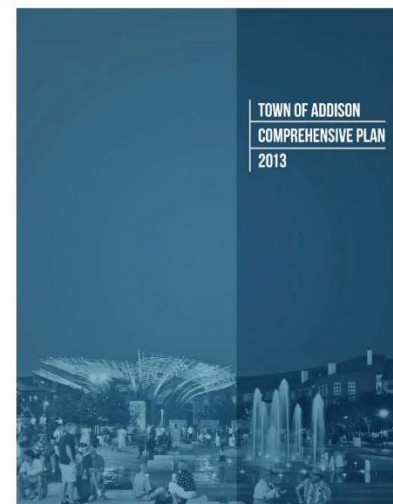


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# PROJECT GOALS

- Implement the Comprehensive Plan
- Improve user-friendliness
- Streamline development review process
- Enhance design and form standards
- Protect existing neighborhoods
- Promote alternative forms of transportation
- Encourage sustainable development



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# PROJECT SCOPE & TIMELINE



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## PROJECT WEBSITE

- [www.AddisonUDC.org](http://www.AddisonUDC.org)
- Access project materials
- Sign-up to receive project alerts
- View upcoming events
- Ask questions
- Submit feedback and comments



[Home](#) [Project](#) [Events](#) [Contact](#)

### Addison Unified Development Code

The Town of Addison is reviewing and updating its development regulations to make them clearer, and to better accomplish the Town's long-term goals and vision.

[LEARN MORE](#)

[READ PART 1: ZONING DISTRICTS AND USES HERE](#)

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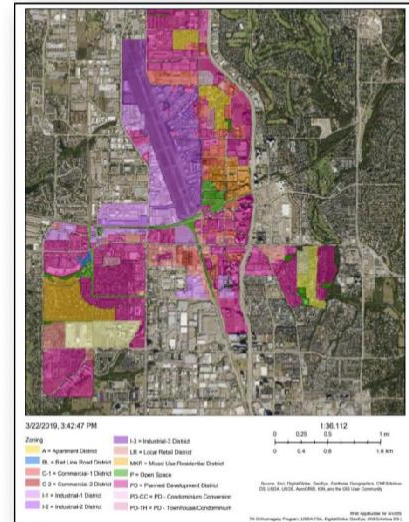


## IMPROVED PAGE LAYOUT



# FINE-TUNE THE ZONING DISTRICTS

- **Generally, clean up” the district lineup:**
  - Move from a district-based approach to a citywide approach (Example: Allow Addison Circle and Belt Line zoning tools to be used elsewhere)
  - Establish a rational menu of tiered districts to encourage future by-right development (versus always having to negotiate PUDs)
- **Factors for consolidation**
  - Similar purpose
  - Similar lot and building standards
  - Similar uses permitted
- **Factors for elimination**
  - District rarely or never applied
  - Intent can be met by another district
- **Factors for establishing new**
  - Current districts don't achieve desired result



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## RESIDENTIAL DISTRICTS

### Current Districts

R-1 - Single-Family Dwelling		R-1 - Residential
R-2 - Single-Family Dwelling		-- (OBSOLETE)
R-3 - Single-Family Dwelling		-- (OBSOLETE)
R-16 - Single Family Dwelling		R-2 - Residential
MXR - Mixed-Use Residential	Low-Density	R-3 - Residential
	Medium-Density	R-4 - Residential
	High-Density	R-5 - Residential
A - Apartment Dwelling		A - Apartment Dwelling (LEGACY)

### Proposed Districts

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# MIXED-USE DISTRICTS

## Current Districts

UC - Urban Center	Residential	M-1 - Mixed-Use Neighborhood
	Commercial	M-4 - Mixed-Use Center
BL - Belt Line	Les Lacs Village	M-2 - Mixed-Use Suburban Corridor
	Dining District	
	Epicurean District	
	Addison Village	
--		M-3 - Mixed-Use Urban Corridor (NEW)
--		M-5 - Mixed-Use Regional (NEW)

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# NONRESIDENTIAL DISTRICTS

## Current Districts

LR - Local Retail		CL - Commercial Limited
C-1 - Commercial-1 District		CG - Commercial General
C-2 - Commercial-2 District		LI - Light Industrial
I-1 - Industrial-1 District		
I-2 - Industrial-1 District		
I-3 - Industrial-1 District		
--		AA - Addison Airport
P - Open Space		CF - Community Facilities (NEW)
		PO - Parks and Open Space
PD - Planned Development	PD - Standard	PD - Planned Development
	PD-TH - Townhouse/Condo	PD-TH -Townhouse/Condo (LEGACY)
	PD-CC - Condo Conversions	-- (OBSOLETE)

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# PLANNED DEVELOPMENT

- **Revised purpose statement:**
  - Clarifies that this is a unique tool for special cases
  - Requires public benefits in exchange for flexibility
- **Established qualifying criteria for projects seeking PD zoning:**
  - Minimum of 5 acres (disincentivize PDs on small sites)
  - Not located in the M-4 (mixed-use center) or M-5 (mixed-use regional) districts
  - Couldn't otherwise be developed using standards in a base district

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## NEW CONSOLIDATED USE TABLE

### 3.2.8 Table of Allowed Uses

P = permitted use S = special use permit required A = accessory use T = temporary use Blank Cell = prohibited use \* = use-specific standards apply  
 X = more permissive than current X = less permissive than current (strikethrough indicates current permission)

	Residential					Mixed-Use					Nonresidential						Use-Specific Standards
	R-1	R-2	R-3	R-4	R-5	M-1	M-2	M-3	M-4	M-5	CL	CG	LI	AA	CF	PO	
<b>Residential</b>																	
<b>Household Living<sup>143</sup></b>																	
Cottage development (NEW)				S*													3.3.2A
Dwelling, duplex				P	P												
Dwelling, fourplex				P	P		P										
Dwelling, live/work						P	P	P	P	P							
Dwelling, multifamily				P	P	P*	P	P	P*	P							3.3.2B
Dwelling, single-family (attached)				P	P	P	P*										
Dwelling, single-family (detached)	P	P	P	P	P												3.3.2C
Dwelling, triplex				P	P												
Manufactured home development (HUD-Code)	S*	S*	S*	S*	S*	S*	S*		S*		S*	S	S	S	S		3.3.2D
<b>Group Living<sup>144</sup></b>																	
Assisted living facility	S	S	S	S	S	P	P	P	P	P	S	S	S	S	S		
Continuing care retirement facility (NEW)				S	S	P	P	P	P	P							
Group care home, FHAA small <sup>145</sup>	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	S	S	S	S	S		3.3.2E
Group care home, FHAA large				P*	P*	P*	P*	P*	P*	P*	S	S	S	S	S		3.3.2E
Supportive housing, small (NEW)							S	S	S	S							
Supportive housing, large (NEW)										S							

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# TEMPORARY & ACCESSORY USES

- Both topics are not clearly addressed in current regulations
- Consolidated and updated accessory use/structure standards
- Created new town-wide temporary use/structure standards

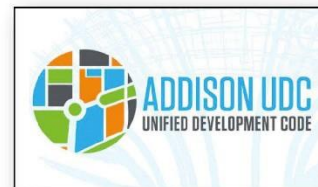


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## 2021: PROJECT RESTARTS

- Time has passed, with the pandemic and staffing changes
- Lessons learned from the pandemic?
- Any other issues or changes in Addison in the past year?
- How can we rebuild positive momentum for the code update?



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# FUTURE PUBLIC OUTREACH

- **Community open houses - Topic-based?**
  - Residential neighborhood issues?
  - Commercial redevelopment issues?
- **Publicize the code update at other project-specific meetings (with better attendance)**
- **Other ideas to build positive momentum for the project?**



## ARTICLE 4: DEVELOPMENT STANDARDS

# REDEVELOPMENT APPLICABILITY

- All new development must comply with updated development standards
- But when does redevelopment trigger site and building improvements?
- **Proposed approach**
  - Smaller redevelopment projects only comply with limited standards on the affected portion of the site
  - Larger redevelopment projects comply with most or all standards on more of the site

## DISCUSSION:

*Do you agree with a scaled approach that requires some (or all) redevelopment projects to meet the new code's development standards?*

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# APPLICABILITY

**Tier 1: Minor Projects**



**Tier 2: Major Projects**



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# APPLICABILITY

Development Type	Tier 1	Tier 2
Expansions, alterations, or modifications that increase the gross floor area of an existing structure	Greater of 10,000 SF or between 10-50%	> 50%
Expansions, alterations, or modifications that increase the total number of existing dwelling units on a lot	Lesser of 10 dwelling units or between 10-25%	> 25%
The alteration or expansion of any vehicular parking area	Greater of 6 spaces or 50%	N/A
Any expansion or enlargement of a structure or land use that requires a Special Use Permit	☑	N/A
Applications for building permits or for certificates of occupancy for buildings previously unoccupied	For 6 consecutive months	For > 6 consecutive months
An existing principal structure is relocated on the lot	N/A	☑

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# FLOODS, GRADING AND DRAINAGE

- **Carries forward current Chapter 42 flood standards**
  - Specific requirements for residential and nonresidential new construction & substantial improvements
  - Administrative and procedural content relocated to future Part 3 draft
- **Cross-reference to the Drainage Criteria Manual and any other applicable Public Works and Engineering Department standards**

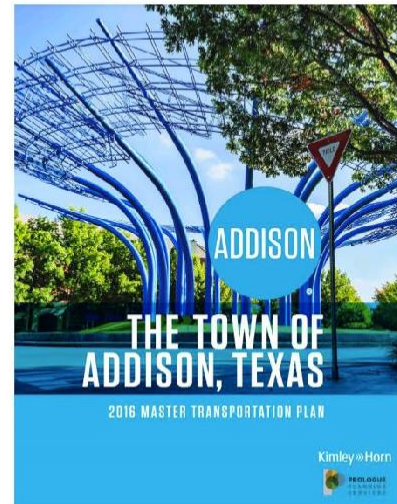


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# ACCESS AND CIRCULATION

- New section to cover vehicular, pedestrian, and bicycle connectivity
- Aligns with and implements the Master Transportation Plan
- Clarifies when the Town may require a developer to construct public street improvements
- Circulation plans required for all development except single-family residential uses within platted subdivisions

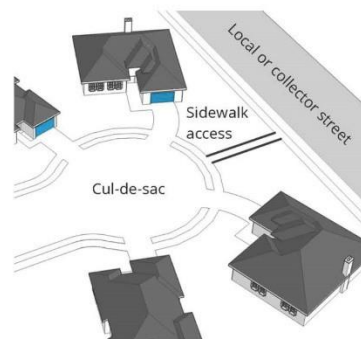
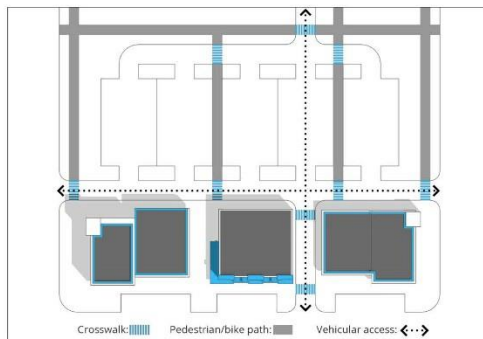


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## ACCESS AND CIRCULATION VEHICULAR

- Street connectivity required within and surrounding proposed development

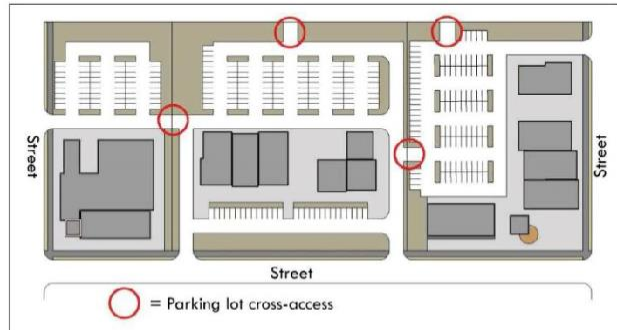


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# ACCESS AND CIRCULATION VEHICULAR

- Cross access between abutting development required for new single-family attached, multifamily, nonresidential and mixed-use development



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# ACCESS AND CIRCULATION DRIVEWAYS AND ACCESS

- Must comply with Transportation Technical Standards
- Access points limited to one per property unless development generates higher traffic volumes
- Includes location (setbacks), removal, and surfacing requirements



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# ACCESS AND CIRCULATION

## PEDESTRIAN CIRCULATION

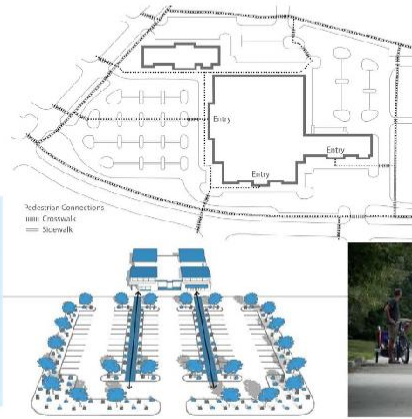


*Example of current development pattern on auto-oriented corridor*

### DISCUSSION:

*Should most new development be required to establish pedestrian connections to surrounding neighborhoods?*

*Should pedestrian walkways be required in larger parking lots?*



*Examples of how the code could require better connectivity, both internal to the site and also to surrounding areas*



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## DISCUSSION QUESTIONS

- **Redevelopment**
  - Do you agree with a scaled approach that requires some (or all) redevelopment projects to meet the new code's development standards?
- **Connectivity**
  - Should most new development be required to establish pedestrian connections to surrounding neighborhoods?
  - Should pedestrian walkways be required in larger parking lots?
- **Other?**
  - Are there other key issues from this presentation to discuss?

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# NEXT STEPS

## FUTURE DEVT STDS MEETINGS

- **July 20-21**
  - Parking & Loading
  - Site and Building Design
  - Exterior Lighting
- **August 25-26**
  - Landscaping, Buffering & Fences
  - Parkland Dedication and Park Development Fee

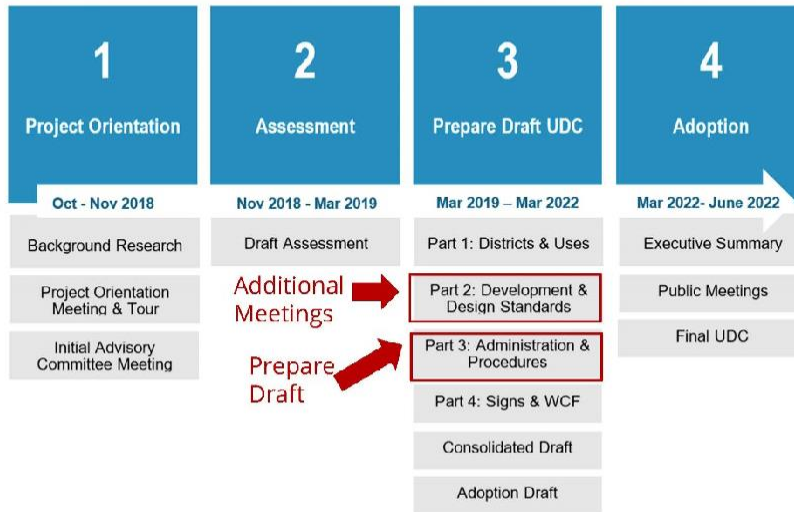
*Are there particular areas of concern or focus areas you would like us to address at these meetings?*

*DATES/TIMES to be confirmed*





# NEXT STEPS



# COMMENTS?

- [www.AddisonUDC.org](http://www.AddisonUDC.org)
- Please submit comments by September 1
- Submit comments to: [udc@addisontx.gov](mailto:udc@addisontx.gov)



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# ADDISON, TX

## UNIFIED DEVELOPMENT CODE

**Part 2:**  
**Development**  
**Standards**  
June 2021

**CLARION**

**Council Meeting**

**2.**

**Meeting Date:** 08/10/2021

**Department:** City Secretary

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**AGENDA CAPTION:**

Consider Action on the **Minutes from the July 13, 2021 Regular Meeting and Work Session.**

**BACKGROUND:**

The minutes from the July 13, 2021 Regular Meeting and Work Session have been prepared for consideration.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Minutes - July 13, 2021

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# **DRAFT**

## **OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL**

**July 13, 2021**

**Executive Session, Work Session & Regular Meeting  
5:45 p.m.**

**Addison TreeHouse  
14681 Midway Rd., Addison, TX 75001**

The Addison City Council conducted its Regular Council Meeting on Tuesday, July 13, 2021, at the Addison TreeHouse with a quorum of the City Council physically present. Limited seating for members of the public was available using CDC recommended social distancing measures. The Town utilized telephone and videoconferencing to facilitate participation in the meeting. Interested parties were able to make public comments and address the Council via emailed comments submitted to the City Secretary at [iparker@addisontx.gov](mailto:iparker@addisontx.gov) by 3:00 pm on the meeting day. Members of the public were also entitled to participate remotely via Toll-Free Dial-in Number: 877.853.5247; Meeting ID: 409.327.0683 Participant ID: #. Detailed instructions on how to participate in this meeting were available on the Town's website on the Agenda Page. The meeting was live streamed on Addison's website at [www.addisontexas.net](http://www.addisontexas.net)

**Present:** Mayor Joe Chow; Mayor Pro Tempore Guillermo Quintanilla; Deputy Mayor Pro Tempore Paul Walden; Council Member Tom Braun; Council Member Lori Ward; Council Member Kathryn Wheeler; Council Member Marlin Willesen

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**Call Meeting to Order:** Mayor Chow called the meeting to order.

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**Pledge of Allegiance:** Mayor Chow led the Pledge of Allegiance

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### **EXECUTIVE SESSION**

**Closed (Executive) Session of the Addison City Council pursuant to: Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney pertaining to:**

- Bigelow Arizona TX-344, Limited Partnership D/B/A Suites of America and/or Budget Suites of America v. Town of Addison, Cause No. DC-19-09630, 191st Judicial District, Dallas County District Court

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

- City Attorney

Mayor Chow closed the Open Session to convene the City Council into Closed Executive Session at 5:47 p.m.

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

Mayor Chow reconvened the City Council into Open Session at 7:40 p.m.

No action was taken as a result of Executive Session regarding Bigelow Arizona TX-344, Limited Partnership D/B/A Suites of America and/or Budget Suites of America v. Town of Addison.

**MOTION:** Deputy Mayor Pro Tempore Walden moved to authorize the City Manager to conclude negotiations with the Council's top-ranked firm identified in RFQ 21-084: City Attorney/Legal Services for the Council to continue interviews with qualified firms. Council Member Ward seconded the motion. Motion carried unanimously.

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## **WORK SESSION**

### **1. Present and Discuss Council Calendar for August, September, and October, 2021.**

City Secretary Parker advised that the proposed meeting calendars were included in the packet. Councilmembers advised they had reviewed the calendars.

Mayor Chow inquired if the TML Conference will be in person. Ms. Parker responded that it will be in person and will be held in Houston. She will provide info as it becomes available.

On a related note, during the announcements portion of the meeting, City Manager Pierson reminded Council that there will not be a second Council meeting in July in order to prepare for the budget work sessions.

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## **REGULAR MEETING**

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### **Announcements and Acknowledgements regarding Town and Council Events and Activities**

- **Proclamation: John H. Otstott**

Mayor Chow read a proclamation establishing today as John H. Otstott Day. The proclamation recognized Mr. Otstott as a volunteer gardener at the Addison Community Garden for the past several years. Mayor Chow presented the proclamation to Mr. Otstott.

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## Discussion of Events/Meetings

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**Public Comment:** *The City Council invites citizens to address the City Council on any matter, including items on the agenda, except public hearings that are included on the agenda. Comments related to public hearings will be heard when the specific hearing starts. Citizen comments are limited to **three (3) minutes**, unless otherwise required by law. To address the Council, please fill out a **City Council Appearance Card** and submit it to a staff member prior to the Public Comment item on the agenda. The Council is not permitted to take any action or discuss any item not listed on the agenda. The Council may choose to place the item on a future agenda.*

City Secretary Parker advised that no citizens had requested to address the City Council.

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

2. **Consider Action to Approve the Minutes from the June 16, 2021 Special Council Meeting.**
3. **Consider Action to Approve the Minutes from the June 22, 2021 City Council Work Session and Regular Meeting.**
4. **Consider Action on a Resolution Discontinuing the City Council Finance Committee.**
5. **Consider Action on a Resolution Adopting the Town of Addison's Strategic Pillars and Milestones for Fiscal Year 2022.**
6. **Consider Action on a Resolution Approving an Agreement Between the Town of Addison and Dunaway Associates, LLC. for Professional Engineering Services for Plat and Easement Digitization and Mapping; and, Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$70,000.**

Mayor Chow asked if there were any requests to remove an item from the Consent Agenda for separate discussion.

Council Member Willesen requested Item 4 be pulled.

**MOTION:** Council Member Ward moved to approve Consent Agenda Items 2, 3, 5, and 6 as submitted. Council Member Willesen seconded the motion. Motion carried unanimously.

\*\*\*\*\* Consent Item 4 \*\*\*\*\*

Council Member Willesen advised he pulled Item 4 to express his opinion. Having served on the Council Finance Committee for the last four years, he opined serving on this committee has been very helpful for him and the councilmembers who had served. He added that the consensus of the Council was to dissolve the Committee, but he does not feel comfortable having it approved on the Consent Agenda. Mayor Chow acknowledged that the City Council previously discussed and approved dissolving the Committee and then called for a motion.

**MOTION:** Council Member Ward moved to approve Consent Agenda Item 4. Mayor Pro Tempore Quintanilla seconded the motion. Motion carried with a vote of 6-1. Council Member Willesen voted against the motion.

**Resolution No. R21-035:** Discontinue City Council Finance Committee  
**Resolution No. R21-036:** Adopt Strategic Pillars and Milestones for Fiscal Year 2022  
**Resolution No. R21-037:** Agreement with Dunaway Associates, LLC for Easement Digitation and Mapping

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## Regular Items

7. **Consider Action on a Resolution Authorizing Acceptance of an Airport Improvement Program Grant Offer from the Texas Department of Transportation (TxDOT) Aviation Division in the Estimated Amount of \$8,060,300 for Design and Construction of Extensions of and Improvements to Taxiway Bravo with Associated Improvements Including a Vehicle Service Road; Designating TxDOT as the Town of Addison's Agent for Receiving and Disbursing Funds; Acknowledging that Addison will be Responsible for an Estimated Contribution of \$806,030; and, Authorizing the Execution of Documents Relative to the Acceptance of the Grant.**

Joel Jenkinson, Airport Director, presented this item. He advised there are two parts to this grant. There will be a design phase which begins this year and a construction phase which will be next year. The design phase is \$806,000 with a 10% match or \$80,500. The construction phase will be next year with an estimated cost of \$7,255,300. The agenda memo advised that this includes a 10% match on taxiway extensions but a 50% match on the vehicle service road west of the taxiway which Staff will negotiate with TxDOT and get the maximum grant funding of 90%.

Council Member Willesen stated this grant application was outstanding. He asked if staff had a feel for when Taxiway Bravo would be completed? Mr. Jenkinson stated he did not know as this decision is based on funding. The present three-year Aviation Capital Improvement Plan (ACIP) does not include the Taxiway Bravo Project. This project could move up in the ACIP during the design phase when more project costs are determined. Once total estimated costs are included, TxDOT will be able to factor those into the ACIP and schedule funding. Mr. Jenkinson opined that this is a very strong project for competition for discretionary TxDOT funding.

Deputy Mayor Pro Tempore Walden asked what are the implications of airport development on the west side of the airport with the completion of Taxiway Bravo? Mr. Jenkinson reported that



getting access to these 4.2 acres can't come quickly enough. He recalled that in 1999 the Airport acquired the 4.2-acre tract of land through a land-swap with the North Texas Toll Authority (NTTA) to allow for the Addison Airport Toll Tunnel to be built in NTTA's right-of-way. These 4.2 acres have not been developed for aeronautical purpose because there was no access to a taxiway or runway. With the first phase of construction scheduled to start next year, the 4.2 acres would become open for aeronautical purposes, namely ground leases. There is a tremendous demand for hanger development which could increase airport revenues more than \$120,000.

Deputy Mayor Pro Tempore Walden asked if there was any other property that has not been developed due to access? Mr. Jenkinson stated getting Taxiway Bravo to the full length parallel the entire length of the runway is a great step forward. However, this extension may affect compliance with additional federal requirements, in particular Federal Aviation Authority (FAA) safety area(s) and runway protection zones standards.

Council Member Ward requested clarification of what plan(s) required updating. Mr. Jenkinson responded to advise the 2016 Airport Master Plan is an FAA required document that must be updated every 10 years. When this review is made in the next couple of years, Staff will be able to determine if any major infrastructure projects are needed along with the projected cost of those improvements.

Mayor Pro Tempore Quintanilla asked if the 4.2 acres were included in the 2016 Airport Master Plan? Mr. Jenkinson responded saying that the acres were included in that plan.

**MOTION:** Council Member Willesen moved to approve. Deputy Mayor Pro Tempore Walden seconded the motion. Motion carried unanimously.

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## **Adjourn Meeting**

There being no further business to come before the Council, Mayor Chow adjourned the meeting.

## **TOWN OF ADDISON, TEXAS**

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Joe Chow, Mayor

**ATTEST:**

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Irma G. Parker, City Secretary



## Council Meeting

3.

**Meeting Date:** 08/10/2021

**Department:** Finance

**Pillars:** Gold Standard for Financial Health

**Milestones:** Continue development and implementation of Long Term Financial Plan

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### AGENDA CAPTION:

Consider Action on a **Resolution Establishing the Town's Intention to Reimburse Itself for Prior Lawful Expenditures of Funds Relating to Constructing Various City Improvements (Authorized 2019 Bond Projects such as Improvements to Parks Facilities and Repairs at Existing Municipal Facilities)** in the Amount of \$8,095,000.

### BACKGROUND:

On November 18, 2019, the Council passed a Resolution canvassing and declaring the results of the November 5, 2019 Special Bond Election.

Proposition C in this election passed with 825 votes 'for' and 389 votes 'against'.

Proposition D in this election passed with 755 votes 'for' and 457 votes 'against'.

Proposition C asked for authorization for the sale of \$6,723,002 in general obligation bonds for parks and recreation improvements and facilities.

Proposition D asked for authorization for the sale of \$7,395,000 in general obligation bonds for improvements to existing municipal buildings, including roof and HVAC replacements, as well as needed repairs to address American with Disabilities Act (ADA) compliance.

On June 22, 2021, staff presented a plan to Council to issue \$3,145,000 from Proposition C and \$4,950,000 from Proposition D with proceeds to be delivered on September 14, 2021.

This agenda item seeks passage of a Resolution authorizing the reimbursement of up to \$3,145,000 for parks and recreation improvements and facilities and \$4,950,000 for improvements to existing municipal buildings, including roof and HVAC replacements, as well as needed repairs to address American with Disabilities Act (ADA) compliance from future bond sales. Several HVAC units are anticipated to be replaced prior to the September 14, 2021 anticipated delivery of funds. Additionally, improvement projects at the Addison Athletic Club and other facilities are anticipated to begin later this Summer, prior to the September 14, 2021 anticipated delivery of funds. This Resolution must be

passed within 60 days of the expenditure of the funds to be legally compliant.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Resolution - Reimbursement for Propositions C and D

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**RESOLUTION NO. R21-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS RELATING TO ESTABLISHING THE TOWN'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CITY IMPROVEMENTS FROM THE PROCEEDS OF TAX- EXEMPT OBLIGATIONS TO BE ISSUED BY THE TOWN FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison, Texas (the "Town") is a municipal corporation and political subdivision of the State of Texas authorized to finance its activities by issuing obligations; and

**WHEREAS**, the Town will make, or has made not more than 60 days prior to the date hereof, payments with respect to the design, engineering, acquisition, construction, reconstruction or renovation of the projects listed on **Exhibit A** attached hereto (collectively, the "Financed Project"); and

**WHEREAS**, the Town desires to reimburse itself for the costs associated with the Financed Project from the proceeds of obligations to be issued subsequent to the date hereof; and

**WHEREAS**, the Town reasonably expects to issue obligations to reimburse itself for the costs associated with the Financed Project;

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

**SECTION 1.** The Town reasonably expects to reimburse itself for costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the acquisition, construction, reconstruction or renovation of the Financed Project from the proceeds of obligations to be issued subsequent to the date hereof.

**SECTION 2.** The Town reasonably expects that the maximum principal amount of obligations issued to reimburse the Town for the costs associated with the Financed Project will be \$8,095,000.

**SECTION 3.** Unless otherwise advised by bond counsel, any reimbursement allocation will be made not later than 18 months after the later of (1) the date the original expenditure is paid or (2) the date on which the Financed Project to which the expenditure relates is placed in service or abandoned, but in no event more than three years after the original expenditure is paid.

**SECTION 4.** The Town intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the federal regulations.

**SECTION 5.** This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

**SECTION 6.** With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Town shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of “replacement proceeds”, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations.

**SECTION 7.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council of the Town of Addison, Texas.

**SECTION 8.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**SECTION 9.** This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America

**SECTION 10.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

**SECTION 11.** This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the 10<sup>th</sup> day of AUGUST 2021.

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

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

## **EXHIBIT A**

### **DESCRIPTION OF PROJECT**

<u>Purpose/Project</u>	<u>Amount</u>
Acquiring, developing, renovating and improving parks, park facilities, recreation facilities, including the Addison Athletic Club, and open spaces for park and recreation purposes in and for the Town, including the acquisition of land therefor.	<u>\$3,145,000</u>
Renovating, repairing, improving, and equipping existing Town service, public safety, conference and administrative facilities, including repair, replacement, and improvement of roofs, mechanical, electrical, plumbing, air conditioning, heating and ventilation equipment and systems, façade improvements, and improvements required by the Americans with Disabilities Act and other applicable laws.	<u>\$4,950,000</u>

## Council Meeting

4.

**Meeting Date:** 08/10/2021

**Department:** Economic Development

**Pillars:** Entrepreneurship & Business Hub

**Milestones:** Economic development focus on attracting and retaining entrepreneurship and targeted industry sectors

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### **AGENDA CAPTION:**

Consider Action on a **Resolution Approving an Economic Development Program Grant Agreement with Tyton Holdings and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$100,000.

### **BACKGROUND:**

On April 27, 2021, City Council authorized the City Manager to negotiate an incentive grant agreement with Tyton Holdings for an amount of \$100,000 for the company's headquarter relocation to Addison from Littleton, Colorado.

As part of the agreement, Tyton purchased a 44,000 square foot office building at 16051 Addison Road better known as the Addison Airport Office Center. The company will initially occupy 25,000 SF for themselves and their six business affiliations. The company will make an estimated \$5.9 million investment in the purchase, tenant improvements, and other office space expenditures. The company will initially employ 40 full time positions with an average annual wage of at least \$120,000.

The grant provided by the Town is performance based and will be paid in three installments pending milestones related to space occupancy, capital investment, number of jobs created, and average wages that must be met by the company as highlighted in the attached agreement. The motion approved on April 27, 2021 approved the incentive, but did not authorize the City Manager to execute the agreement. Authorization is now being requested in the attached resolution to have the City Manager execute the agreement. The funds for the grant have been encumbered in the Economic Development Fund, and the attached agreement has been reviewed and approved by the City Attorney.

### **RECOMMENDATION:**

Administration recommends approval.





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

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT WITH TYTON HOLDINGS; FINDING THAT SUCH AGREEMENT AND GRANT CONSTITUTES A PROGRAM TO MAKE GRANTS AND LOANS OF PUBLIC MONEY PURSUANT TO SECTION 380.001 OF THE TEXAS LOCAL GOVERNMENT CODE TO PROMOTE ECONOMIC DEVELOPMENT AND TO STIMULATE BUSINESS AND COMMERCIAL ACTIVITY WITHIN THE TOWN; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison, Texas (the “City”) is a home rule city operating under and pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter; and

**WHEREAS**, the City Council of the Town of Addison is authorized and empowered pursuant to Section 380.001 of the Texas Local Government Code to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the City, to promote state or local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, Addison has established a program under and pursuant to Section 380.001 of the Texas Local Government Code for making a grant of public money, and such program is established to promote economic development within the City and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City Council has determined and hereby determines that making an economic development grant to the Company in accordance with this Agreement will further the objectives of the City, will benefit the City and the City’s inhabitants, and will promote local economic development and stimulate business and commercial activity in the City.

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

**SECTION 1.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.** The Economic Development Program Grant Agreement between the Town of Addison and Tyton Holdings, attached hereto as **Exhibit A** and incorporated herein, is hereby approved. The City Manager is authorized and empowered to execute the said Agreement on behalf of the City and to take all steps necessary to carry out the terms thereof.

**SECTION 3.** 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 **10<sup>th</sup>** day of **AUGUST 2021**.

**TOWN OF ADDISON, TEXAS**

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Joe Chow, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Irma Parker, City Secretary

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City Attorney

## **EXHIBIT A**

### **ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT**

This Economic Development Program Grant Agreement ("Agreement") is made and entered into by and between Tyton Holdings, a North Dakota corporation, and all of its affiliated companies (Collectively, "TYTON" or "Company"), and the Town of Addison, Texas ("Addison" or the "CITY"), a Texas home rule municipality, for the purposes and consideration stated below (TYTON and the CITY are sometimes referred to herein together as the "Parties" and individually as a "Party").

**WHEREAS**, TYTON Holdings is the majority owner and operator of six companies including Rolfson Oil, LLC; Garbologist, LLC; Agility Restoration, LLC; Staxmatic, LLC; Bundu Co.; and Big Ass Tanks, LLC; and

**WHEREAS**, TYTON desires to relocate its administrative headquarters and all six companies to Addison and purchase a building of approximately 44,000 square feet of space at 16051 Addison Road (the "Premises"); and

**WHEREAS**, TYTON intends to spend an estimated \$5,900,000.00 in the purchase of the building and tenant improvements and other office space expenditures within the Premises; and

**WHEREAS**, during the term of this Agreement and as set forth herein, TYTON intends to and will use the Premises as its administrative headquarters location ("Headquarters"); and

**WHEREAS**, TYTON anticipates employing at least 40 full time equivalent employment positions at the end of the first year of occupancy, with an average annual wage of \$120,000.00 whose home base for work is the Premises; and

**WHEREAS**, in connection with its lease and occupancy of the Premises, TYTON has asked the CITY to provide an economic development grant that will help it defray a portion of the costs it will incur in commencing the improvement and occupancy of Premises for its Headquarters; and

**WHEREAS**, the CITY is authorized by Section 380.001, Tex. Loc. Gov. Code, to establish and provide for the administration of programs for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the CITY, and this Agreement constitutes such a program for promoting and retaining economic development within the CITY; and

**WHEREAS**, the CITY has determined that making an economic development grant to TYTON in accordance with this Agreement will further the objectives of the CITY, will benefit the CITY and the CITY's inhabitants, and will promote local economic development and stimulate business and commercial activity within the CITY.

**NOW, THEREFORE**, for and in consideration of the foregoing, and on the terms and

**Economic Development Program Grant Agreement**  
Page 1 of 11

conditions hereinafter set forth, the CITY and TYTON do hereby agree as follows:

**Section 1. Findings.**

The findings set forth above are incorporated as if fully set forth herein.

**Section 2. Term.**

This Agreement shall be effective as of the last date of execution hereof as evidenced by the date next to each signature to this Agreement (the "Effective Date") and will continue in effect from the Effective Date through the date that represents the fifth anniversary of the date TYTON obtains a final certificate of occupancy for the Premises; subject, however, to the earlier termination of this Agreement in accordance with the terms of this Agreement (the "Term").

**Section 3. Program Grant.**

Subject to TYTON's satisfaction of and compliance with all of the terms and conditions of this Agreement, including without limitation the requirements set forth in Section 4 below, the CITY agrees to pay to TYTON a Program Grant in the maximum amount of One Hundred Thousand and NO/100 Dollars (\$100,000.00) to be paid in three installments as provided in Section 4 below.

The Grant payments made hereunder shall be paid solely from lawfully available funds that have been appropriated by the CITY. Under no circumstances shall the CITY's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the CITY shall have no obligation or liability to pay any Grant unless the CITY appropriates funds to make such payment during the budget year in which the Grant is payable; provided that during the Term of this Agreement the CITY agrees that it will take such steps as are within its power to appropriate funds each year estimated to equal the amount of Grants to be paid the Company for the ensuing fiscal year. Further, the CITY shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Company. None of the CITY's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

**Section 4. Conditions to Grant Payments.**

The CITY's obligation to make the Grant payments shall be conditioned upon TYTON's compliance with and satisfaction of all of the terms and conditions of this Agreement, including without limitation, each of the conditions set forth below:

- (a) First Grant Payment: The First Grant Payment of Thirty-three Thousand, Three Hundred Thirty-Three and 33/100 Dollars (\$33,333.33) shall be paid by the CITY to TYTON within 30 days after the submission of a request for payment and the delivery to

the CITY of all of the following to the reasonable satisfaction of the CITY:

1. Evidence of TYTON's purchase of the Premises; and
2. A copy of a certificate of occupancy issued by the Town of Addison for the TYTON's occupancy within the Premises; and
3. An executed affidavit in a form reasonably approved by the CITY attesting that the Company is occupying the Premises and has made a capital investment (including furniture, fixtures, and equipment) of a minimum of Five Million, Nine Hundred Thousand and NO/100s Dollars (\$5,900,000.00) on and/or within the Premises, if not evidenced in Item 1 above; and

(b) Second Grant Payment: The Second Grant Payment of Thirty-three Thousand, Three Hundred, Thirty-Three and 33/100 Dollars (\$33,333.33) shall be paid by the CITY to TYTON within 30 days after the submission of a request for payment and the delivery to the CITY of all of the following to the reasonable satisfaction of the CITY:

1. An executive affidavit in a form reasonably approved by the CITY attesting that the Company has occupied the Premises for at least twelve (12) consecutive months; and
2. A copy of an official employee report submitted to the Texas Workforce Commission demonstrating that the Company currently employs 40 employees with an average annual wage of \$120,000 whose home base for work is the Premises.

(c) Third Grant Payment: The Third Grant Payment of Thirty-three Thousand, Three Hundred, Thirty-Three and 33/100 Dollars (\$33,333.33) shall be paid by the CITY to TYTON within 30 days after the submission of a request for payment and the delivery to the CITY of all of the following to the reasonable satisfaction of the CITY:

1. An executive affidavit in a form reasonably approved by the CITY attesting that the Company has occupied the Premises for at least twenty-four (24) consecutive months; and
2. A copy of an official employee report submitted to the Texas Workforce Commission demonstrating that the Company currently employs 75 employees with an average annual wage of \$120,000 whose home base for work is the Premises.

Notwithstanding anything contained herein to the contrary or any other provision of this Agreement, the Program Grant payment (and/or any portions thereof) shall not be due and payable,



and this Agreement may be terminated by the CITY (that is, without any opportunity for cure by TYTON), if TYTON fails to timely comply with and satisfy to the CITY's reasonable satisfaction any of the conditions to each of the Program Grant payments (and/or any portions thereof) as set forth in this Section 4, above. The CITY's fiscal year begins October 1st and ends September 30th. Therefore, the Company shall submit written requests for economic development grant payments accrued during that time not later than August 31st of each year. In any year, if the Company fails to request the Program Grant payments as set forth above, the CITY shall have no obligation to make such payment to the Company and the Company will have forever forfeited the right to receive such payment.

**Section 5. Default.**

(a) **Event of Default by the Company.** If, during the Term of this Agreement the Company breaches any of the terms or conditions of this Agreement or fails to maintain any conditions of the Grant payments, then the Company shall be in default ("Event of Default"). In the event the Company defaults in its performance, then the CITY shall give the Company written notice of such default, and if the Company has not cured any default within sixty (60) days of said written notice (provided that if such default cannot reasonably be cured in 60 days, then the Company shall have a reasonable time to cure such default so long as it has commenced to cure within such 60 days and is diligently pursuing the cure of the same), this Agreement may be terminated by the CITY. In the event of default by the Company and the continuation of such default for sixty (60) days (provided that if such default cannot reasonably be cured in 60 days, then the Company shall have a reasonable time to cure such default so long as it has commenced to cure within such 60 days and is diligently pursuing the cure of the same) after the written notice set forth above, the CITY shall solely have the following remedy:

(i) to nullify Section 3 of this Agreement and immediately seek reimbursement of any and all Grant Payments paid to the Company.

(b) **Event of Default by the CITY.** Upon the occurrence of default by the CITY, the Company shall give written notice of such default, and if CITY has not cured the default within thirty (30) days within said written notice (provided that if such default cannot reasonably be cured in 60 days, then the CITY shall have a reasonable time to cure such default so long as it has commenced to cure within such 60 days and is diligently pursuing the cure of the same), this Agreement may be terminated by the Company and the Company shall have the right to seek specific performance of this Agreement as its sole and exclusive remedy (with any termination of this Agreement not terminating the CITY's obligations for which the Company seeks specific performance).

**Section 6. Termination; Reimbursement.**

This Agreement shall terminate without notice or demand upon the occurrence of any one



of the following:

- (a) the execution by both Parties of a written agreement terminating this Agreement; or
- (b) as otherwise provided for in this Agreement, including as set forth in Section 5, above; or
- (c) the expiration of the Term; or
- (d) at the option of either party (the “non-breaching party”) in the event the other party (the “breaching party”) breaches or fails to comply with any term, condition, or provision of this Agreement and such breach or failure is not cured or remedied to the reasonable satisfaction of the non-breaching party within sixty (60) days after written notice thereof (provided that if such default cannot reasonably be cured in 60 days, then such party shall have a reasonable time to cure such default so long as it has commenced to cure within such 60 days and is diligently pursuing the cure of the same), from the non-breaching party to the breaching party;
- (e) if TYTON suffers an Event of Bankruptcy or Insolvency which is not dismissed within 90 days; or
- (f) at the CITY’s option, if any taxes or fees, owed by TYTON to the CITY or the State of Texas shall become delinquent after all notice and cure periods provided above (provided, however, that TYTON retains the right to timely and properly protest and contest any such taxes or fees, and the CITY’s right to terminate this Agreement shall be suspended during such protest and contest period).

If this Agreement is terminated pursuant to subsection (d), subsection (e), or subsection (f) of this Section, TYTON shall promptly (but in any event within thirty (30) days of the date of termination) reimburse and repay to the CITY a sum equal amount of Grant payment made by the CITY up to the date of termination.

#### **Section 7. Representations by the CITY.**

The CITY represents that the CITY is a home rule Texas municipal corporation and it has the power to enter into this Agreement and to carry out its obligations hereunder. However, notwithstanding any other provision of this Agreement, it is understood and expressly agreed by TYTON that the CITY does not warrant or guarantee that the Program Grant payment (and any part thereof) as described herein will be upheld as valid, lawful, enforceable or constitutional in the event the statutory or other authority for the same or the CITY’s use thereof is challenged by court action or other action or proceeding (including any action or proceeding involving the Texas Attorney General). In the event such court or other action or proceeding related to the legality of this Agreement and the providing of the Program Grant (or any part thereof) is instituted, the Parties shall defend or respond to such action or proceeding at their respective expense. Should such litigation, action or other proceeding result in a determination that this Agreement or the

payment of the Program Grant (or any part thereof) was or is prohibited under federal, state or local law (including any constitutional or charter provision), rule or regulation, and so result in the loss of the Program Grant as provided herein, TYTON shall have no recourse against the CITY or any of its officials, officers, employees, agents, or volunteers, past or present, and TYTON shall promptly repay to the CITY the Program Grant payment previously made to TYTON by the CITY.

**Section 8. Representations and Warranties by TYTON**

TYTON represents and warrants, as of the date hereof that:

- (a) TYTON is a corporation organized and validly existing under the laws of the State of North Dakota and is qualified to do business in the State of Texas, has the legal capacity and the authority to enter into and perform its obligations under this Agreement, and the same shall be true and accurate at all times in connection with this Agreement;
- (b) The execution and delivery of this Agreement and the performance and observance of its terms, conditions and obligations have been duly and validly authorized by all necessary action on its part to make this Agreement, and this Agreement is not in contravention of TYTON's articles of formation or regulations, or any agreement or instrument to which TYTON is a party or by which it may be bound as of the date hereof;
- (c) TYTON has the necessary legal ability to perform its obligations under this Agreement;
- (d) No litigation or governmental proceeding is pending, against TYTON which may result in a material adverse change in TYTON's business, properties or operations sufficient to jeopardize TYTON as a going concern; and
- (e) This Agreement constitutes a valid and binding obligation of TYTON, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

**Section 9. Entire Agreement; Changes and Amendments.**

This Agreement represents the entire and integrated agreement between the CITY and TYTON with regard to the matters set forth herein and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of each of the CITY and TYTON.

**Section 10. Successors and Assigns; No Third Party Beneficiaries.**

TYTON shall not, and has no authority to, assign, sell, pledge, transfer, encumber, or otherwise convey (any of the foregoing, and the occurrence of any of the foregoing, a

“Conveyance”) in any manner or form whatsoever (including by operation of law, by merger, or otherwise) all or part of its rights and obligations hereunder without the prior written approval of the CITY, which may be withheld in the CITY’s sole discretion. Any Conveyance of any kind or by any method without the CITY’s prior written consent shall be null and void. Notwithstanding anything to the contrary, a merger or sale of substantially all of TYTON’s assets to an entity who continues to operate at the Headquarters in compliance with this Agreement is permitted and shall not require the CITY’s consent; however, TYTON shall give prompt notice of any such occurrence.

Any Conveyance approved by the CITY shall be expressly subject to all of the terms, conditions and provisions of this Agreement. In the event of any such Conveyance approved by the CITY, TYTON shall obtain a written agreement (the “Assumption Agreement”) from each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed whereby each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed agrees to be bound by the terms and provisions of this Agreement.

This Agreement shall be binding on and inure to the benefit of the Parties, their respective permitted successors and permitted assigns. This Agreement and all of its provisions are solely for the benefit of the Parties hereto and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

**Section 11. Notice.**

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

To the CITY:

Town of Addison, Texas  
5300 Belt Line Road  
Dallas, Texas 75254  
Attention: City Manager

To TYTON:

16051 Addison Road  
Addison, Texas 75001  
Attention: Adam Fenster, CFO

**Section 12. Applicable Law; Venue.**

This Agreement is subject to the provisions of the Charter and ordinances of the CITY, as amended or modified. This Agreement shall be construed under, governed by and is subject to the

Economic Development Program Grant Agreement  
Page 7 of 11

laws (including the constitution) of the State of Texas, without regard to choice of law rules, and all obligations of TYTON and the CITY created by this Agreement are performable in Dallas County, Texas. Venue for any suit, action or proceeding under this Agreement shall lie exclusively in Dallas County, Texas. Each party hereby submits to the exclusive jurisdiction of the courts in Dallas County, Texas for purposes of any such suit, action, or proceeding hereunder. Each party 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.

**Section 13. Legal Construction/Partial Invalidity of Agreement.**

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

**Section 14. Miscellaneous.**

(a) The Recitals to this Agreement are incorporated into this Agreement and made a part hereof for all purposes.

(b) Pursuant to Texas Government Code, Chapter 2264 (entitled "Restrictions on Use of Certain Public Subsidies"), TYTON certifies that neither TYTON, nor any branch, division, or department of TYTON, knowingly employs, or will knowingly employ, an undocumented worker (as the term "undocumented worker" is defined in Section 2264.001 of the said Chapter 2264, Tex. Gov. Code) in connection with the Premises, the Services provided by TYTON at the Premises, or this Agreement. TYTON agrees that if, during the term of this agreement and after it receives any payment or funds from the CITY pursuant to this Agreement, TYTON, or a branch, division, or department of TYTON, is convicted of a violation under 8 U.S.C. Section 1324a(f), TYTON shall repay the amount of all Grant funds paid by the CITY to TYTON not later than the 120th day after the date the CITY notifies TYTON of the violation.

(c) Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which the CITY, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

(d) Except as set forth in or otherwise limited by this Agreement, the remedies and rights set forth in this Agreement: (a) are and shall be in addition to any and all other remedies and rights either party may have at law, in equity, or otherwise, (b) shall be cumulative, and (c) may be pursued successively or concurrently as either party may elect. The exercise of any remedy or right by either party shall not be deemed an election



of remedies or rights or preclude that party from exercising any other remedies or rights in the future. All waivers must be in writing and signed by the waiving party, and the CITY's waiver of any right, or of TYTON's breach, on one or more occasions will not be deemed a waiver on any other occasion. The CITY's failure to enforce or pursue any of its rights under or any provision of this Agreement shall not be or constitute a waiver of its rights or provision and shall not prevent the CITY from enforcing or pursuing that right or provision or any other right under or provision of this Agreement in the future. No custom or practice arising during the administration of this Agreement will waive, or diminish, the CITY's rights hereunder or to diminish the CITY's right to insist upon strict compliance by TYTON with this Agreement.

(e) This Agreement is not confidential information and may be disclosed to the public.

(f) Any of the representations, covenants, and obligations of the Parties hereto, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

(g) It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

(h) The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

(i) The CITY agrees that with respect to this Agreement, no liability shall arise in favor of the CITY against any officer, director, member, agent or employee of TYTON, but the CITY shall look solely to the assets of TYTON for satisfaction of TYTON's duties, obligations and liabilities arising under or in connection with the Agreement.

*(SIGNATURES ON NEXT PAGES)*

**EXECUTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**TOWN OF ADDISON**

\_\_\_\_\_  
Wesley Pierson, City Manager

ATTEST:

APPROVED AS TO FORM:

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

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

**STATE OF TEXAS       §**

**§**

**COUNTY OF DALLAS   §**

**§**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_ 2021, by  
Wesley S. Pierson, City Manager of the Town of Addison, Texas, on behalf of the Town.

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

[SEAL]

**Economic Development Program Grant Agreement**  
**Page 10 of 11**



EXECUTED this 23<sup>rd</sup> day of July, 2021.

Tyton Holdings, a North Dakota corporation

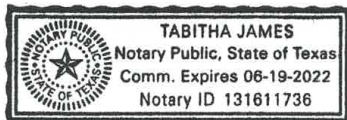
By: [Signature]  
Name Printed: Christopher Frain  
Title: President

STATE OF TX §  
COUNTY OF Dallas §

This instrument was acknowledged before me on the 23 day of July, 2021, by Christopher Frain, President of Tyton Holdings on behalf of the corporation.

[Signature]  
Notary Public, State of TX

[SEAL]



## Council Meeting

5.

**Meeting Date:** 08/10/2021

**Department:** Airport

**Pillars:** Excellence in Asset Management

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### **AGENDA CAPTION:**

Consider Action on a **Resolution Approving the Agreement Between the Town of Addison and Simon Roofing and Sheet Metal Corporation for the Replacement of the Roof at 4308 Wiley Post Road and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$88,850.

### **BACKGROUND:**

This item seeks approval of a Resolution to enter into an agreement with Simon Roofing and Sheet Metal for the replacement of the roof at 4308 Wiley Post Road. The majority of this roof is more than 40 years old and has been spot repaired on numerous occasions to stop leaks. It is time for a full roof replacement. The scope of work includes the removal and replacement of roofing material and insulation down to the metal structural deck. The rooftop HVAC system will be temporarily removed to facilitate the roof reconstruction. The HVAC curb and flashing will also be replaced. The new roof will be of an energy efficient material that will help reflect heat and keep the roof areas cooler thus reducing energy consumption.

The purchase is being made on a contract through The Interlocal Purchasing System (TIPS), an agency that bids out services and products for its members to provide the leverage to achieve better pricing on products, equipment, and services.

An Owner's Contingency of \$4,442.50 (5%) has been included in the total project budget (\$93,292.50). This project is funded from the \$255,000 authorized in the Airport Fund for roof repairs.

### **RECOMMENDATION:**

Administration recommends approval.

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### **Attachments**

Resolution - 4308 Wiley Post Roof Agreement

4308 Wiley Post Roof Image

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

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT BETWEEN THE TOWN OF ADDISON AND SIMON ROOFING AND SHEET METAL CORPORATION FOR THE REPLACEMENT OF THE ROOF AT 4308 WILEY POST ROAD IN AN AMOUNT NOT TO EXCEED \$88,850.00, 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 Simon Roofing and Sheet Metal Corporation for the roof replacement at 4308 Wiley Post Road in an amount not to exceed \$88,850.00, 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 **10<sup>th</sup>** day of **AUGUST 2021**.

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
City Attorney

## EXHIBIT A

**AGREEMENT BY AND BETWEEN  
THE TOWN OF ADDISON, TEXAS AND  
SIMON ROOFING AND SHEET METAL  
FOR THE ROOF REPLACEMENT OF 4308 WILEY POST ROAD,  
ADDISON TEXAS**

This Agreement ("Agreement") is made and entered into this 13th day of July, **2021** ("**Effective Date**"), by and between the **Town of Addison, Texas**, hereinafter called ("**Town**"), a home-rule Texas municipal corporation, and **Simon Roofing and Sheet Metal**, a \_\_\_\_\_, hereinafter called ("**Contractor**").

**WITNESSETH:**

WHEREAS, the Town sought services related to the roof replacement of 4308 Wiley Post Road, Addison, Texas ("**Services**"); and

WHEREAS, the Town identified Contractor through The Interlocal Purchasing System ("**TIPS**") Cooperative Contract Number 180702; and

WHEREAS, Contractor submitted a statement of work ("**SOW**") to the Town for the provision of these Services; and

WHEREAS, the Town has investigated and determined that it desires to hire the Contractor for its Services.

NOW, THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

1. Scope of Services.

The Contractor shall provide such services, equipment, and supplies upon the terms and conditions set forth in the Agreement Documents, as hereinafter defined, and shall furnish all personnel, labor, equipment, supplies, and all other items necessary to provide all of the work as specified by the terms and conditions of the Agreement Documents.

2. Terms.

The Services contemplated by this Agreement shall be completed no later than September 20, 2021, subject to the terms and conditions of this Agreement.

The Contractor recognizes that the Agreement shall commence upon the Effective Date and shall continue in full force and effect until termination, in accordance with its provisions. Contractor and Town herein recognize that the continuation of any Agreement after the close of any given fiscal year of the Town, which fiscal year ends on September 30th of each year, shall be subject to Town Council approval. In the event that the Town Council does not approve the appropriation of funds for the Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder. Agreement may be terminated by the

Town at any time upon providing Contractor with thirty (30) days written notice of the termination date.

3. Termination.

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

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

Upon the termination or expiration of this Agreement, Contractor shall transfer, assign, and make available to Town, or Town's representative, all documents, records, reports, studies and information, and all ideas and concepts, (whether kept electronically, in writing, or otherwise) prepared by or for Contractor under or in connection with this Agreement. The same shall be promptly delivered to Town, and all of Town's property and materials in Contractor's possession or control belonging to Town shall be promptly delivered to Town. The obligations in this subsection shall survive the expiration or termination of this Agreement.

4. Agreement Price and Payment.

In exchange for those services and schedules described in the Agreement Documents, Town agrees to pay Contractor in accordance with **Exhibit "A"** an amount not to exceed **Eighty-Eight Thousand Eight Hundred Fifty and 00/100 Dollars (\$88,850.00)** upon completion of the Services to the satisfaction of Town. Payment shall be made in accordance with **Town policy**.

5. Confidentiality.

Contractor shall keep confidential all records, documents, or other materials that are requested by Town, or required by law, rule, or regulation to be so maintained in connection with this Agreement. No reports, information, documents, studies, or other materials given to or prepared by Town pursuant to this Agreement which Town requests either orally or in writing to be kept confidential shall be made available to any third party or entity by Contractor without the prior written consent of Town.

6. Agreement Documents.

The "Agreement Documents", as that term is used herein, shall include the following documents, and this Agreement does hereby expressly incorporate same herein as fully as if set forth verbatim in this Agreement.

- a. This Agreement
- b. Contractor Statement of Work, attached hereto as **Exhibit “A”**
- c. Insurance Requirements, attached hereto as **Exhibit “B”**

This Agreement shall incorporate the terms of all attachments in their entirety. To the extent that **Exhibit “A”** and/or **Exhibit “B”** are in conflict with the provisions of this Agreement or each other, the provisions of this Agreement, and then the provisions of **Exhibit “B”**, and then the provisions of **Exhibit “A”** shall prevail in that order.

7. Entire Agreement.

The Agreement Documents contain the entire agreement of the parties with respect to the matters contained herein. All provisions of the Agreement Documents shall be strictly complied with and conformed to by Contractor, and no amendment to the Agreement Documents shall be made except upon the written agreement of the parties, which shall not be construed to release either party from any obligation of the Agreement Documents except as specifically provided for in such amendment.

8. Insurance.

Contractor shall procure and keep in full force and effect throughout the term of this Agreement all insurance policies with those coverage amounts deemed necessary by Town as provided in **Exhibit “B”**, attached hereto and incorporated herein for all purposes. Contractor shall present Town with a copy of its Certificate of Insurance, which shall name the Town of Addison as an additional insured party.

9. Counterparts.

This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

10. INDEMNIFICATION.

CONTRACTOR, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS “CONTRACTOR” FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN AND ITS OFFICERS, COUNCIL MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS “TOWN” FOR PURPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES (INCLUDING DEATH) LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS’ FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OR INDIRECTLY OUT OF THE OPERATION OR PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. THE TOWN WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF THE NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION OF CONTRACTOR. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY



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

TOWN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, TOWN IS UNDER NO OBLIGATION TO DO SO. IN THE EVENT TOWN ELECTS TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE, THEN CONTRACTOR SHALL REIMBURSE TOWN FOR ALL COSTS IN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS. ANY SUCH ACTION BY TOWN IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND TOWN OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY TOWN PURSUANT TO THIS AGREEMENT.

THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

11. Venue.  
This Agreement shall be constructed under and in accordance with the laws of the State of Texas and venue shall be in Dallas County, Texas.
12. Binding Effect.  
This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.
13. Ordinances.  
Except as specifically provided in the Agreement Documents, the parties hereto agree that Contractor shall be subject to all ordinances of Town, whether now existing or in the future arising.
14. Authority to Execute.  
The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others 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 in order for the same 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 that such authorization is valid and effective on the date hereof.

15. Assignment.

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

16. Sovereign Immunity.

The parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

17. Notice.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express, or any courier service that provides a return receipt showing the date of actual delivery of same, to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Contractor, to:

Michael Perry  
VP of SR Products  
mperry@simonroofingproducts.com  
757-434-0674

Cyndi Strunk  
GM of SR Products  
1380 E. Highland Road  
Macedonia, OH 44056  
330-998-6500

If to Town, to:

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

18. Severability.

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

19. Representations.

Each signatory represents that this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its legal counsel.

20. Force Majeure.

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

21. 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. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this Agreement.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS, WHEREOF**, we, the contracting parties, by our duly authorized agents,  
hereto affix our signatures and seals on this \_\_\_\_ day of \_\_\_\_\_, 2021.

**TOWN OF ADDISON, TEXAS**  
a home-rule Texas municipal corporation

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

Date: \_\_\_\_\_

**SIMON ROOFING AND SHEET METAL**  
a \_\_\_\_\_

By: Rocco Augustine

Printed Name: Rocco Augustine

Title: VP

Date: 7/13/2021

STATE OF TEXAS

§  
§  
§

COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared **Wesley S. Pierson**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **Town of Addison, Texas**; and he executed said instrument for the purposes and consideration therein expressed.

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~~ OHIO §

§  
§

COUNTY OF Mahoning §

BEFORE ME, the undersigned authority, on this day personally appeared Rocco Augustine, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for **Simon Roofing and Sheet Metal**; and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13<sup>th</sup> day of July, 2021.



CHARITY MARIE CHARTIER  
Notary Public, State of Ohio  
My Commission Expires:  
1/03/2026

Charity Marie Chartier  
Notary Public in and for the State of ~~Texas~~ OHIO  
My Commission Expires: 1/03/2026

## Exhibit A



### **Our Commitment to Excellence**

#### **PRESENTED TO:**

**Dave Foster  
Town of Addison  
Addison Airport**

**ROOF REPLACEMENT  
4308 WILEY POST ADDISON TEXAS**

**SR PRODUCTS/SIMON ROOFING & SHEETMETAL  
TIPS USA VENDOR  
CATEGORY – JOB ORDER CONTRACTING  
CONTRACT NUMBER : 180702**

*RESPECTFULLY SUBMITTED –*  
**MICHAEL PERRY, HON. AIA; VP SALES  
1380 E. HIGHLAND RD.  
MACEDONIA, OH 44056  
P:330-998-6500 F: 330-998-6600  
6/4/2021**



## GENERAL CONDITIONS

### 1. Insurance

Simon Roofing shall, at its expense, provide fire, extended coverage, vandalism, and malicious mischief insurance on materials, supplies, equipment, machinery and apparatus. Owner shall be added to such insurance policy as an additional insured, as its interest may appear. Owner shall not be responsible in any manner for property, tools, equipment or machinery (whether owned, leased, used, rented, borrowed or otherwise) of Simon Roofing or its employees or agents of either of them. Simon Roofing agrees to maintain a builder's risk policy in the amount of the contract for the duration of the contract, for work that is not yet accepted by owner. The owner shall be added to such insurance policy as an additional insured, as its interest may appear. Limits of coverage are to be no less than \$25,000,000.00 bodily injury and death and property damage. Completed operations coverage shall continue for not less than 12 months after acceptance of the work under contract by the owner. Simon Roofing shall provide automobile bodily injury and property damage insurance covering all vehicles moving or non-moving under their own power and engaged in the work under contract. Limits are to be no less than \$25,000,000.00 bodily injury and death and \$25,000,000.00 property damage. Simon Roofing shall carry worker's compensation insurance on Simon's employees in accordance with the laws of the state where the project is located. Simon Roofing and Sheet Metal Corp. has a comprehensive insurance program as shown below. A detailed insurance certificate will be provided upon award of the contract.

Commercial General Liability	\$ 1,000,000.00	Occurrence
	\$ 2,000,000.00	General Aggregate
	\$ 2,000,000.00	Products Aggregate
Automobile	\$ 1,000,000.00	Each Occurrence
	\$ 1,000,000.00	Aggregate
Excess Liability	\$ 25,000,000.00	Occurrence
	\$ 25,000,000.00	General Aggregate
Employer Liability Limits	\$ 1,000,000.00	Each Accident
	\$ 1,000,000.00	Disease Policy Limit
	\$ 1,000,000.00	Disease per Employee
Builder's Risk/Installation	\$ 1,000,000.00	Occurrence
	\$ 2,500,000.00	Disaster Limit (Excludes Flood)

The aforementioned coverages apply to negligent acts committed solely by employees of Simon Roofing and Sheet Metal Corp. All policy coverages are subject to the conditions, exclusions and limitations of each respective policy.

### 2. Contract Policy

It is the policy of Simon Roofing and Sheet Metal Corp. to review and execute contracts and specifications prior to commencement of the work thereby. Simon Roofing will consider contract terms presented to it sufficiently in advance of commencement of the job to allow for review and revision, but reserves the right to revise, delete or supplement such terms in accordance with its policies and the advice of its legal counsel. Absent special circumstances, Simon Roofing will not enter into, agree to or sign any contract terms presented to it after the work has been commenced or completed.

### 3. Unforeseen Conditions and Exclusions

Simon Roofing and Sheet Metal Corporation's (SRSMC) scope of work under this contract does not include testing for, or abatement or remediation of hazardous or toxic materials such as, but not limited

to, toxic mold, fungus or asbestos at or near a job site. If such contaminants are discovered, Simon Roofing may, at its option, suspend further performance of this contract pending investigation, testing and, if appropriate, remediation or abatement of any contamination, which will be conducted at the sole cost of the owner. The time for performance under this contract will be extended by any delay resulting from testing for and/or abatement of toxic or hazardous materials present at the job site. Any additional costs incurred by Simon as a result of contamination by toxic mold, asbestos or other hazardous materials or substances found at or near the job site shall be paid by the owner. The owner shall indemnify and hold harmless Simon Roofing against all loss, liability and expenses caused by or arising out of toxic mold or other hazardous materials at or near the job site. SRSMC's scope of work does not include testing for, inspecting or otherwise determining the integrity or soundness of the structural components of the roof, the walls or other structural aspects of the premises. SRSMC's scope of work does not include design, evaluation, sizing or maintenance for drains on the roof, or the drainage system for the roof. Simon Roofing and Sheet Metal Corp. recommends that a design professional be consulted to assure proper design, (i.e. roof system selection) installation, conformance to building codes, insurance requirements, etc. SRSMC also is not responsible for pre-existing conditions to any existing protrusions or items in or on the roof that are in need of repair or upgrade if required by local code. This would include, but is not limited to, electrical lines, gas lines, HVAC units, curbs, duct work, skylights, lightning protection and communication systems, cables, HVAC disconnects and reconnects, etc. The building owner is responsible for the repair or upgrade of these items or systems.

#### **4. Payment Terms**

Payment terms will be based upon the following project progress billing schedule\*: Semi-monthly progress billings will be invoiced for the remainder of the contract. These billings are due with Net 30 days terms. *\*Percentage increment billing will be contingent upon job size, weather conditions, etc.*

Pricing of this subject project is based on the timely receipt of payments. If partial payments are made, they will be credited against oldest invoices, unless the instructions are provided by the customer to the contrary. The customer will be responsible for any additional collection expenses the contractor incurs in the efforts to obtain the payment of the past due balances. This may include (but not limited to) interest, collection fees, attorney fees and court costs.

Customer hereby authorizes Simon Roofing and Sheet Metal Corporation (*Simon*) to evaluate customer credit, which may include but not limited to, obtaining credit records, credit histories, credit reports, consumer and/or corporate financial ratings or evaluations from third-party sources, or any reasonable steps necessary in establishing Customer current and past credit status. Should *Simon* at any time deem Customer credit status or history to be unfavorable, *Simon* may withdraw its offer to provide quoted/proposed services and Customer hereby acknowledges that *Simon* obligations relating to such quoted/proposed services are contingent upon *Simon* approval of Customer credit.

#### **5. Bonding:**

In the event that a Payment and Performance Bond and/or Maintenance Bond is required for this project, please note:

The Surety bonds to be provided for this Contract and/or proposal shall not cover any warranty obligations other than a one (1) year warranty that begins upon completion of the work performed. Any other warranties that may be provided shall be excluded from the Surety bonds.

#### **6. Scheduling**

It is standard policy for Simon Roofing not to tear off the roof or expose the inside of the building if the chance of rain is thirty percent (30%) or greater. The risk of water leaking inside of your facility would be a major concern on both your part and ours, because Simon Roofing looks out for the best interests



of its customer. We can assure you that although inclement weather may interrupt our process, the job foreman will visit the jobsite daily to ensure that all is well in regard to our project and will service any roof condition in relation to our scope of work. WORK WILL START APPROXIMATELY 20 DAYS AFTER AWARD AND TAKE APPROXIMATELY 15 WORKING DAYS TO COMPLETE.

## **7. Application**

Please understand that you will most likely hear the tear-off process and the travel of the equipment across the roof. We assure you that we do try to keep this to a minimum. Many products used in roofing applications, especially solvent-based materials, can emit odors, which are strong and sometimes offensive. In some applications, such odors cannot be avoided, but Simon does offer alternative products for some applications that are less odorous or that emit odors that may be less offensive. Please ask your Simon Roofing sales representative about these alternatives. Customer is responsible for insuring adequate ventilation for customer's facility and for taking other steps to reduce the effects of odors, such as closing windows, where appropriate.

## **8. Pricing**

The Proposal Price listed included in this document is based upon the following assumptions:

- There is no Certified Payroll Requirement for this project.
- Should the above assumptions change, the price will be adjusted by agreement of both parties.

## **9. Scope of Work**

A complete specification for the project will be provided once a contract has been issued.

Weekly progress reports will also be supplied throughout the project.

- Base Bid: Roof Replacement of 4308 Wiley Post Rd Roof Section
- Includes at 20 YR NDL Warranty from SR Products
- Add Alternate Bid: OSHA Attached ladder

### **SCOPE OF WORK**

1. Remove roofing, insulation, and debris down to metal structural deck.
2. Mechanically fasten first and second layer of 2.2 ISO equating to 4.4 ISO insulation
3. Fully adhere primed 5/8" densdeck cover board with Olybond low rise foam
4. Install new APP IRO Ply SA4 Smooth modified base
5. Install new APP IRO Ply MA4 Bright White Cap sheet in our 2 Ply Mod Bit system
6. Install new wood nailers and edge metal at perimeters, with new gutters and downspouts on North elv.
7. Apply 2 ply flashings and 3 course seams with HI Bild and coat with wite brite coating
8. Remove AC unit and install new 14" Curb and flash accordingly and modified duct work and seal
9. Add alternate OSHA attached ladder



**SIMON ROOFING**  
AMERICA LOOKS UP TO US  
Since 1900

Roof Replacement of 4308 Wiley Post Rd  
Submitted To: Addison Airport/Town Of Addison  
Attn: Dave Foster

Simon Roofing & Sheet Metal  
TIPS USA Vendor  
Category – Job Order Contracting  
Contract Number : 180702

**LUMP SUM PROPOSAL: -- \$86,050.00**

**Bid Breakdown:**

- |  |                    |
|--|--------------------|
| 1. Tri-Lam Roofing and Waterproofing Subcontractor Labor Quote & Accessories | \$59,452.00        |
| 2. SR Products Materials Sold Direct Through TIPS Co-Op To Town of Addison   | \$15,905.60        |
| 3. Warranty Fees   | \$3,000.00         |
| 4. Shipping Charges for SR Products Materials                                | \$1,087.40         |
| 5. OVERHEAD (Includes Insurance, Administrative Fees, P&P & Maint Bonds)     | \$6,605.00         |
| 6. TOTAL LUMP SUM PRICE TO TOWN OF ADDISON THROUGH TIPS                      | <b>\$86,050.00</b> |

**SR Material Quantities From Subcontractor sold direct to Town of Addison**

Product #	Product Name	Unit/Size	Quantity	Price	Totals
8625200	IRO Ply SA4	.95 sq roll	32	\$172.50.00	\$5,520.00
	IRO Ply MA4 Bright White	.95 sq roll	32	\$227.00	\$7,264.00
8050130- White	Wite Brite Hi Bild Flashing	3.5 Gal Pail	5	\$373.00	\$1,865.00
3410010	SR Poly 6"		4	\$54.50	\$218.00
8050290	Wite Brite Coating	5 Gal Pail	2	\$364.50	\$729.00
8650130	SR Sealant II	1 case	2	\$154.80	\$309.60
Total SR Materials sold direct to TOA					\$15,905.60

**\*\*ADD ALTERNATE Install OSHA approved attached ladder .....\$2,800.00**

**THIS AGREEMENT IS ENTERED INTO AS OF THIS DAY AND YEAR AND IS EXECUTED  
IN TWO ORIGINAL COPIES OF WHICH ONE IS TO BE DELIVERED TO THE OWNER AND  
THE OTHER TO SIMON ROOFING. THE PRICE ON THIS BID DOCUMENT IS VALID FOR 30  
DAYS.**

**SIMON ROOFING PRODUCTS:**

 **6-04-21**

**SIGNATURE DATE**  
**Michael Perry, Hon. AIA; VP Sales**

## EXHIBIT B

### Insurance Requirements

#### 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.

##### TYPE OF INSURANCE

	AMOUNT OF INSURANCE	PROVISIONS
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	TOWN OF ADDISON to be provided a <b>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. Insurance company must be A-:VII rated or above.
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 ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. Insurance company must be A-:VII rated or above.
3. <b>Business Auto Liability</b> to include coverage for: a) Owned/Leased vehicles	Combined Single Limit \$1,000,000	<b>TOWN OF ADDISON to be listed as ADDITIONAL INSURED and provided 30</b>

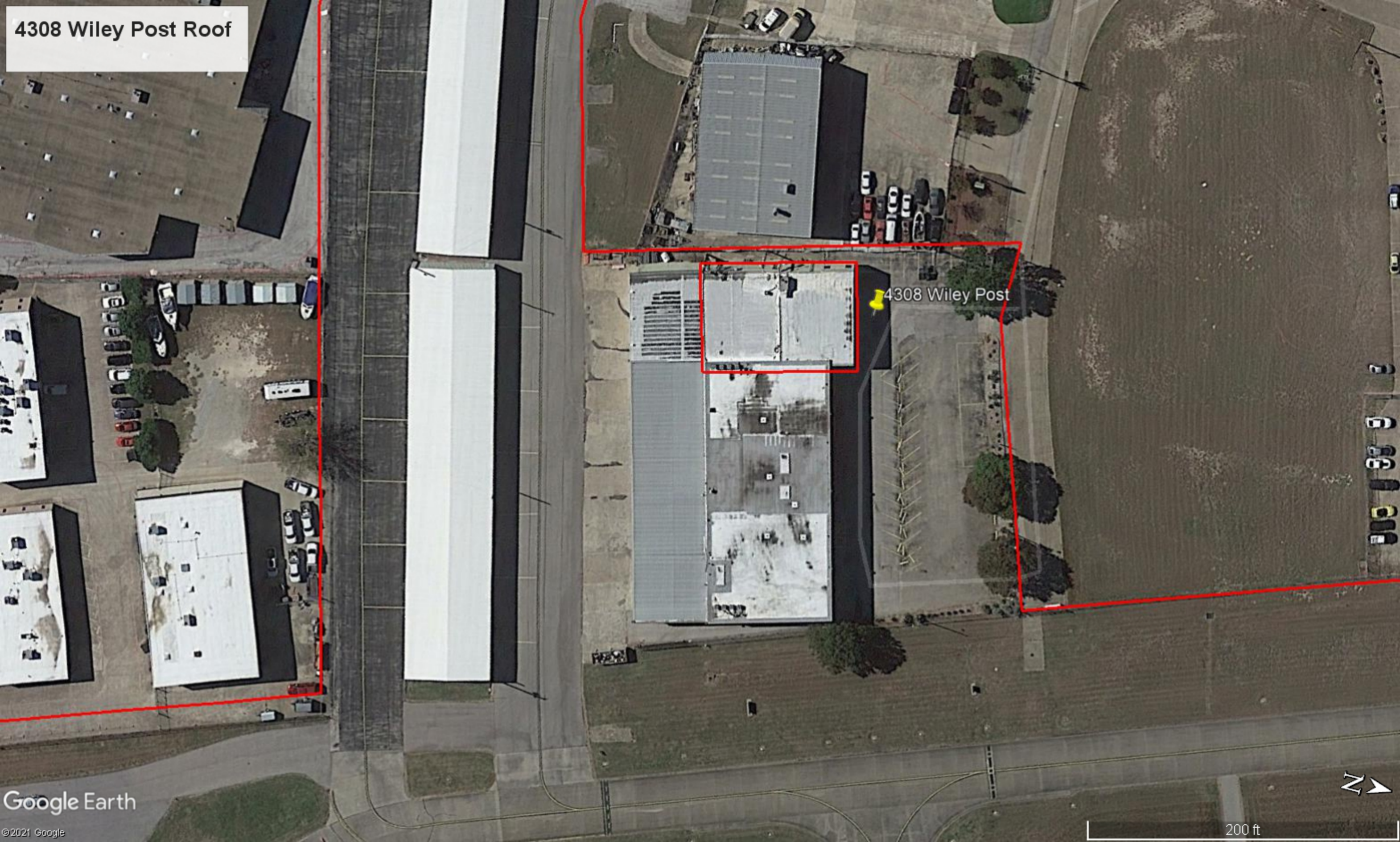
Purchase Agreement (SR Roofing)

- b) Non-owned vehicles
- c) Hired vehicles

**DAY NOTICE OF  
CANCELLATION** or material  
change in coverage.  
Insurance company must be  
A:VII-rated or above.

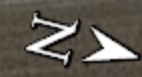
**Purchase Agreement (SR Roofing)**





4308 Wiley Post Roof

4308 Wiley Post





## Council Meeting

6.

Meeting Date: 08/10/2021

Department: Development Services

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### AGENDA CAPTION:

Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Changing the Zoning on a 1.17 Acre Property Located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District**. Case 1830-Z - 4551 Beltway Drive.

### BACKGROUND:

#### COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on July 20, 2021, voted to recommend approval of an ordinance changing the zoning on a 1.17 acre property located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.

Voting Aye: Catalani, Craig, DeFrancisco, Fansler, Meleky, Resnik, Souers.

Voting Nay: none.

Absent: none.

SPEAKERS AT THE PUBLIC HEARING: none.

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

### RECOMMENDATION:

Administration recommends approval.

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### Attachments

1830-Z Ordinance

1830-Z Presentation

1830-Z Staff Report

1830-Z Zoning Exhibit

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY REPEALING ORDINANCE NO. 095-021 AND REZONING A 1.17 ACRE PROPERTY LOCATED AT 4551 BELTWAY DRIVE, FROM LOCAL RETAIL (LR) TO THE COMMERCIAL-1 (C-1) DISTRICT; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR SAVINGS, NO SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the property located at 4551 Beltway Drive, is zoned LR, Local Retail; and

**WHEREAS**, at its regular meeting held on July 20, 2021 the Planning & Zoning Commission considered and made recommendations on a request to rezone to the Commercial-1 (C-1) district (Case No.1830-Z); and

**WHEREAS**, this change of zoning is in accordance with the adopted Comprehensive Plan of the Town of Addison, as amended; and

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

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

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

**SECTION 2.** Ordinance No. 095-021, granting a Special Use Permit for a restaurant and the sale of alcoholic beverages for on premises consumption, is hereby repealed in its entirety.

**SECTION 3.** The Zoning Ordinance and official zoning map shall be amended so as to rezone a 1.17 acre property located at 4551 Beltway Drive from Local Retail (LR) to Commercial-1 (C-1), said property being described in the legal description on Exhibit A attached hereto.

**SECTION 4.** Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the city, as heretofore amended, and upon conviction shall be punished by a fine set in accordance with Chapter 1, General Provisions, Section 1.10, General penalty for violations of Code; continuing violations, of the Code of Ordinances for the Town of Addison.

**SECTION 5.** It is the intention of the City Council that this ordinance be considered in its entirety, as one ordinance, and should any portion of this ordinance be held to be void or

unconstitutional, then said ordinance shall be void in its entirety, and the City Council would not have adopted said ordinance if any part or portion of said ordinance should be held to be unconstitutional or void.

**SECTION 6.** All ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 7.** This Ordinance shall become effective from and after its passage and approval and after publication as may be required by law or by the City Charter or ordinance.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the **10<sup>TH</sup>** day of **AUGUST 2021.**

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
City Attorney

## **EXHIBIT A**

Being a part of Tract III, Beltway Office Park, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 77086, Page 26, Map Records, Dallas County, Texas, and being the same tract of land described in deed to Wannee Whitis and Husband Kittichai Vichyastit, recorded in Volume 2000040, Page 4225, Deed Records, Dallas County, Texas, and being more particularly described as follows;

BEGINNING at a 3/8" iron rod found at the intersection of the West line of Beltway Drive, a variable width right-of-way, with the North line of Beltway Drive, a 60' right-of-way;

Thence West, along said North line, a distance of 169.05' to a 1/2" iron rod found at the Southeast corner of Lot 1, Hampton Inn Hotel, an addition to the City of Addison, according to the plat thereof recorded in Volume 85090, Page 4767, Map Records, Dallas County, Texas;

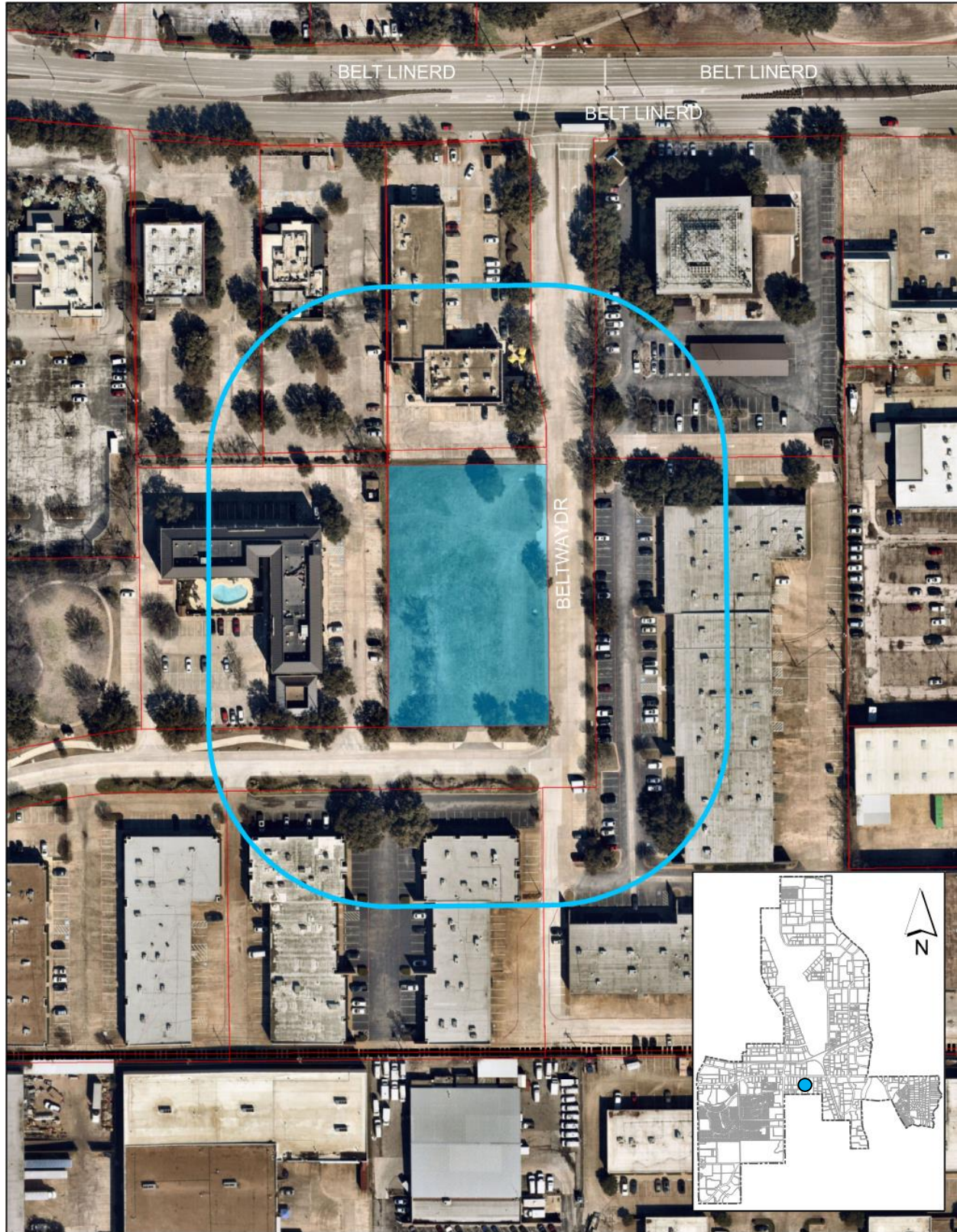
Thence North 00°03'00" West, a distance of 301.44' to a 1/2" iron rod found at the Northeast corner of said Lot 1, and being the Southeast corner of Lot 2-R, 4500 Belt Line Addition, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Instrument No. 20190032993, Official Public Records, Dallas County, Texas, and being the Southwest corner of Addison Market, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 83208, Page 2077, Map Records, Dallas County, Texas;

Thence North 89°58'36" East, a distance of 169.05' to a 1/2" iron rod found in said West line of Beltway Drive, at the Southeast corner of said Addison Market;

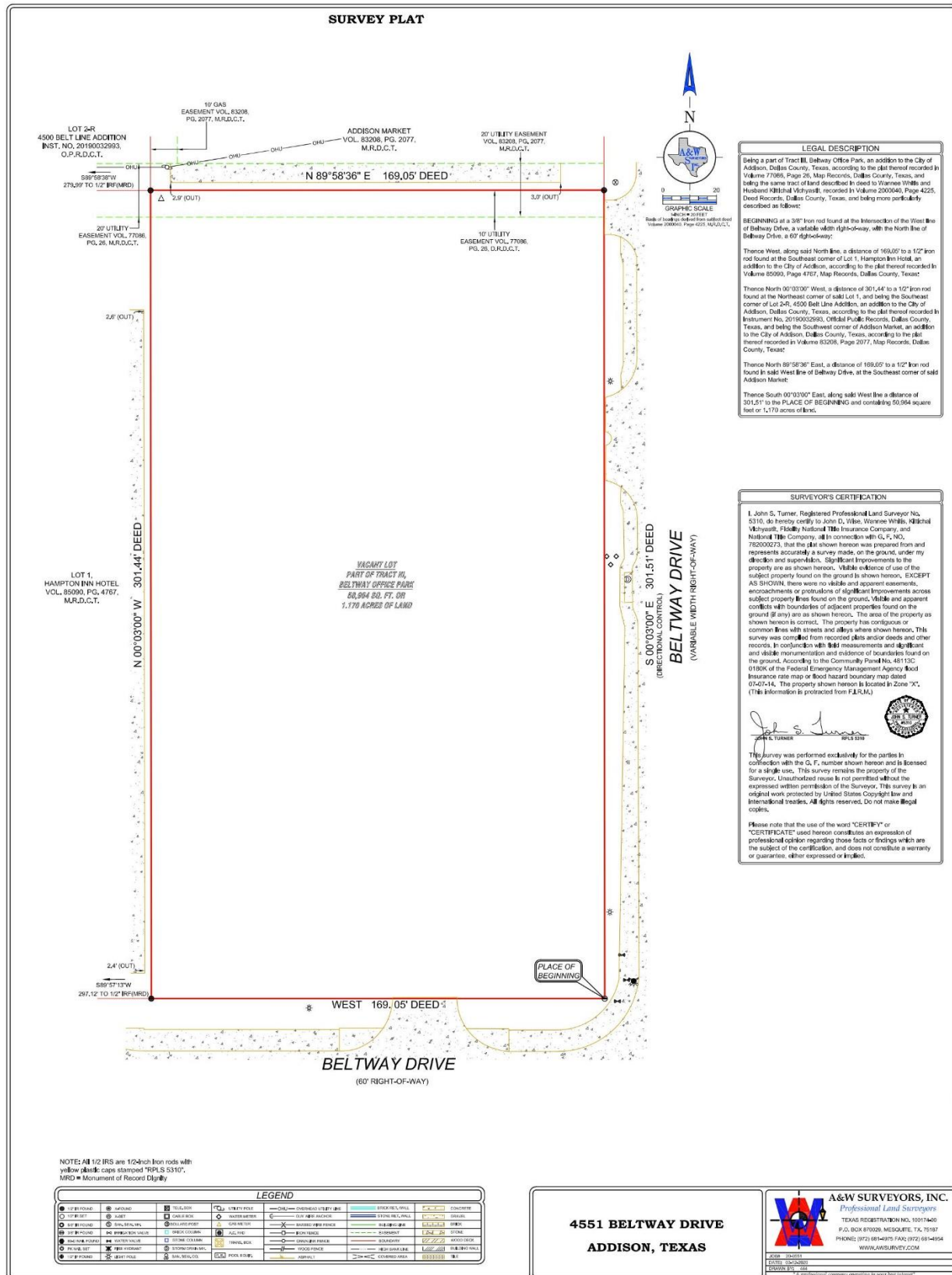
Thence South 00°03'00" East, along said West line a distance of 301.51' to the PLACE OF BEGINNING and containing 50,964 square feet or 1.170 acres of land.



## EXHIBIT A



## **EXHIBIT A**





**4551 Beltway Drive –  
Request to Rezone from  
Local Retail (LR) to  
Commercial-1 (C-1)  
(1830-Z)**



**ADDISON**



# Case 1830-Z 4551 Beltway Drive

ADDISON

## LOCATION:

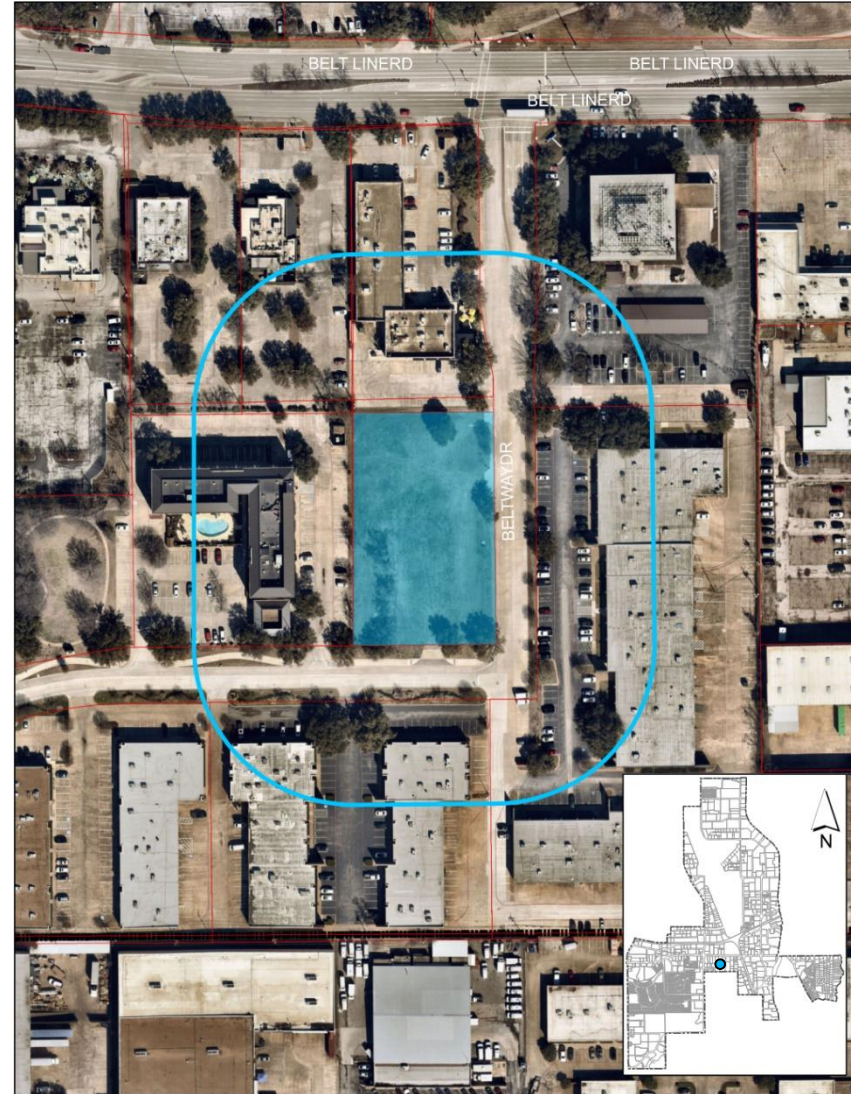
4551 Beltway Drive.

## REQUEST:

Approval of a request to rezone a 1.17-acre property located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.

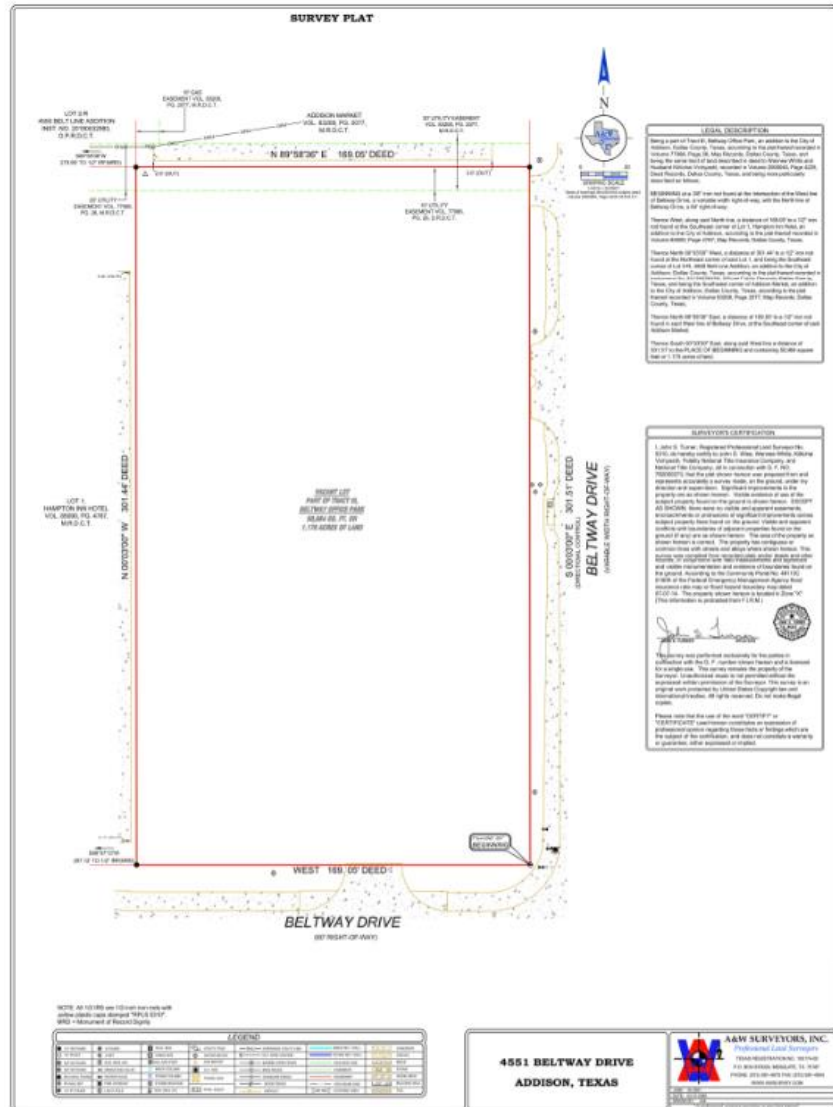
## ACTION REQUIRED:

Discuss, consider, and take action on the appropriateness of the proposed C-1 zoning designation for the 1.17-acre subject property.



# Case 1830-Z 4551 Beltway Drive

ADDISON



## PROJECT HISTORY:

1995 – SUP was approved for restaurant use/alcohol sales; Property also had previous CO approval for office use

2006/07 – All improvements on the site were demolished

Present – Lot is currently vacant, and a speculative medical office building concept plan was submitted for concurrent review

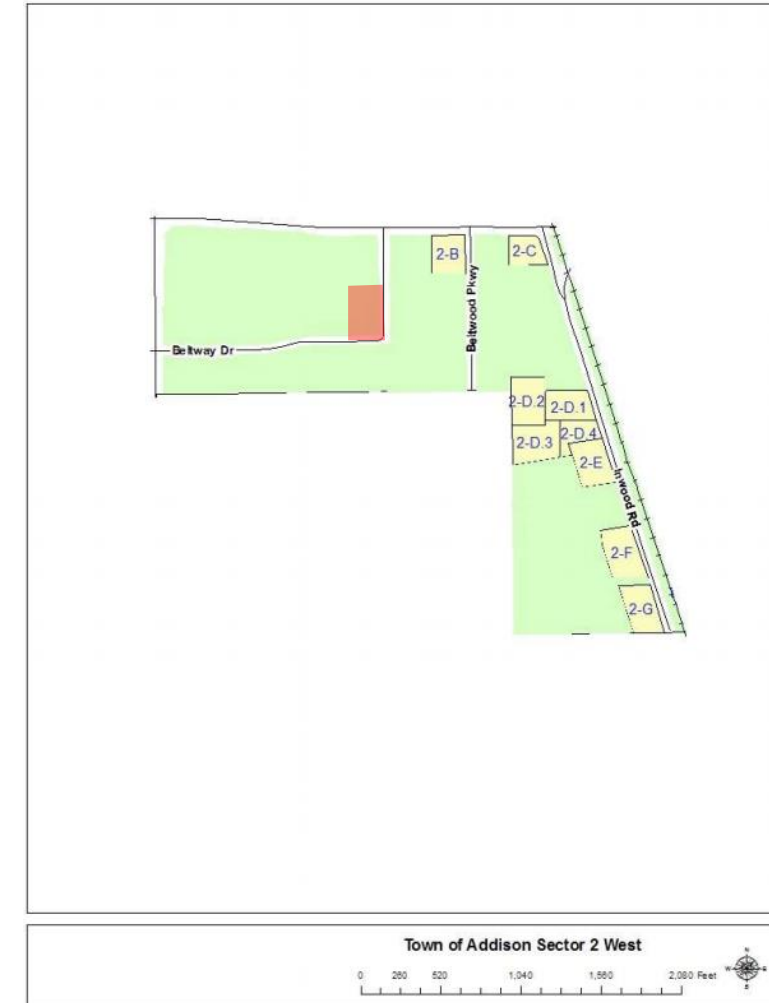
Concept Plan was conditionally approved by P & Z, pending City Council action on this rezoning request

# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compliance with the Town's Comprehensive Plan:

- Attributes of Success Future Land Use Analysis is silent on this property – Analysis for Sector 2 West focused on the Inwood Corridor and the Belt Line frontage
- Proposed rezoning to Commercial-1 would improve the viability of this property for the following Attributes of Success:
  - Competitive
  - Functional
- This site lacks the visibility, access, and amenities to best support conventional retail/restaurant use
- Allowing a broader mix of compatible nonresidential uses – such as medical office – enhances these attributes

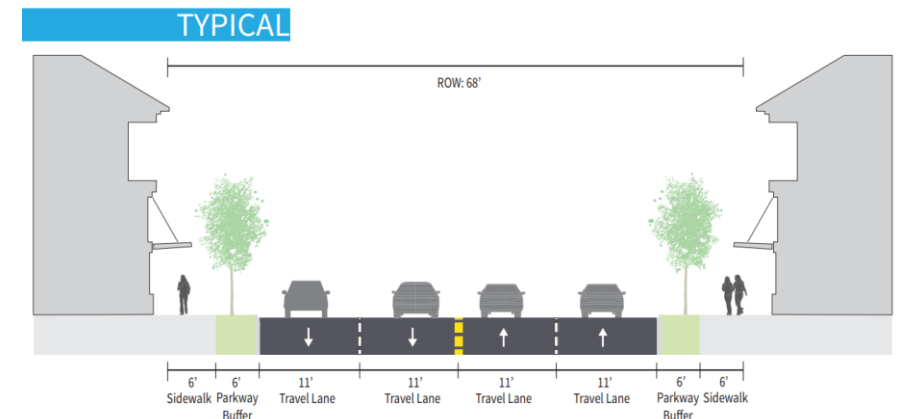
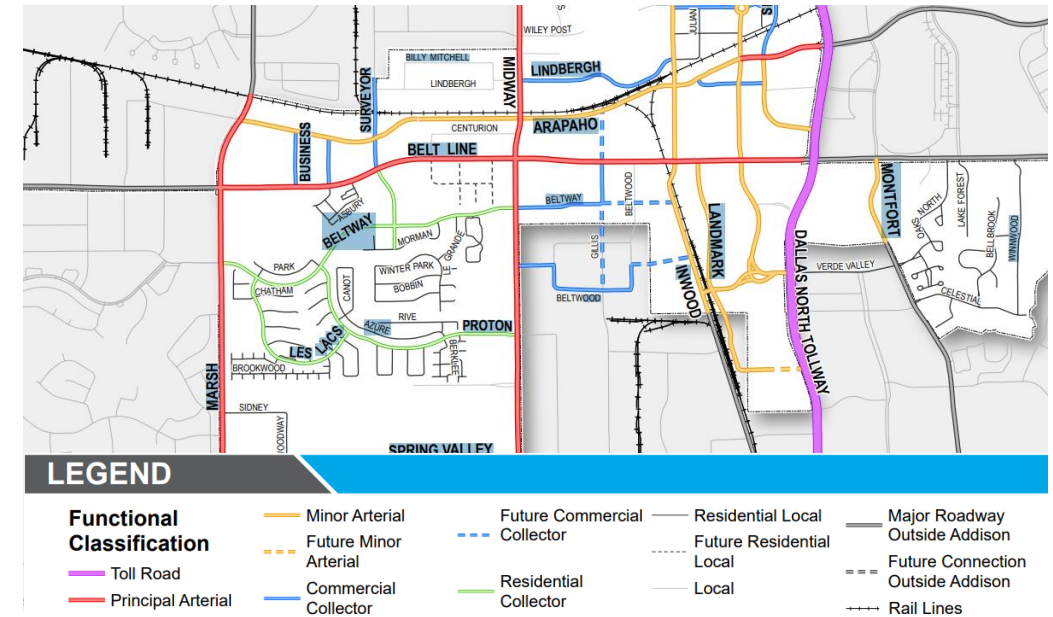


# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compatibility with the Master Transportation Plan:

- Beltway Drive is designated as a Commercial Collector Street in the Master Transportation Plan
- Sufficient capacity is provided by this street designation for this zoning designation
- Right-of-Way needs to be evaluated with civil site design and replat



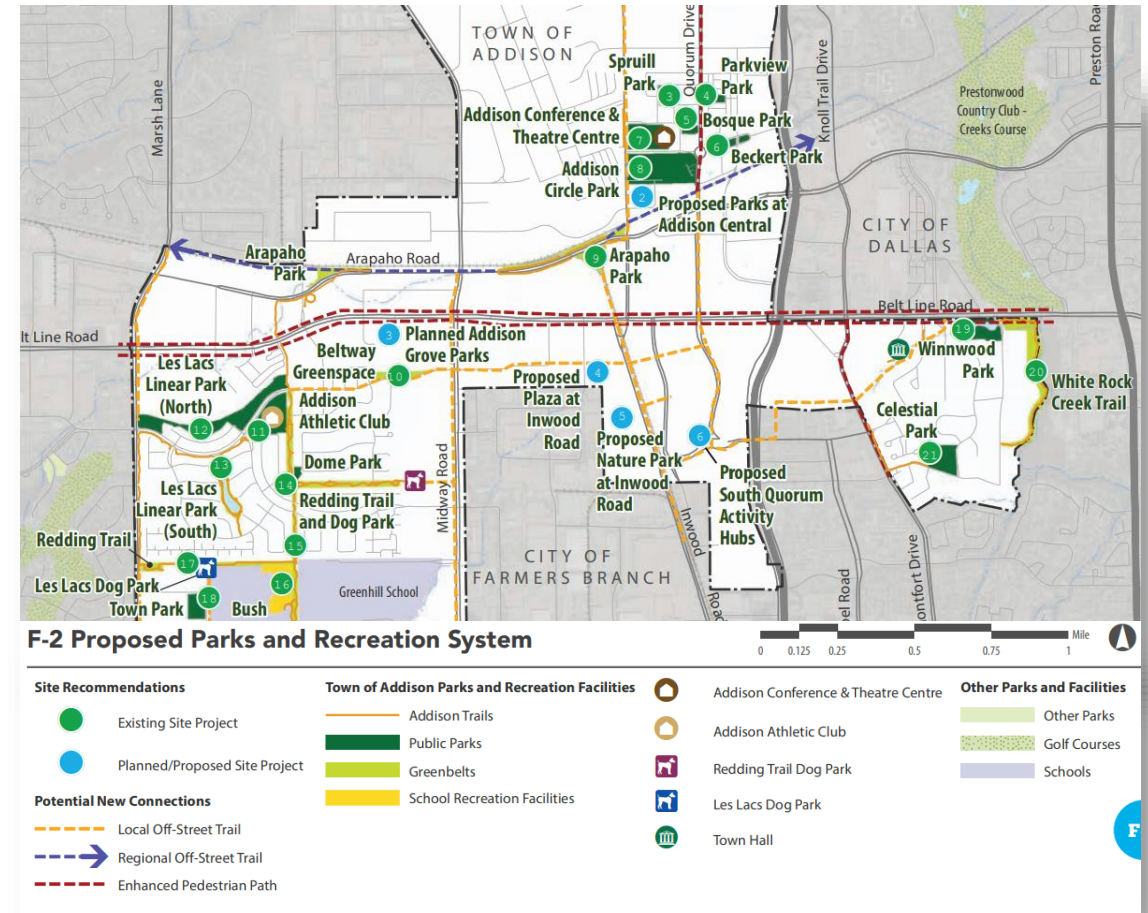


# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compatibility with the Parks, Recreation, and Open Space Master Plan:

- No parks envisioned for the subject property
- Local off-street trail is depicted for Beltway Drive



# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compatibility with the Trail Master Plan:

- Bike Boulevard envisioned for Beltway Drive
- Wide sidewalk with buffer provided with proposed concept plan

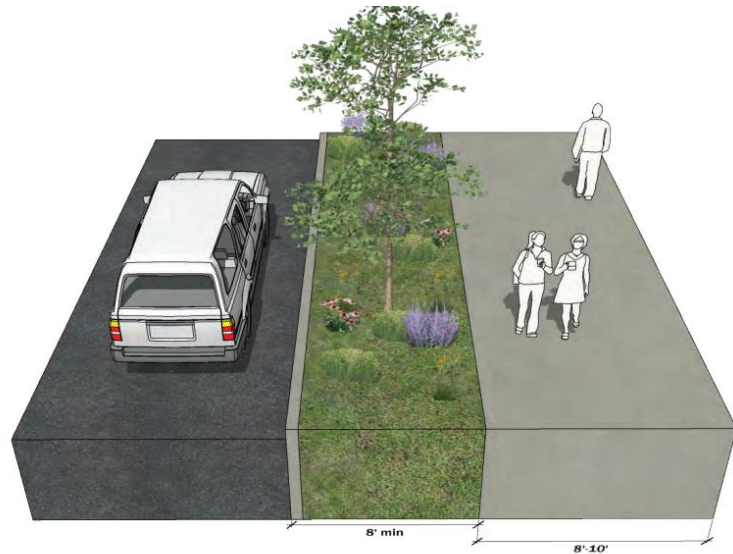
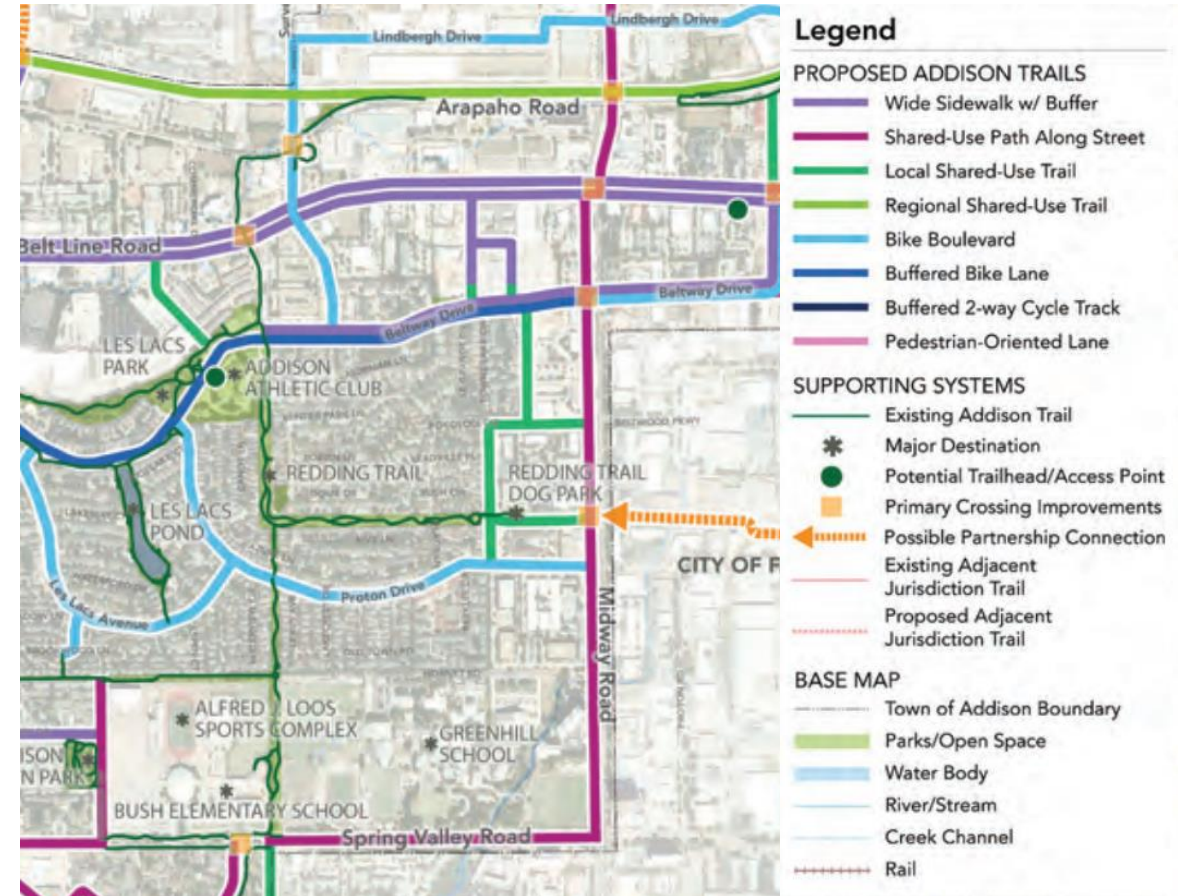


Figure 4-1: Wide Sidewalk with Buffer Typology





# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compatibility with Adjacent Land Uses:

- Surrounded by office, office/showroom, hotel, service, and restaurant uses
- Uses permitted in the C-1 zoning district are compatible with the existing land use pattern



# Case 1830-Z 4551 Beltway Drive

ADDISON

## Compatibility with Adjacent Zoning:

- Surrounded by Local Retail, Commercial-1, and PD zoning
- Uses permitted in the C-1 zoning district are compatible with the surrounding zoning



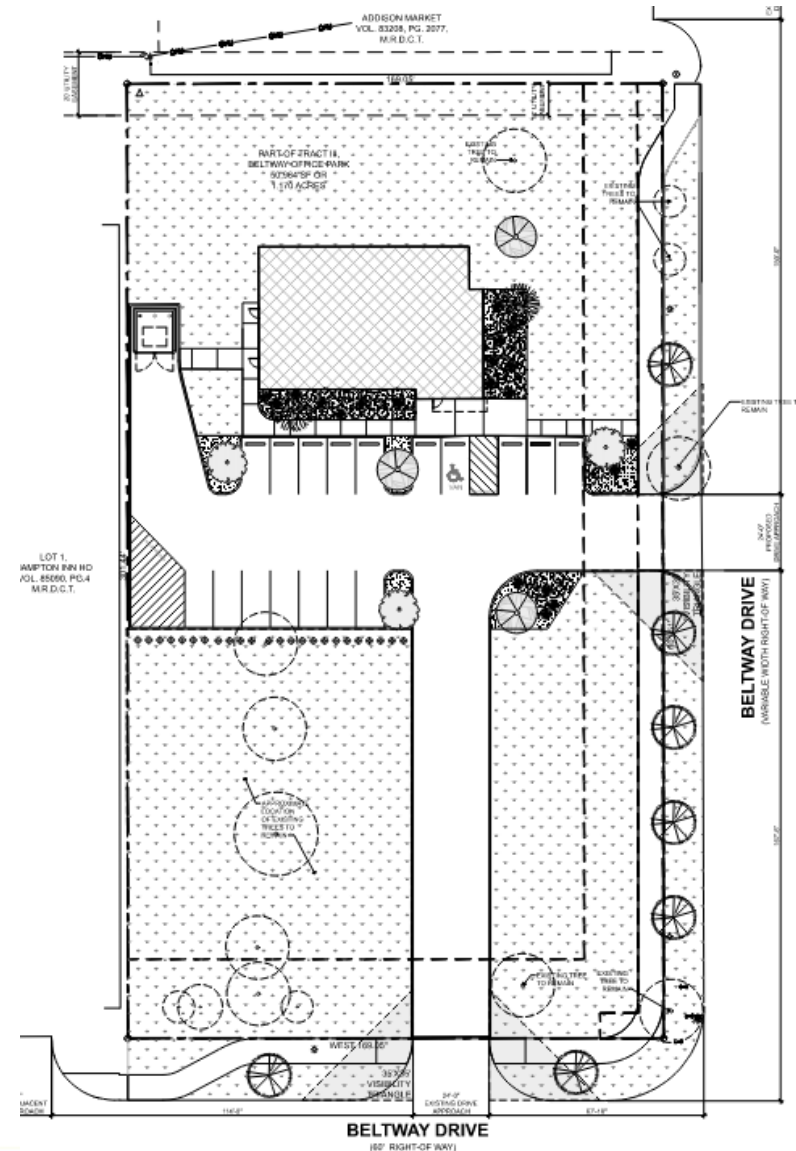
# Case 1830-Z 4551 Beltway Drive

ADDISON

## Conditionally Approved Concept Plan:

### SITE DATA SUMMARY TABLE

ZONING.....	C-1, COMMERCIAL 1 DISTRICT
USE.....	MEDICAL OFFICE
LOT AREA.....	50,964 S.F. OR 1.170 ACRES
ALLOWED BUILDING HEIGHT.....	6 STORIES
FRONT YARD SETBACK.....	25' FROM PROPERTY LINE
SIDE/REAR SETBACK.....	NONE UNLESS ABUTTING AN APARTMENT DISTRICT
PROPOSED BUILDING INFORMATION:	
STORIES.....	1 STORIES
TOTAL SQUARE FOOTAGE.....	3,200 S.F.
PARKING PER USE.....	(1 SPACE/ 200 SF) = 16 SPACE REQ'D
PARKING PROVIDED.....	16 SPACES + 1 H.C. SPACE = 17 SPACES
ACCESSIBLE PARKING SPACES ARE PROVIDED IN ACCORDANCE WITH TEXAS ACCESSIBILITY STANDARDS	





# Case 1830-Z 4551 Beltway Drive

ADDISON

## PUBLIC NOTICE:

Notice of public hearing was provided to property owners within 200 feet of the subject property in accordance with Town and State law.

## NOTICE RECIPIENTS: 9.

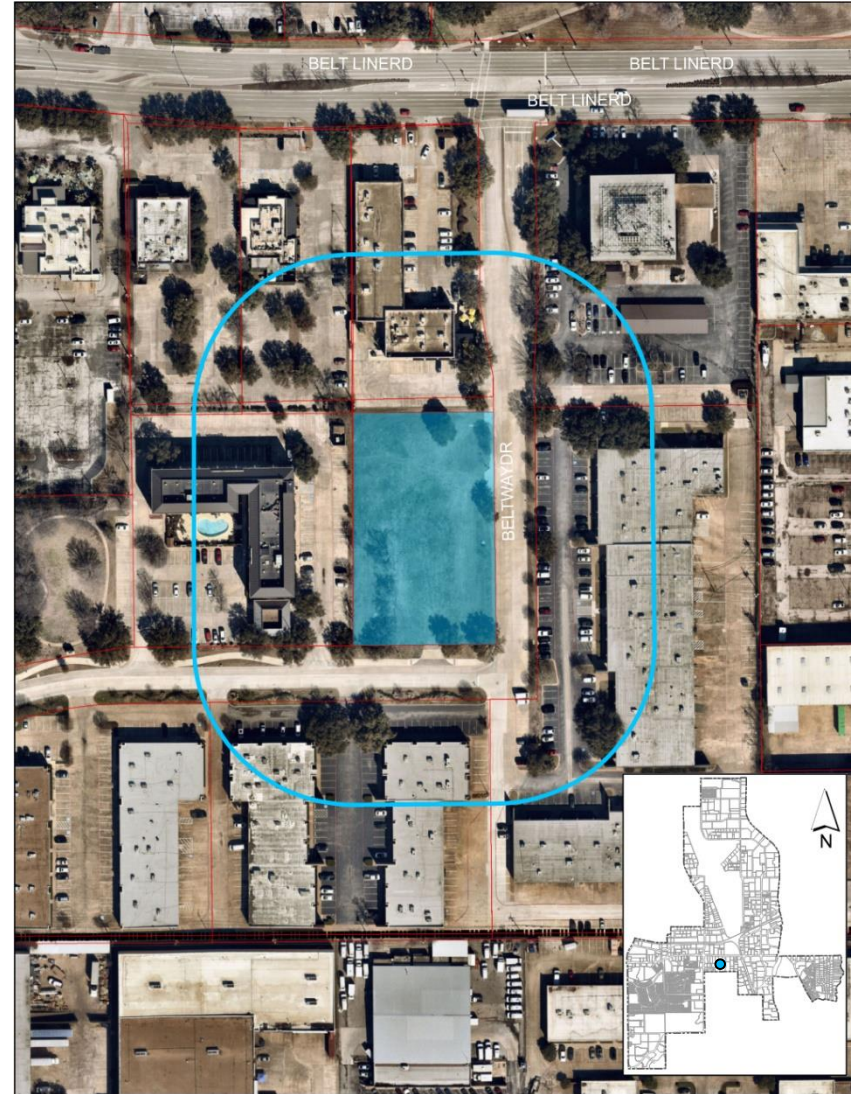
**FOR:** None.

**AGAINST:** None.

**NEUTRAL:** None.

## PLANNING & ZONING COMMISSION ACTION

Approval: 7 – 0



## RECOMMENDATION:

Staff recommends **approval of the request and the repeal of SUP Ordinance 095-021.**

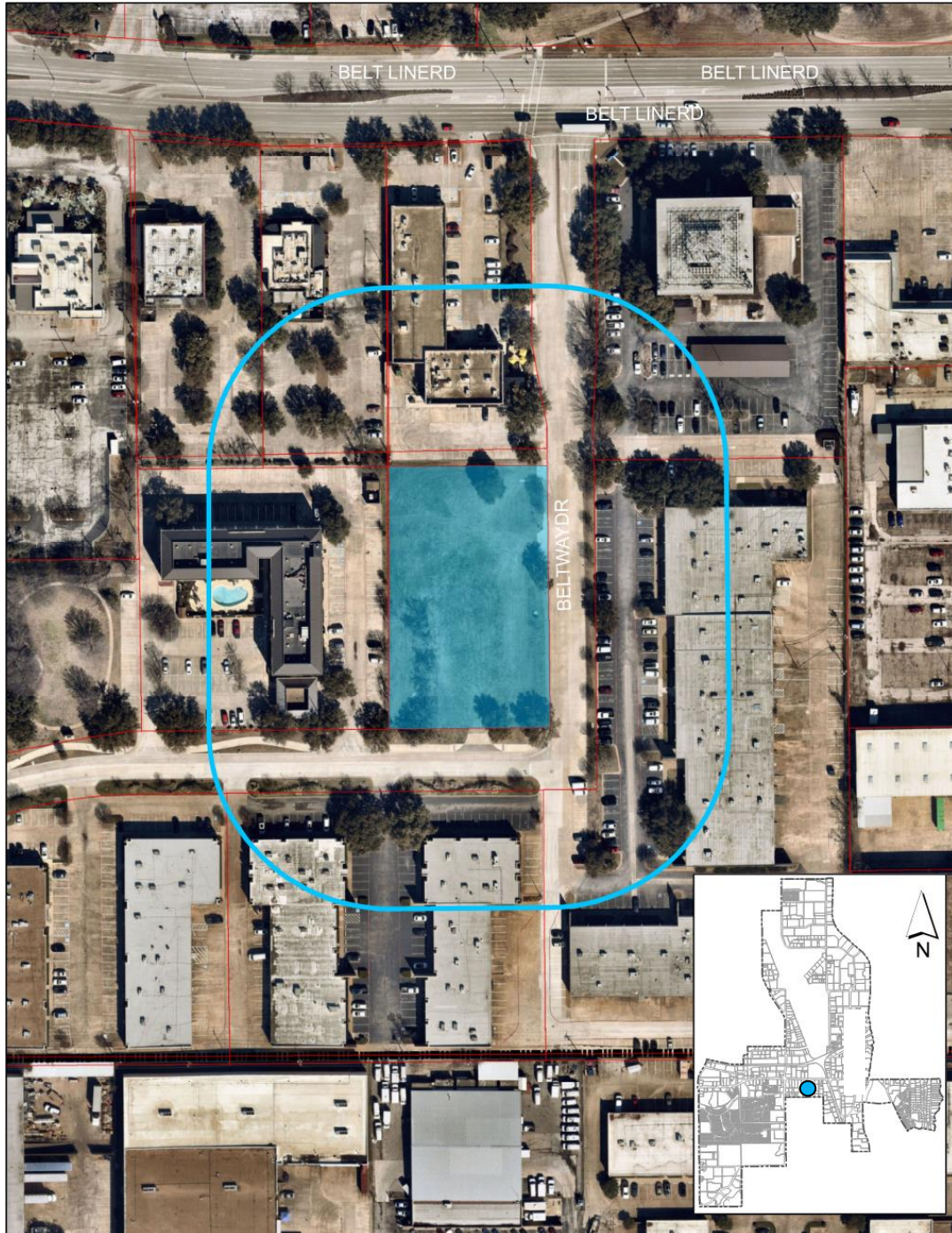
- The Commercial-1 district is compatible and complimentary to the surrounding land use pattern and zoning framework
- Request complies with all Town policies and would be supported by existing and planned infrastructure improvements in this area.



# 1830-Z

**PUBLIC HEARING** Case 1830-Z/4551 Beltway Drive. Public hearing, discussion, and take action on a recommendation regarding an ordinance changing the zoning on a 1.17 acre property located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.

## LOCATION MAP







July 15, 2021

## STAFF REPORT

RE: 1830-Z/4551 Beltway Drive

LOCATION: 4551 Beltway Drive

REQUEST: Approval of a request to rezone a 1.17 acre property located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.

APPLICANT: Rob Baldwin, Baldwin Associates

DISCUSSION:

Background: This request to rezone from the Local Retail (LR) to Commercial-1 (C-1) district has been submitted for the purpose of permitting medical office use on 1.17 acres comprising part of Tract III of the Beltway Office Park Addition, generally located at the northwest corner of Beltway Drive, 350 feet south of Belt Line Road.

The applicant, Rob Baldwin of Baldwin Associates, is representing a brokerage and development team that wishes to develop a speculative medical office building on this property. Concurrent to this request, the applicant has requested Commission review and approval of a concept plan for medical office use that demonstrates compliance with the requested C-1 zoning district and all other Town development standards.

The current use of this lot is vacant; however, office use previously existed on this tract and in 1995, an SUP was approved for a restaurant. Buildings and surface parking lots on this property were demolished in 2007.

Compliance with the Town's Comprehensive Plan: The 2013 Comprehensive Plan assessed future land use needs through a Town-wide "Attributes of Success" analysis, a qualitative assessment of the presence of key traits that are found to be shared by successful communities. This assessment was carried out across the Town's six geographical sectors, with the subject property being located in Sector 2 West. Given that this site is vacant, the Comprehensive Plan did not address this property, as the "Attributes of Success Analysis" focused on mature, developed properties experiencing varied degrees of success and decline.

With this proposed rezoning, The Commercial-1 District would enhance the evaluation of this property through the "Attributes of Success" perspective. Specifically, the Commercial-1 district would allow this property to be more "competitive" and "functional" for new investment, as retail and restaurant use now requires better visibility, access, and amenities than what this site presents. Uses such as medical office would be compatible with the surrounding development pattern and would be more likely to be economically viable at this location.

Compatibility with other Town Policies:

- Master Transportation Plan: Beltway Drive is designated as a commercial collector street in the Town's Master Transportation Plan. This street type presents sufficient capacity to support traffic demand generated by uses permitted by the Commercial-1 district. Any needed right-of-way for Beltway Drive at this location would be evaluated during the replat application and civil engineering design review process.
- Parks, Recreation, and Open Space Master Plan: With the character of this segment of the Beltway Drive corridor being heavily commercial, this plan focused primarily on pedestrian connectivity through this area. Development of this site would enhance pedestrian connectivity through the construction of enhanced sidewalk facilities.
- Trail Master Plan: The trail master plan requires a wide sidewalk with buffer and calls for this segment of Beltway Drive to serve as a bike boulevard. Development of this site will implement the envisioned sidewalk concept and will not serve as a hindrance to the bike boulevard concept.

Compatibility with Adjacent Uses: This site is largely surrounded by uses that are already permitted in the Commercial-1 district, either by right or by SUP. To the north, the site is bordered by a surface parking lot, with a restaurant (Cantina Laredo) backing to it, that is zoned Local Retail with an SUP for restaurant use. To the east, there are flex office/warehouse, Commercial-1 zoned properties. To the south, there are Local Retail zoned service and retail uses. To the west, there is a limited-service hotel that is zoned Planned Development. The less intensive commercial uses of the Commercial-1 district are compatible with this existing development pattern and the surrounding zoning designations.

Public Service Demand: The proposed Commercial-1 zoning designation would better position this site to attract less intensive commercial uses which are likely to have a lower impact on public services than restaurant, retail, or hospitality uses. There is sufficient existing and planned infrastructure capacity to accommodate the traffic and utility demand presented by this rezoning request and anticipated development of this property.

Public Notice: The Town provided notice to property owners within two hundred feet of the subject property in accordance with Town and State requirements. As of the posting of this agenda, no feedback has been received on this application.

**RECOMMENDATION: APPROVAL**

The Commercial-1 district is compatible and complimentary to the surrounding land use pattern and zoning framework in this segment of the Beltway Drive corridor. This proposed rezoning request complies with all Town policies and would be supported by existing and planned infrastructure improvements in this area.

Staff recommends approval of the request.



Case 1830-Z/4551 Beltway Drive

July 20, 2021

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on July 20, 2021, voted to recommend approval of an ordinance changing the zoning on a 1.17 acre property located at 4551 Beltway Drive, from Local Retail (LR) to Commercial-1 (C-1) District.

Voting Aye: Catalani, Craig, DeFrancisco, Fansler, Meleky, Resnik, Souers

Voting Nay: none

Absent: none

SPEAKERS AT THE PUBLIC HEARING:

For: none

On: none

Against: none

### **LEGAL DESCRIPTION**

Being a part of Tract III, Beltway Office Park, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 77086, Page 26, Map Records, Dallas County, Texas, and being the same tract of land described in deed to Wannee Whitis and Husband Kittichai Vichyastit, recorded in Volume 2000040, Page 4225, Deed Records, Dallas County, Texas, and being more particularly described as follows;

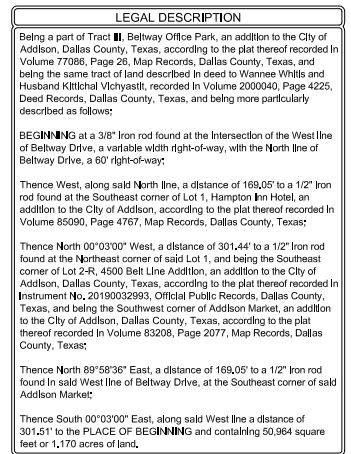
BEGINNING at a 3/8" iron rod found at the intersection of the West line of Beltway Drive, a variable width right-of-way, with the North line of Beltway Drive, a 60' right-of-way;

Thence West, along said North line, a distance of 169.05' to a 1/2" iron rod found at the Southeast corner of Lot 1, Hampton Inn Hotel, an addition to the City of Addison, according to the plat thereof recorded in Volume 85090, Page 4767, Map Records, Dallas County, Texas;

Thence North 00°03'00" West, a distance of 301.44' to a 1/2" iron rod found at the Northeast corner of said Lot 1, and being the Southeast corner of Lot 2-R, 4500 Belt Line Addition, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Instrument No. 20190032993, Official Public Records, Dallas County, Texas, and being the Southwest corner of Addison Market, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 83208, Page 2077, Map Records, Dallas County, Texas;

Thence North 89°58'36" East, a distance of 169.05' to a 1/2" iron rod found in said West line of Beltway Drive, at the Southeast corner of said Addison Market;

Thence South 00°03'00" East, along said West line a distance of 301.51' to the PLACE OF BEGINNING and containing 50,964 square feet or 1.170 acres of land.



1. John S. Turner, Registered Professional Land Surveyor No. 5310, do hereby certify to John D. Wise, Wannee Whitts, Kittichai Vichayast, Fidelity National Title Insurance Company, and National Title Company, all in connection with G. F. NO. 762000273, that the plat shown herein was prepared and recorded in accordance with a duly sworn and verified survey under the direction and supervision. Significant improvements to the property are as shown herein. Visible evidence of use of the subject property found on the ground is shown herein. EXCEPT AS SHOWN, there were no Visible and apparent easements, encroachments, or preexisting boundaries. The plat also shows subject property lines found on the ground. Visible and apparent conflicts with boundaries of adjacent properties found on the ground (if any) are as shown herein. The area of the property as shown herein is correct. The property has contiguous or adjacent lots situated on the same or different owners. This survey was compiled from recorded plats and deeds and other records. In conjunction with field measurements and significant and visible monumentation and evidence of boundaries found on the ground, According to the Community Plan No. 48113C 0180K of the Federal Emergency Management Agency flood hazard map of the County of Jefferson, Louisiana, dated 07-07-14, The property shown herein is located in Zone "X"; (This Information is protected from F.R.U.M.)

*John S. Turner*  
JOHN S. TURNER RPLS 5310

This survey was performed exclusively for the parties in connection with the G, F, number shown herein and is licensed for a single use. This survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and International treaties. All rights reserved. Do not make legal copies.

Please note that the use of the word "CERTIFY" or "CERTIFICATE" used hereon constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either expressed or implied.

LEGEND									
12" IR FOUND	54 CON	TELE. BOX	UTILITY POLE	OVERHEAD UTILITY LINE	BRICK RET. WALL	CONCRETE			
12" IR FOUND	54 GBT	CABLE BOX	WATERMETER	GUY WIRE ANCHOR	STONE RET. WALL	GRAVEL			
6" IR FOUND	54 S, S&V, S&W	HOLLAND POST	GAS METER	BARRIED WIRE FENCE	BLDING LINE	BRICK			
6" IR FOUND	54 S&V, S&W, S&V	54 S&V, S&W, S&V	ACI, P&L	54 S&V, S&W, S&V	GAS METER	STONE			
6" IR FOUND	54 S&V, S&W, S&V	54 S&V, S&W, S&V	TRANS. BOX	CHURNING FENCE	BOUNDARY	WOOD DECK			
PK. S&V, S&W	54 S&V, S&W, S&V	54 S&V, S&W, S&V	54 S&V, S&W, S&V	WOOD FENCE	HIGH BANK LINE	BUILDING WALL			
12" IR FOUND	54 S&V, S&W, S&V	54 S&V, S&W, S&V	54 S&V, S&W, S&V	ASPHALT	COVERED AREA	TRAIL			



**A&W SURVEYORS, INC.**  
*Professional Land Surveyors*  
 TEXAS REGISTRATION NO. 100174-00  
 P.O. BOX 870029, MESQUITE, TX. 75187  
 PHONE: (972) 681-4975 FAX: (972) 681-4954  
 WWW.AWSURVEY.COM

JOB# 20-0551  
 DATE: 03-12-2020  
 DRAWING BY: 444

*"A professional company operating in your best interest"*

## Council Meeting

7.

Meeting Date: 08/10/2021

Department: Development Services

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### AGENDA CAPTION:

Present, Discuss, and Consider Action on an **Ordinance Granting a Meritorious Exception to Chapter 62 of the Code of Ordinances for Bowlero, Located at 3805 Belt Line Road, in Order to Exceed the Total Effective Area and the Maximum Allowable Logo Height for Attached Signs**. Case MR2021-007.

### BACKGROUND:

A bowling center has existed at 3805 Belt Line Road since the late 1990s. The current operator of this facility is Bowlero Corporation, which operates nearly 300 centers, making it the largest ten-pin bowling center operator in the world. In 2018, Bowlero rebranded from Bowlmor AMF, which is reflected in the existing “Bowlmor Lanes” signage at Bowlero’s Addison bowling center. In order to accurately reflect this rebranding, Bowlero recently submitted several sign permit applications to update existing attached and detached signage on the premises, and to add an additional attached sign reflective of the new brand.

In reviewing Bowlero’s sign permit applications, staff found that the proposed signage did not comply with the Town’s sign code due to the number and cumulative size of the attached signs that were proposed, as well as the size of the lettering and logos included in the attached sign design. After examining the impacts of complying with the Town’s sign code, Bowlero elected to apply for a Meritorious Exception to the sign code. Specific exceptions addressed by Bowlero’s request include:

- Exceeding the number of permitted attached signs on the southern, Belt Line Road facing façade, by providing three signs instead of a single tenant sign. This proposed condition reflects one additional sign in excess of what currently exists on this facade.
- Exceeding the 100 square feet maximum effective sign area for the southern façade by 195 square feet. The Town’s sign ordinance defines effective area as the area enclosed by drawing a rectangle of horizontal and vertical lines which fully contain all extremities of the sign drawn to scale.
- For two proposed attached signs that include the Bowlero brand name, exceeding the 37.5 inch maximum letter and logo height by 56 inches for the logo and 13.5 inches for lettering.



- For one proposed attached sign that depicts the Bowlero brand logo, exceeding the 41.25 inch maximum logo height by 64.75 inches.

The applicant is pursuing a Meritorious Exception to the sign ordinance in accordance with the below code provision:

Town of Addison Code of Ordinances, Chapter 62 (Signs)

Section 62-33. – Meritorious exceptions.

(d)(3) The council may consider appeals on the basis that such regulations and/or standards will, by reason of exceptional circumstances or surroundings, constitute a practical difficulty or unnecessary hardship or on the basis that the proposed improvement although falling under the definition of a "sign," constitutes art that makes a positive contribution to the visual environment.

For this proposal, staff believes the hardship criteria of the Meritorious Exception requirements is met due to the limited visibility of this facility from Belt Line Road. This facility is addressed off of Belt Line Road and maintains a detached sign on a small strip of land at the northeast corner of Belt Line Road and Business Avenue. While this building is over 500 feet from the Belt Line frontage, the size of the attached sign lettering and logos is regulated by the distance between the proposed signs and the nearest public streets. In this case, the two Bowlero lettered signs are just under 250 feet from two adjacent north/south secondary streets, Business Avenue and Commercial Drive, while the Bowlero logo sign is just over 250 feet from those roadways. With this large setback from Belt line Road, the proposed attached signs serve a much larger role in directing potential customers into the site.

If this proposal was required to comply with the current sign code, the proposed Bowlero signage would be much smaller than the Bowlmor Lanes signage that currently exists on site. While this proposal presents one additional attached sign through the provision of the logo sign, the change in effective sign area from existing to proposed conditions is minimal.

The bowling industry continues to be strongly impacted by the COVID-19 pandemic. This proposed signage will help Bowlero direct traffic to their business with minimal aesthetic changes from current conditions.

Staff recommends approval of this Meritorious Exception request.

**RECOMMENDATION:**

Administration recommends approval.

---

## **Attachments**

MR2021-007 Ordinance  
MR2021-007 Presentation

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, GRANTING A MERITORIOUS EXCEPTION TO CHAPTER 62 OF THE CODE OF ORDINANCES FOR BOWLERO, LOCATED AT 3805 BELT LINE ROAD, TO ALLOW MULTIPLE ATTACHED SIGNS ON THE FRONT FAÇADE, AND TO EXCEED THE TOTAL EFFECTIVE AREA AND THE MAXIMUM ALLOWABLE LETTER AND LOGO HEIGHT FOR ATTACHED SIGNS; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 62 of the Code of Ordinances regulates signage in the Town of Addison; and

**WHEREAS**, Section 62-33 permits the City Council to approve exceptions to the provisions of Chapter 62 in cases that have obvious merit in not only being appropriate to the particular site or location, but also in making a positive contribution to the visual environment; and

**WHEREAS**, the City Council has determined that the grant of the meritorious exception contained herein is in the best interest of the public and promotes the visual environment of the Town.

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

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

**SECTION 2.** A meritorious exception to Chapter 62 of the Code of Ordinances is hereby granted to allow multiple attached signs on the front façade and to authorize signage that exceeds the total effective area and the maximum allowable letter and logo height for attached signs as depicted in **Exhibit A**, for Bowlero, located at 3805 Belt Line Road. No other additional signage is permitted unless it complies with Chapter 62 of the Code of Ordinances.

**SECTION 3.** Any person, firm, corporation, or other business entity violating any of the provisions or terms of this Ordinance shall, in accordance with Section 62-35 of the Town of Addison Code of Ordinance (Violations), be fined, upon conviction, in an amount of not more than Five Hundred and No/100 Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION 4.** This Ordinance shall become effective from and after its passage and approval and after publication as may be required by law or by the City Charter or ordinance.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas, on this the 10<sup>TH</sup> day of AUGUST 2021.

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
City Attorney

## EXHIBIT A



**EB 1** EXTERIOR FACE-LIT / BACK-LIT LOGO TYPE

**EF 1** EXTERIOR FACE-LIT / BACK-LIT LOGO



## EXHIBIT A



**CURRENT SIGN SOUTH ELEVATION**

SCALE: 3/16" = 1'-0"

## **EXHIBIT A**



**PROPOSED SIGN SOUTHWEST ELEVATION**

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

**3,481 SQ. FT.  
WALL SURFACE  
(39'-4" x 88'-6")**

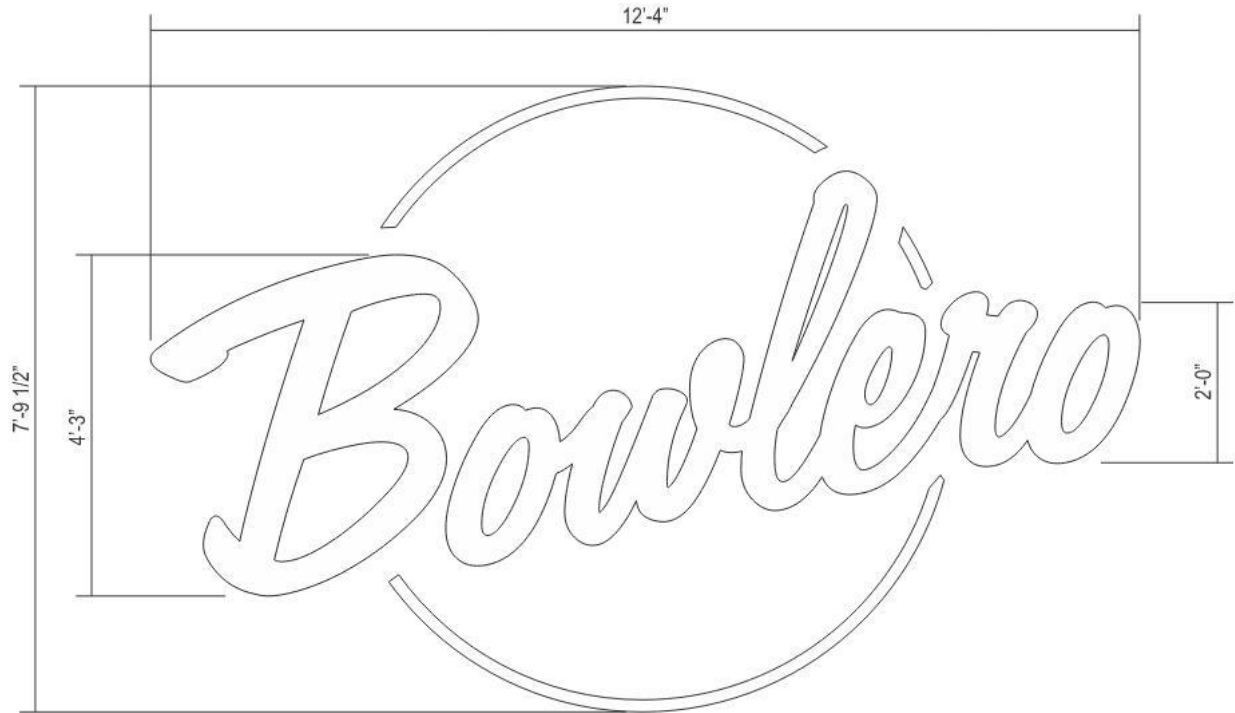
## EXHIBIT A



**PROPOSED SIGN SOUTHEAST ELEVATION**  
SCALE: 1/8"=1'-0"

**3,481 SQ. FT.  
WALL SURFACE  
(39'-4" x 88'-6")**

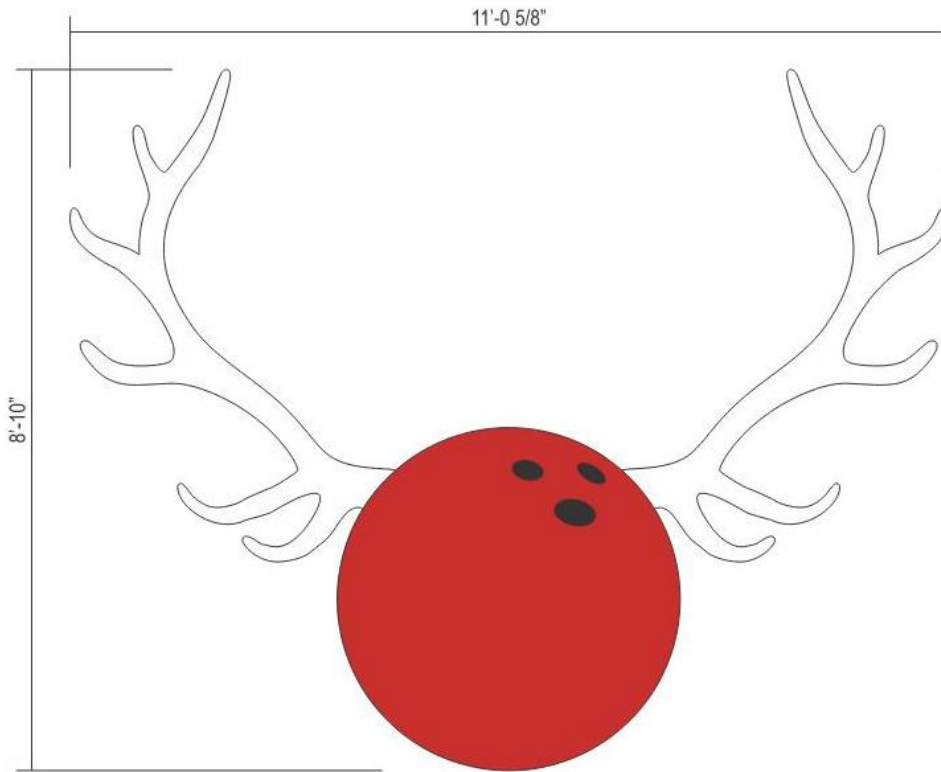
**EXHIBIT A**



**FRONT VIEW**  
SCALE: 1/2"=1'-0"



**EXHIBIT A**



**FRONT VIEW**  
SCALE: 1/2"=1'-0"





# **Bowlero Meritorious Exception (MR2021-007)**

The logo for Addison, featuring the word "ADDISON" in blue capital letters inside a white circle, which is set against a blue background with diagonal white lines.

**ADDISON**

# Case MR2021-007 Bowlero

ADDISON

## LOCATION:

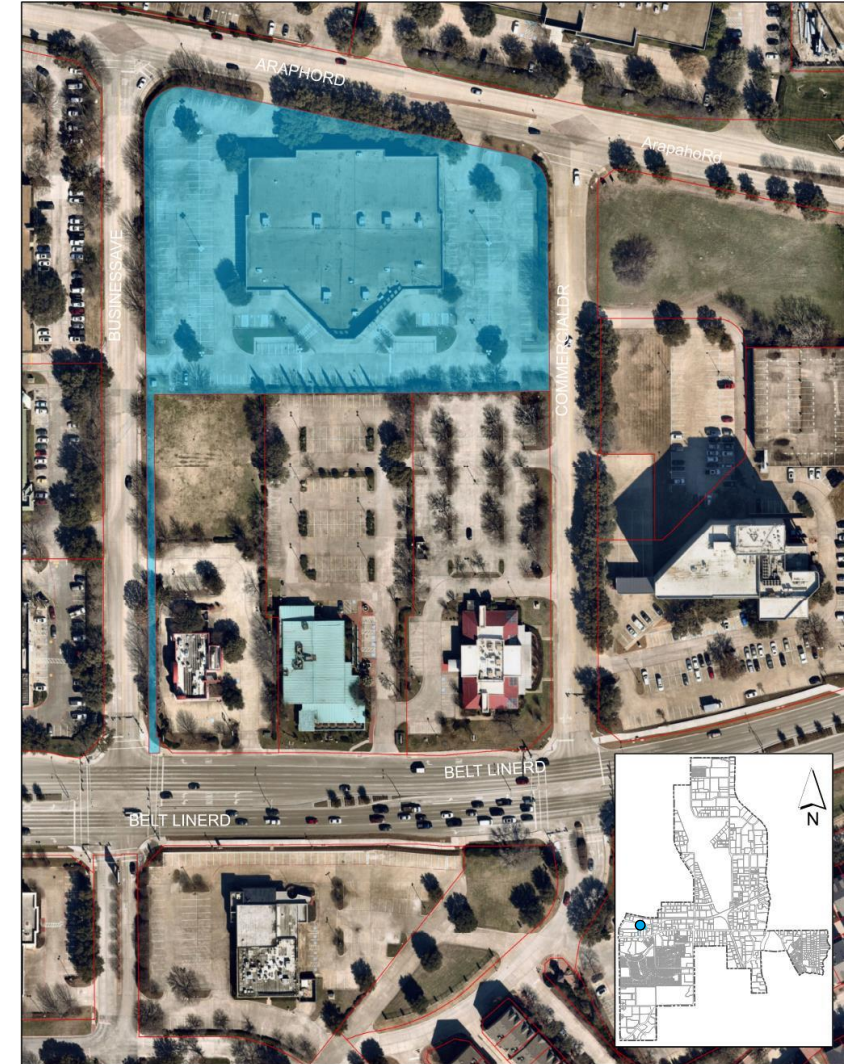
3805 Belt Line Road.

## REQUEST:

Approval of a Meritorious Exception for attached signs for Bowlero.

## ACTION REQUIRED:

Discuss, consider, and take action on the appropriateness of the proposed sign code meritorious exception request.



# Case MR2021-007 Bowlero

ADDISON



EB 1 EXTERIOR FACE-LIT / BACK-LIT LOGO TYPE

EF 1 EXTERIOR FACE-LIT / BACK-LIT LOGO



CURRENT SIGN SOUTH ELEVATION  
SCALE: 3/16" = 1'-0"

Attached  
Sign Locations

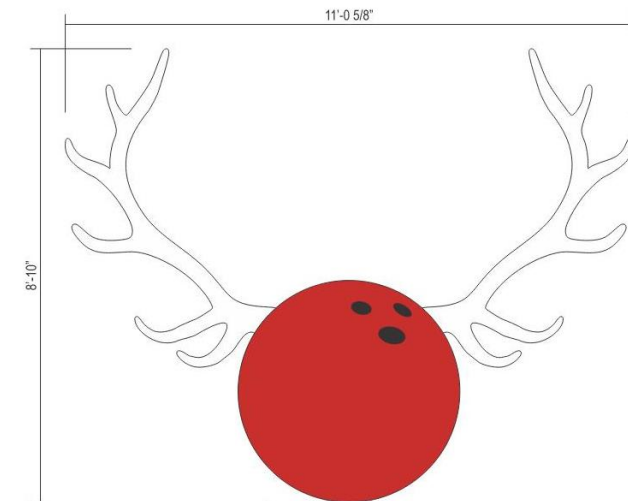
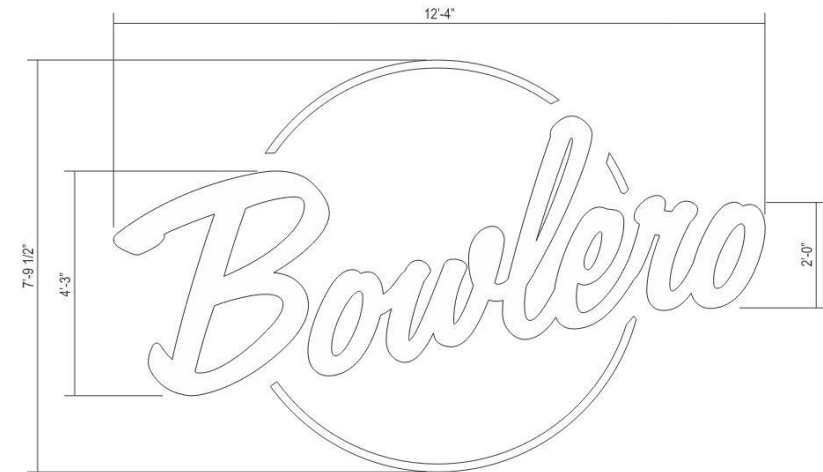


# Case MR2021-007 Bowlero

ADDISON

## SIGN CODE COMPLIANCE ISSUES:

- **Number of Signs for Each Façade**
  - One attached sign is permitted for each tenant for each façade
- **Maximum Letter and Logo Height**
  - Two signs with Bowlero Text and Symbol - Maximum permitted letter/logo height is 37.5 inches
  - One sign with Bowlero Logo - Maximum permitted letter/logo height is 41.25 inches
- **Sign Effective Area**
  - Maximum permitted sign effective area is 100 square feet



FRONT VIEW  
SCALE: 1/2"=1'-0"



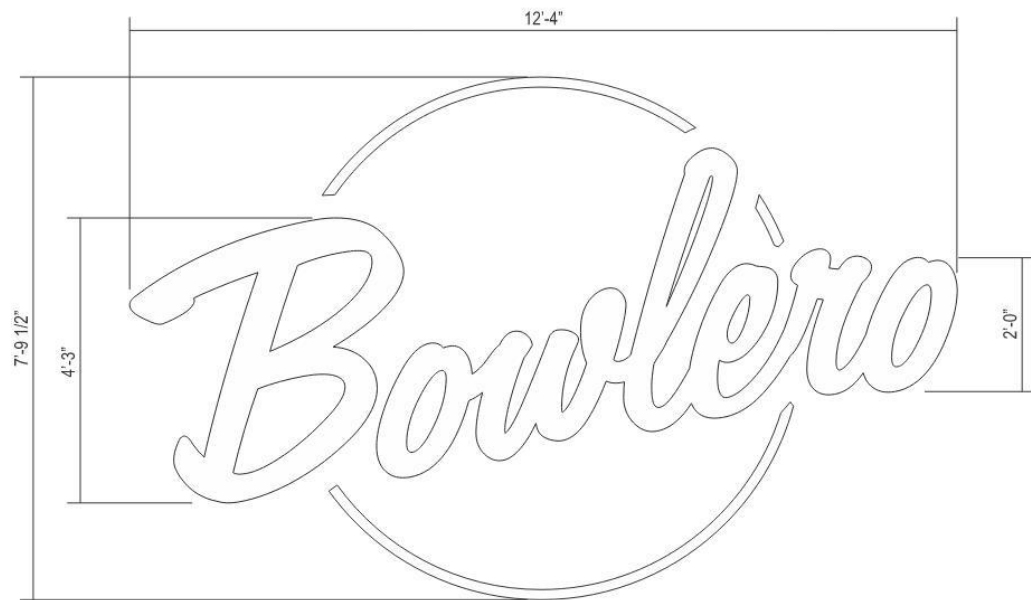
Has two more signs than what is permitted and exceeds the maximum sign effective area by 195 square feet.

Number of Signs  
and  
Sign Effective Area



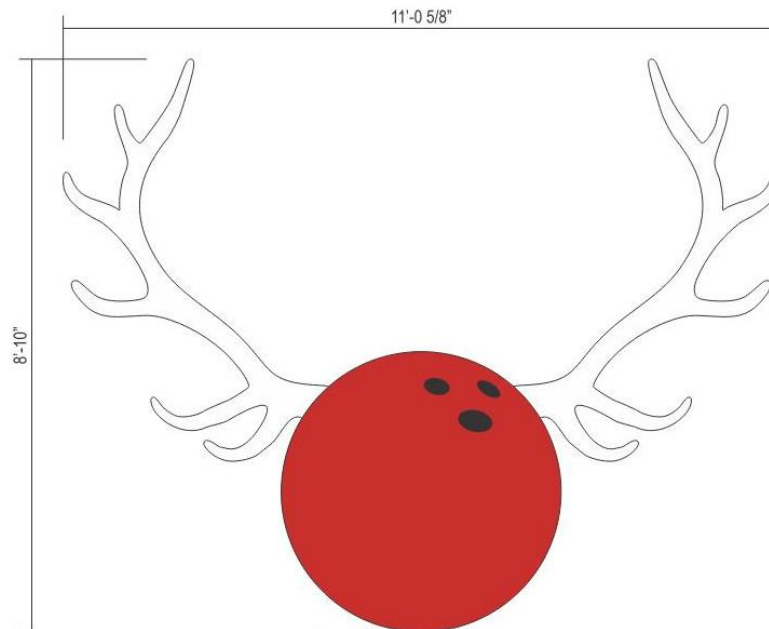
# Case MR2021-007 Bowlero

ADDISON



**FRONT VIEW**  
SCALE: 1/2"=1'-0"

Exceeds 37.5-inch max height for logos by 56 inches and letters by 13.5 inches.



**FRONT VIEW**  
SCALE: 1/2"=1'-0"

Exceeds 41.25-inch max height for logos by 64.75 inches.

**Letter /  
Logo Height**

# Case MR2021-007 US Bowlero

ADDISON



# Case MR2021-007 US Bowlero

ADDISON



CURRENT SIGN SOUTHWEST ELEVATION

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



PROPOSED SIGN SOUTHWEST ELEVATION

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

3,481 SQ. FT.  
WALL SURFACE  
(39'-4" x 88'-6")

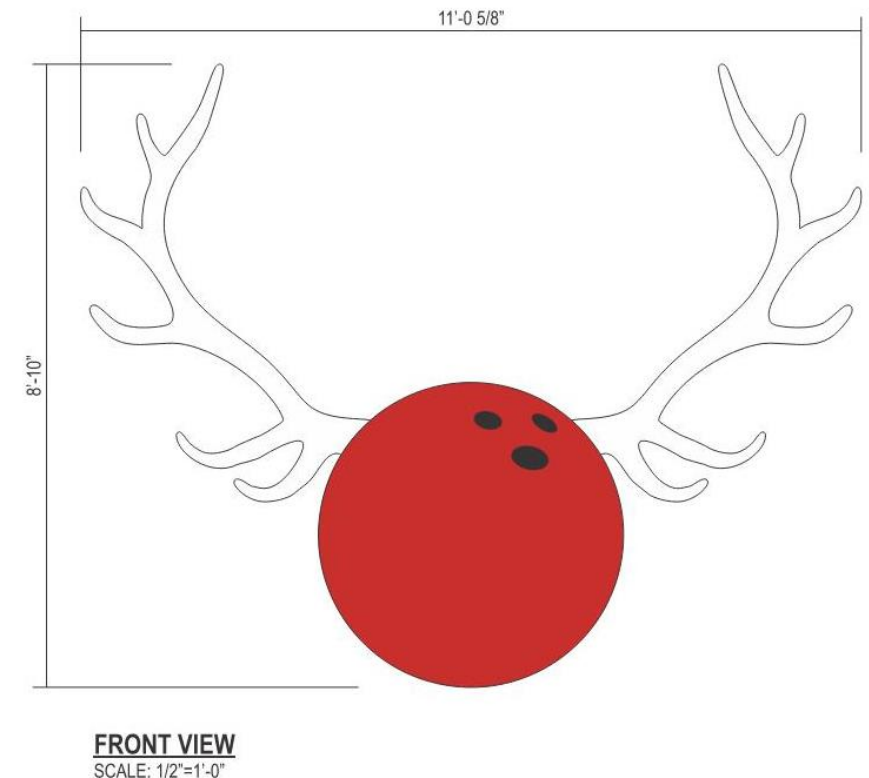
Compliant Sign

## MERITORIOUS EXCEPTION CRITERIA:

- The council may consider appeals on the basis that such regulations and/or standards will, by reason of exceptional circumstances or surroundings, constitute a practical difficulty or unnecessary hardship or on the basis that the proposed improvement although falling under the definition of a "sign," constitutes art that makes a positive contribution to the visual environment.

## Proposal meets hardship criteria

- Application of the code would result in much less visible signage than what currently exists on the site
- Being setback over 500 feet from Belt Line Road elevates the role of attached and detached signage in directing potential customers to the site





## RECOMMENDATION:

Staff recommends **approval of the request.**



## Council Meeting

8.

**Meeting Date:** 08/10/2021

**Department:** Finance

**Pillars:** Gold Standard for Financial Health

**Milestones:** Continue development and implementation of Long Term Financial Plan

---

### AGENDA CAPTION:

Present, Discuss, and Consider Action on a **Resolution Approving the Professional Consulting Agreement Between the Town of Addison and BKD, LLP to Perform Audits for Fiscal Years 2021, 2022, and 2023 (with the Option to Extend the Agreement for Fiscal Years 2024 and 2025 for Additional Fees), and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$287,500.

### BACKGROUND:

As part of the Town's Charter requirement and financial best practices, the Town engages an independent audit firm to conduct an annual financial audit. This year, the Town prepared a Request for Qualifications (RFQ) for external audit services. Six firms responded to the RFQ and two finalists were selected and interviewed by a review committee. The committee consisted of the Chief Financial Officer and Controller, both of whom are Certified Public Accountants. The committee unanimously selected the firm of BKD, LLP as the most qualified provider of external audit services for the Town. BKD, LLP has been the Town's external audit firm since 2016.

BKD, LLP is a national CPA and advisory firm that offers clients a variety of services in accounting, audit and assurance, tax, risk management, technology, corporate finance, forensic and valuation services and wealth management. Firm-wide, they serve approximately 240 governmental entities in Texas, 25 of which are municipalities. The local office, which will service this audit, is located in Addison at 14241 Dallas Parkway, Suite 1100, Dallas, TX 75254-2961.

Attached is a professional services agreement with BKD for a period of three years (FY2021-2023) with two one-year extension options (FY2024 & FY2025). Exhibit A to the agreement is BKD, LLP's technical proposal dated May 25, 2021. Exhibit B to the agreement is the Consultant's Cost Proposal for Fiscal Years 2021, 2022, and 2023. Exhibit C to the agreement outlines the terms and conditions contained in the Town's Request for Proposal. Exhibit D to the agreement is the Consultant's Engagement Letter dated July 7, 2021.

The Audit Engagement fee for the external Financial Audit for the period ending September 30, 2021 is \$86,000 and the Single Audit Fee is \$7,000 for a total fee of \$93,000. The Audit Engagement fee for the external Financial Audit for the period ending September 30, 2022 is \$88,500 and the Single Audit Fee is \$7,250 for a total fee of \$95,750. The Audit Engagement fee for the external Financial Audit for the period ending September 30, 2023 is \$91,250 and the Single Audit Fee is \$7,500 for a total fee of \$98,750. For the most recently completed audit for the period ended September 30, 2020 the Audit Engagement fee was \$100,000 and the Single Audit Fee was \$7,000 for a total fee of \$107,000.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Resolution - External Financial Audit

---

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

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE PROFESSIONAL CONSULTING AGREEMENT BETWEEN THE TOWN OF ADDISON AND BKD, LLP TO PERFORM AUDITS FOR FY 2021, FY 2022, AND FY 2023 IN AN AMOUNT NOT TO EXCEED \$287,500.00 AND THE OPTION TO EXTEND THE TERM OF THE AGREEMENT FOR FY 2024 AND FY 2025, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.** The Professional Consulting Agreement between the Town of Addison and BKD, LLP for auditor services for FY 2021, FY 2022 and FY 2023 in an amount not to exceed \$287,500.00, 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 **10<sup>th</sup>** day of **AUGUST 2021**.

**TOWN OF ADDISON, TEXAS**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
City Attorney

# EXHIBIT A

## **PROFESSIONAL CONSULTING AGREEMENT**

This Professional Consulting Agreement (the “Agreement”) is made by and between the Town of Addison, Texas, a Texas home rule municipality (“Addison”) and BKD, LLP, a limited liability partnership, (“Consultant” or “BKD” and together with Addison, the “Parties”), with an effective date of \_\_\_\_\_, 2021. This Agreement consists of the following documents which are attached hereto and incorporated herein:

- **Exhibit A** – Consultant’s Technical Proposal, dated May 25, 2021
- **Exhibit B** – Consultant’s Cost Proposal for FY 2021, FY 2022, and FY 2023
- **Exhibit C** – Addison’s Request for Proposal Terms and Conditions
- **Exhibit D** – Consultant’s Engagement Letter, dated July 7, 2021

In consideration of the mutual undertakings set forth below, the Parties agree as follows:

1. **Scope of Services.** This Agreement incorporates Consultant’s Technical Proposal, dated May 25, 2021, as set forth in **Exhibit A**, attached hereto and incorporated herein (the “Services”), in which Consultant shall perform Addison’s annual audit for FY 2021, FY 2022, and FY 2023, as described in **Exhibit A**.
2. **Compensation.** Addison will pay Consultant a total all-inclusive maximum amount of \$287,500.00, which includes \$93,000.00 for FY 2021, \$95,750.00 for FY 2022, and \$98,750.00 for FY 2023, as set forth in **Exhibit B**, attached hereto and incorporated herein (the “Costs”), which includes an administrative fee to cover items such as copies, postage and other delivery charges, supplies, technology-related costs such as computer processing, software licensing, research and library databases and similar expense items. Additional services, as outlined in **Exhibit A**, will not be performed by Consultant without written authorization from Addison for such additional services.
3. **Term and Renewal.** The initial term of this Agreement shall be for three (3) annual audits, including FY 2021, FY 2022, and FY 2023. Addison, at its sole option, may extend the term to include up to two (2) additional annual audits for FY 2024 and FY 2025 on the terms contained herein.
4. **Terms and Conditions of Agreement.** The Terms and Conditions as set forth in **Exhibit C** and the Engagement Letter as set forth in **Exhibit D** shall govern the relationship between Addison and Consultant. In the event of a conflict between the provisions of **Exhibit A**, **Exhibit C**, and **Exhibit D**, the Terms and Conditions set forth in **Exhibit C** shall prevail, except the listed exceptions on page thirty-seven (37) of **Exhibit A**.

Nothing in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Addison and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Addison and its report users and not for the benefit of any other party.

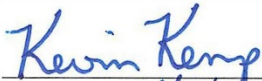
This Agreement constitutes the entire agreement between Addison and Consultant and supersedes all prior written or oral understandings.

Executed with an effective date as set forth above.

**TOWN OF ADDISON, TEXAS**  
a Texas home rule municipality

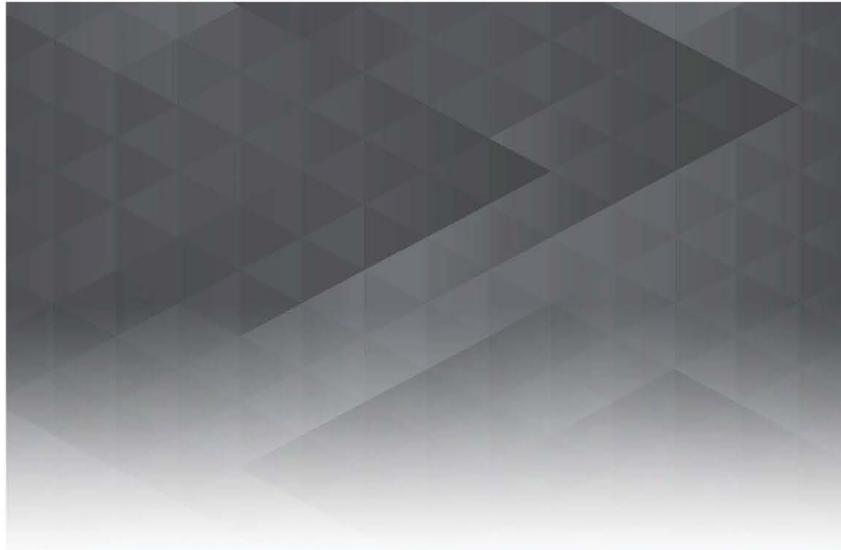
**BKD, LLP**  
a limited liability partnership

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

  
Name Printed: Kevin Kemp  
Title: Partner



**EXHIBIT A**  
**BKD'S TECHNICAL PROPOSAL**



## **A Strong Working Relationship**

**Advisors who Understand Your Operations &  
Offer Insightful Public Sector Expertise**

**Town of Addison, Texas**

Submitted by **BKD, LLP**  
14241 Dallas Parkway | Suite 1100 | Dallas, TX 75254  
Request for Qualifications Number 21-104

**Technical Proposal – Original**





14241 Dallas Parkway, Suite 1100 | Dallas, TX 75254-2961  
972.702.8262 | Fax 972.702.0673 | bkd.com

May 25, 2021

**Mr. Wil Newcomer**  
Purchasing Manager  
Town of Addison, Texas  
5350 Belt Line Road  
Dallas, TX 75254

**Ms. Michele Henson**  
Accounting Specialist

Re: Professional Auditing Services

Dear Mr. Newcomer & Ms. Henson:

As an inviting destination for individuals in Texas and beyond, the Town of Addison, Texas (the Town) understands the importance of maintaining a financially sound organization as you work to keep Addison an attractive place to live and work. Meeting a variety of fiduciary responsibilities is key to your efforts, such as successful adoption of relevant GASB standards and meeting Single Audit requirements as a result of COVID-19 funding. It's also critical to have a solid grasp on the current developments in the public sector, such as escalating cybersecurity concerns, as well as how this environment affects your reporting and compliance expectations. As a trusted firm, BKD CPAs & Advisors is still here to help the Town remain confident in your operations. We stand ready to continue sharing our public sector expertise to help alleviate the pains associated with the Town's industry challenges, from both a state and federal perspective. Retaining BKD also allows our professionals to leverage the institutional knowledge we have acquired throughout our working relationship, which brings efficiency to the service process.

Providing personal attention and frequent communication to our clients is what drives us—and delivering value beyond the basic service approach is among our top priorities. In addition to the benefits described throughout our proposal, BKD offers the following:

- ▶ Professionals who have knowledge of your specific needs, structure and operational activities
- ▶ Significant experience serving public sector entities in Texas and across the country, including airports
- ▶ Strong familiarity with the Annual Comprehensive Financial Report
- ▶ Efficient and cost-effective services without a challenging transition

The Town is an important client, and we place great value on extending our working relationship while maintaining our independence. We believe we have responded to your request with a proposal that will allow our experienced professionals to continue providing efficient and objective services. Kevin Kemp will be the Town's designated contact authorized to answer technical, price and/or contract questions. As a partner of the firm, he is authorized to bind BKD. We will call you soon to answer questions you may have about this proposal, or you may reach us at 972.702.8262, by email provided below or at the address on the above letterhead.

Sincerely,

Kevin Kemp, CPA  
Partner  
kkemp@bkd.com

Rachel R. Ormsby, CPA  
Director  
rormsby@bkd.com

iii



## 5.3 Executive Summary – Section 2

For the convenience of the Town of Addison, Texas (the Town), BKD CPAs & Advisors has structured our proposal according to the requirements in your RFQ. We believe our proposal will demonstrate our qualifications to continue serving the Town.

INFORMATION CONTAINED IN BKD'S RFQ RESPONSE, WHICH IT ASSERTS AS CONFIDENTIAL, IS EITHER BUSINESS AND/OR PROPRIETARY TRADE SECRET INFORMATION NOT SUBJECT TO DISCLOSURE AS SET FORTH IN THE TEXAS PUBLIC INFORMATION ACT. SUCH CONFIDENTIAL INFORMATION HAS INDEPENDENT ECONOMIC VALUE TO BKD, IS NOT REASONABLY ASCERTAINABLE BY THIRD PARTIES AND IS THE SUBJECT OF REASONABLE EFFORTS BY BKD TO MAINTAIN ITS SECRECY AND/OR CONFIDENTIALITY. SUCH INFORMATION IN THIS PROPOSAL SHALL BE DESIGNATED WITH AN ASTERISK (\*).

Prefacing the submittal, an executive summary of six pages or less should be provided which gives in brief, concise terms a summation of the respondent's understanding of the work to be performed; the commitment to perform the work within the time period; a statement why the firm believes itself to be best qualified to perform the engagement; and a statement that the submittal is a firm and irrevocable offer for 120 days subsequent to the RFQ closing date.

At first glance, transitioning CPA and advisory firms may appear to be a simple purchase of new services. However, the resources required of the Town to educate new advisors on your operations, internal processes and people can require a significant investment. Beyond added time and costs, which can often include initial startup fees and numerous first-year meetings, the risk of material misstatements within your financials can escalate as an unfamiliar team works to understand your overall financial and organizational structure. Of course, demonstrating sound financials that reflect integrity is a top-of-mind consideration, and with upcoming implementation of GASB's fiduciary activities and lease standards, combined with expanded accounting complexities related to the *American Rescue Plan Act of 2021*, working with a skilled team that has knowledge of your operations can be advantageous.

Retaining trusted advisors who understand these matters can continue to provide engagement efficiencies, cost savings and, according to the American Institute of CPAs (AICPA), improved audit quality as the ongoing application of the Town's policies and procedures is observed. Based on the strong working relationship we have forged with the Town in recent years, you can have confidence our commitment to you remains unchanged—to continue serving your organization with integrity while offering the high levels of quality and value you have come to expect from BKD.

Here's what you can expect from continuing to work with us:

- ▶ Streamlined audit services and dedication to sharing best practices throughout the year
- ▶ Well-rounded public sector expertise nationwide, as well as a significant footprint in Texas
- ▶ Extensive knowledge of Single Audit requirements as well as airport-specific reporting
- ▶ A solid understanding of how COVID-19 funding streams can affect your financials
- ▶ Access to a firmwide network of resources available to help address important matters, such as cybersecurity and GASB standards
- ▶ Prompt assistance and communication from local advisors who are approximately five minutes away
- ▶ Complimentary continuing professional education (CPE) opportunities and industry-focused events to help keep your staff apprised of recommendations for concerns that may arise

There's a difference between an accountant and a trusted advisor. As accountants, we're ready to complete your requested services per the deadlines outlined in your RFQ. That isn't enough, though—we still believe there's more we can offer the Town. As trusted advisors, we want to share pertinent industry and regulatory updates and assist with complex transactions throughout the year and recommend solutions for challenges yet to be seen. This proactive methodology is a hallmark of our **Unmatched Client Service®** standards and what the Town can and should continue to expect from us.

## Solutions for the Town

We understand this engagement includes a Financial Statement Audit in Accordance with *Government Auditing Standards*, Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the Uniform Guidance) and State of Texas Single Audit Circular, as well as assistance preparing the Comprehensive Annual Financial Report (Annual Report), for the years ending September 30, 2021 through 2023.

We are committed to performing the work within your desired time period. This proposal is a firm and irrevocable offer for 120 days subsequent to the RFQ closing date. Please see 5.6 Scope & Audit Approach – Section 5 beginning on page 18 for a detailed explanation of our audit service approach.

## Why Retain BKD

In addition to our commitment to Unmatched Client Service and other distinctions described throughout this proposal, we believe BKD is the right choice because our firm differs from others in the following ways:

### A Strong History of Performance

Building strong working relationships with our clients is a top priority, which we know takes time and resources. Fortunately, our team has already invested in developing a deep understanding of the Town's people and operations during the last five years, which we believe sets BKD apart from other firms that will likely need to spend more time getting to know you. We are committed to being the service provider you can continue to trust for quality deliverables and Unmatched Client Service.

Throughout our working relationship, we have been available to offer guidance and benefits in the following ways:

- ▶ Provided recommendations over the years to help with the Town and Airport's system of internal controls over financial reporting
- ▶ Provided recommendations to help strengthen the Town's accounting practices and procedures
- ▶ Helped identify whether new accounting and reporting standards were applicable to the Town, including more than 15 standards issued in the last five years
- ▶ Provided guidance and assistance on the implementation of accounting standards, including:
  - GASB Statement No. 72 (GASB 72), *Fair Value Measurement and Application*
  - GASB Statement No. 75 (GASB 75), *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*
  - GASB Statement No. 77 (GASB 77), *Tax Abatement Disclosures*
  - GASB Statement No. 88 (GASB 88), *Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements*
  - GASB Statement No. 89 (GASB 89), *Accounting for Interest Cost Incurred before the End of a Construction Period*



- ▶ Provided year-round, proactive accounting and operational advice to staff to help them better understand complex topics and make informed decisions, including:
  - Assistance with annual year-end entries related to GASB 68 (Pensions) and GASB 75 (OPEB)
  - Review of journal entries and provide guidance related to complex transactions throughout the year, including issuance and refunding of debt
  - Review of grant agreements and provided guidance with respect to Single Audit requirements in accordance with Uniform Guidance, including working with TXDOT to verify the Town was not required to include those grants on the Schedule of Expenditures of Federal Awards
  - Assist and provide guidance on comments received from GFOA as part of the Certificate of Achievement for Excellence in Financial Reporting Program (COA Program)
- ▶ Consistently completed our services in a timely and efficient manner

#### Looking Ahead

We will not simply rest on past performance, however. We plan to address the following areas of opportunity for the Town as we continue to help you plan for the future:

- ▶ Continue to offer ideas and suggestions for enhancing the Town's internal control structure
- ▶ Provide guidance on the complex implementation of GASB Statement No. 87 (GASB 87), *Leases*
- ▶ Provide guidance on the implementation of additional GASB standards, including:
  - GASB Statement No. 84 (GASB 84), *Fiduciary Activities*
- ▶ Provide insightful consultation with regard to the Town's IT system, including best practices gained from working with other municipalities on segregation of duties and workflows within the IT system
- ▶ Continue to listen to the Town's needs while providing a broad base of skills, knowledge, solid advice and effective solutions
- ▶ Provide periodic training for Town's staff on upcoming GASB statements and the Uniform Guidance

#### Delivering Value

Monitoring expenditures and receiving exceptional value for your investments is important, but informed consumers understand value is about more than just price. Value from a professional CPA and advisory firm is about the quality of the work and the merit of the advice. Expect BKD's work to be accurate and insightful. We stand behind it. Our Public Company Accounting Oversight Board (PCAOB) inspections and AICPA peer reviews demonstrate the firm's record of excellence.



As evidenced by our inclusion in the **INSIDE Public Accounting** Best of the Best Firms list for the last 10 years, we also offer long-term consistency, exceptional performance and a national network of support and resources. BKD is large enough to help the Town address a variety of financial issues. At the same time, we pride ourselves on hard work and low overhead, which keep our fees competitive. With our reputation, size, service and experience, you can still consider us a good value.





## Commitment to Serving the Public Sector

As part of our commitment to remaining at the forefront of the public sector, leaders across our national governmental practice created the BKD Public Sector Center of Excellence. This group of professionals meets regularly to discuss important developments, legislative updates and challenges affecting governmental entities similar to the Town.

In addition, our public sector involvement has enabled us to establish connections with numerous regulatory and auditing organizations, including:

- ▶ AICPA Governmental Audit Quality Center, as a member
- ▶ Government Finance Officers Association (GFOA)
- ▶ Government Finance Officers Association of Texas (GFOAT)
- ▶ Governmental Accounting Standards Board (GASB)
- ▶ Office of Management and Budget (OMB)
- ▶ U.S. Government Accountability Office



We look forward to communicating best practices and forward-looking strategies to help the Town thoughtfully consider the areas important to fulfilling your fiduciary responsibilities.

## Texas Governmental Accounting Experience

Our significant Texas footprint means the Town can be confident in our understanding of the financial matters specifically facing governmental entities across the state. BKD's Texas offices provide services to approximately 240 governmental entities, including approximately 25 municipalities and their component units.

## Significant Single Audit Experience

According to data compiled by OMB via the Federal Audit Clearinghouse, BKD is the fourth-largest provider of Single Audits among CPA firms, performing approximately 450 annually. With approximately one-third of our not-for-profit and public sector clients receiving federal funding, we are familiar with the requirements for allowability of both direct and indirect costs, as well as the ability for the recipient to charge an administrative cost allowance under many federal programs.

To help streamline the Single Audit process, we use audit programs and checklists designed specifically for the federal programs we audit. Our firm maintains a database of audit programs tailored to the grants and other federal programs commonly found in governmental entities. Our extensive experience providing compliance testing in accordance with OMB requirements can help us properly perform and submit the Town's Single Audit on time.

## Experience Working with Airports

We provide assurance, accounting and other advisory services to approximately 25 airports across the country. Comprising more than 50 knowledgeable professionals, BKD's airport team works with clients ranging in size from small regional airports to large international hubs. Through this experience, we have developed a strong understanding of the Passenger Facility Charge (PFC) Program and the Airport Improvement Program (AIP) and tailor our audit programs specifically to the compliance requirements of these programs. According to data compiled by OMB via the Federal Audit Clearinghouse, for the past several years, BKD has ranked among the top two CPA and advisory firms auditing AIP funds. In 2019, we audited approximately \$150 million of AIP funds spent by approximately 20 airport clients.

Beyond delivering a wealth of commercial airport and public sector expertise, our audit approach relies upon frequent, high-level involvement of key professionals in the delivery of our services which helps mitigate potential surprises. We can help the Town plan for the future, comply with regulations and expend resources wisely.

### Thought Leadership

BKD advisors are serious about reinforcing their positions as thought leaders in the industries they serve. To help keep you informed about emerging issues in your industry, as well as changes in regulations and accounting and tax methods, we provide **BKD Thoughtware®** webinars, seminars, tailored training sessions, podcasts and articles. Many of these are eligible for CPE credit. Recent topics include:

- ▶ Examining the American Rescue Plan Act: Impacts to the Public Sector
- ▶ Single Audit Requirements: Breaking Down the 2020 Compliance Supplement Addendum
- ▶ Implementation Guides – Why They Should Be Your Best Friends

We encourage you to view these and a wide array of other resources available on **bkd.com**.

### Educational Resources for Texas Governments

Our commitment to our Texas public sector clients extends beyond the provision of accounting services—we provide educational programs across the state on an annual basis. These include hosting roundtable discussions, and other sessions for GFOAT. We also have several professionals who serve on the Special Review Committee for GFOA, including members of your proposed engagement team.

BKD's Dallas office takes further steps to keep clients abreast of industry changes and best practices through an Annual Governmental Finance Seminar, which takes place during the summer months each year. Recent years' topics have included GASB updates, the importance of sound internal controls, combating fraud in the public sector and cybersecurity challenges.

### Unmatched Client Service

The Town wants to continue to have trusted advisors who will deliver exceptional client service, focus on your needs and take the time to address your unique challenges. BKD understands. You already know the level of unmatched high-quality service and personal attention you have received. That level of commitment will not change if you remain with BKD. We do not take our past working relationship for granted and will continue to enhance our service delivery and bring value to the Town.

You can count on BKD's commitment to our five standards of **Unmatched Client Service®**:



Integrity First



True Expertise



Professional Demeanor



Responsive Reliability



Principled Innovation



We take our commitment so seriously, we penned five standards of Unmatched Client Service and supporting guidelines in **The BKD Experience: Unmatched Client Service**, a book that articulates the firm's philosophy and sets expectations for serving clients. Our five standards are:

#### Integrity First

We work hard to do what is right for you. You can rely on us to tell you what you need to hear.

#### True Expertise

From BKD, you can expect trained, capable staff and a high level of supervision by partners and experienced personnel.

#### Professional Demeanor

You can depend on prepared and attentive advisors to help meet your needs and provide new ideas.

#### Responsive Reliability

Accurate and thorough work combined with timely delivery is what you require. At BKD, we do not want it any other way.

#### Principled Innovation

We want you to succeed. For the Town, that means looking for new ideas to streamline a process, better document work, train your staff and improve your effectiveness.

**The respondent should also provide an affirmative statement that it is independent of the Town as defined by generally accepted auditing standards and the U.S. General Accounting Office's Government Auditing Standards.**

**The respondent should provide an affirmative statement that it is independent of all the component units of the Town as defined by those same standards.**

BKD is independent with respect to the Town and all the component units of the Town as defined by the Code of Professional Conduct of the AICPA and the U.S. Government Accountability Office's *Government Auditing Standards*. We are not aware of any relationship that would impair our independence.


**The respondent should also list and describe the firm's (or proposed subcontractors') professional relationship involving the Town or any of its component units for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit.**

Within the last five years, BKD has completed financial statement audits, Single Audits when applicable and internal control consulting for Addison Airport. However, no relationship exists that would constitute a conflict of interest relative to performing your proposed audit.

**In addition, the firm shall give the Town written notice of any professional relationships entered into during the period of this agreement.**

BKD will give the Town written notice of any professional relationships entered into during the period of this agreement.

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Our acceptance of this engagement is subject to completion of our normal client acceptance procedures. Upon acceptance, the actual terms of our engagement will be documented in a separate letter to be signed by you and us. The information provided in this proposal is intended for informational purposes only and may not be copied, used or modified, in whole or in part, without BKD's prior written approval. All information in this proposal is as of May 31, 2020, unless otherwise noted.

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## 5.5 Firm Background, Principal Officers & Prior Experience – Section 4

**Firm Qualifications and Experience.** This section should state:

**a. the size of the firm**

BKD is one of the largest CPA and advisory firms in the United States. We have 40 offices located in 18 states. Our approximately 2,850 CPAs, advisors and dedicated staff serve clients in all 50 states and clients with operations in more than 40 countries.

**b. the size of the firm's governmental audit staff**

BKD has approximately 130 professionals who spend more than 50 percent of their billable hours providing audit services to governmental entities.

**c. the location of the office from which the work on this engagement is to be performed**

The Town's requested services will be provided primarily by our Dallas office.

BKD CPAs & Advisors  
14241 Dallas Parkway | Suite 1100  
Dallas, TX 75254

**d. the number and nature of the professional staff to be employed in this engagement on a full-time basis**

**e. the number and nature of the staff to be employed on a part-time basis**

We anticipate providing one partner, one director, one manager, one senior associate, and one associate on a full-time basis and one managing director (concurring reviewer) on a part-time basis to complete the Town's audit.

**f. that the firm is licensed to practice in Texas**

BKD is properly licensed to practice public accounting in the state of Texas.

**If the firm is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified. In addition, joint ventures or consortiums must identify a firm to serve as the principal auditor, and the principal auditor must accept responsibility for resolving all operational and contractual issues with the Town.**

BKD is not a joint venture or consortium.

**The respondent is also required to submit a copy of the report on its most recent external quality control review, with a statement whether that quality control review included a review of specific government engagements.**

BKD is committed to providing quality audit services to our clients. We submit our work to external reviewers who challenge our approach and findings. We are proud of the findings from these reviews, which indicate our process works. Our report contained a rating of "Pass," which is the best peer review rating available under the current peer review standards. A copy of our most recent AICPA peer review report is included in the Appendix.

### PROFESSIONALISM

"BKD has been a great resource for the City of Lincoln in accomplishing our financial reporting goals. They have provided us with prompt and sound technical and accounting guidance throughout our affiliation. The BKD audit teams have always been professional, friendly and accessible."

**Peggy Tharnish**  
City Controller  
City of Lincoln, Nebraska



In addition, our peer review included inspection of engagements performed under *Government Auditing Standards*.

The respondent shall also provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three years. In addition, the respondent shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three years with state regulatory bodies or professional organizations.

From time to time, selected BKD audit engagements are subject to desk review by federal or other regulators. All such reviews during the past three years have shown our work to be generally satisfactory, and no disciplinary or other administrative proceedings have resulted from those reviews. As is the case with all major accounting firms, BKD is asked to cooperate with informal inquiries and formal investigations by the SEC, PCAOB and other governmental agencies from time to time. SEC and other regulatory investigations are not public, and we frequently are not privy to their thoughts or focus with respect to these items. Disclosure of confidential details of such investigations would violate both professional ethics and state law regarding confidentiality of client information. BKD has not been sanctioned by any regulatory agency as a result of any such investigation during the past three years.

### Partner, Supervisory & Staff Qualifications & Experience

The respondent should identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists who will be assigned to the engagement and indicate whether each such person is licensed to practice as a certified public accountant in Texas. The respondent also should provide information on the governmental auditing experience of each person, including information on relevant continuing professional education for the past three years, membership in professional organizations relevant to the performance of this audit, participation in governmental accounting standards processes, and describe any special skills that your team would bring to the Town of Addison.

The respondent should provide as much information as possible regarding the number, qualifications, and experience and training (including relevant continuing professional education) of the staff to be assigned specifically to this engagement. The respondent also should indicate how the quality of staff over the term of the agreement will be assured.

The most critical factor in providing high-quality service is choosing your engagement team. We take team selection seriously and have the appropriate team of advisors to meet your needs over the term of the engagement. As previously stated, BKD is properly licensed to practice public accounting in the state of Texas. All key professionals who would be assigned to your engagement are properly licensed to practice in the state of Texas.

### Engagement Team Organizational Chart





## Engagement Team Experience



Kevin Kemp, CPA  
Partner

### Professional Experience

- ▶ Regional industry leader for BKD National Public Sector Group
- ▶ More than 25 years of experience providing audit and management consulting services to a client base that includes municipalities and their component units, counties, utilities, state agencies and numerous service-related entities receiving government assistance
- ▶ Helps clients obtain tax-exempt financing, analyze expansion opportunities and improve internal controls
- ▶ Has served as primary contact for numerous clients, provided review services for Single Audit engagements and maintained contacts with regulatory agencies
- ▶ Has recruitment and training responsibilities

### Representative List of Clients Served\*

- ▶ City of Carrollton, TX
- ▶ City of Mesquite, TX
- ▶ City of Midland, TX
- ▶ City of Roanoke, TX
- ▶ Town of Addison, TX
- ▶ City of Phoenix, AZ

### Professional & Community Involvement

- ▶ Member, American Institute of CPAs
- ▶ Member, Texas Society of CPAs
- ▶ Associate Member, Government Finance Officers Association
- ▶ Associate Member, Government Finance Officers Association of Texas
- ▶ Member, Government Finance Officers Association Special Review Committee
- ▶ Board Member, Junior Achievement of Dallas
- ▶ Regional Industry Leader – Not-for-Profit, Government and Higher Education

### Education & Certifications

- ▶ Licensed CPA, Arkansas and Texas
- ▶ B.B.A. degree in accounting, University of Central Arkansas, Conway
- ▶ As of May 2021, he has completed 92.5 hours of CPE in the last three years



Danny A. Martinez, CPA, CGFM  
Managing Director

**Professional Experience**

- ▶ Member of BKD National Public Sector Group
- ▶ 13+ years of experience providing audit, advisory and training services to a client base that includes municipalities and their component units, counties, utilities, school districts, state agencies, tribal governments and other entities that receive federal assistance
- ▶ Oversees audit engagements for governmental entities, including many that require a Single Audit in accordance with the Uniform Guidance

**Representative List of Clients Served\***

- ▶ City of Abilene, TX
- ▶ City of Farmers Branch, TX
- ▶ City of Kerrville, TX
- ▶ Town of Highland Park, TX

**Professional & Community Involvement**

- ▶ Member, American Institute of CPAs (AICPA)
- ▶ Member, Texas Society of CPAs
- ▶ Member, New Mexico Society of CPAs
- ▶ Membership Director, Dallas Chapter of the Association of Governmental Accountants
- ▶ Zone 3 (GASB) chair for the AICPA Technical Issues Committee

**Presentations & Publications**

- ▶ *Shedding Light on Your Single Audit: 2020 Compliance Supplement & Updates*, BKD Thoughtware, January 2021
- ▶ *Coronavirus Relief Fund Prime Recipient Desk Review Procedures Released*, BKD Thoughtware, November 2020

**Education & Certificates**

- ▶ Licensed CPA, Texas, New Mexico
- ▶ AICPA Advanced Single Audit Certificate
- ▶ B.S. degree in accounting, University of Southern California, Los Angeles
- ▶ As of May 2021, he has completed 139.5 hours of CPE in the last three years



Rachel R. Ormsby, CPA  
Director

#### Professional Experience

- ▶ Member of BKD National Public Sector Group
- ▶ 10+ years of experience providing accounting and audit services to governmental and not-for-profit organizations, including extensive experience in Single Audits
- ▶ Helps oversee the client engagement process, including supervision and training of the audit team, review of workpapers and communication with the client and audit partner

#### Representative List of Clients Served\*

- ▶ City of Mesquite, TX
- ▶ City of Hurst, TX
- ▶ City of Roanoke, TX
- ▶ City of Balch Springs, TX
- ▶ Town of Addison, TX
- ▶ City of Phoenix, AZ
- ▶ City of North Little Rock, AR

#### Professional & Community Involvement

- ▶ Member, American Institute of CPAs
- ▶ Member, Texas Society of CPAs
- ▶ Associate Member, Government Finance Officers Association
- ▶ Associate Member, Government Finance Officers Association of Texas
- ▶ Member, Government Finance Officers Association Special Review Committee
- ▶ Member, Government Finance Officers Association of Texas Scholarship and Fellowship Committee

#### Presentations & Publications

- ▶ *GASB Update and GASB 87, Leases Implementation Workshop*, Arkansas Government Finance Officers Association 2019 Conference, July 2019
- ▶ *Current Issues in Cybersecurity* - Annual Public Sector Seminar, June 2019
- ▶ *Internal Control for Small Cities* – GFOAT Spring Institute, April 2019

#### Awards & Accomplishments

- ▶ 2018 Rising Star Recipient – Texas Society of CPAs

#### Education & Certifications

- ▶ Licensed CPA, Texas
- ▶ B.B.A. degree in accounting, Stephen F. Austin State University, Nacogdoches, Texas
- ▶ M.P.A. degree, Stephen F. Austin State University, Nacogdoches, Texas
- ▶ As of May 2021, she has completed 96.5 hours of CPE in the last three years



Josh J. Findlay, CPA  
Manager

**Professional Experience**

- ▶ Member of BKD National Public Sector Group
- ▶ 5+ years of experience providing audit and consulting services to governmental and not-for-profit organizations, including Single Audits
- ▶ Assists clients with preparing financial statements and reports to meet financial reporting and other regulatory disclosure requirements
- ▶ Advises clients on future accounting pronouncements and assists with new standard implementation
- ▶ Performs a variety of governmental and not-for-profit audit engagements, including for municipalities and their component units, private colleges and other service-related entities that receive federal and state assistance

**Representative List of Clients Served\***

- ▶ City of Abilene, TX
- ▶ City of Mansfield, TX
- ▶ Town of Highland Park, TX
- ▶ City of Phoenix, AZ
- ▶ City of North Little Rock, AR
- ▶ San Diego Airport Authority

**Professional & Community Involvement**

- ▶ Member, American Institute of CPAs
- ▶ Member, Texas Society of CPAs
- ▶ Associate Member, Government Finance Officers Association of Texas

**Education & Certifications**

- ▶ Licensed CPA, Texas
- ▶ B.S. degree in accounting and finance, University of Arkansas, Fayetteville
- ▶ As of May 2021, he has completed 108 hours of CPE in the last three years





Katie R. Crenshaw, CPA

Senior Associate



#### Professional Experience

- ▶ Member of BKD National Public Sector Group
- ▶ Experience providing audit and consulting services including Single Audits, to public sector and not-for-profit organizations
- ▶ Assists clients in preparing audit workpapers and financial statements to help them meet financial reporting and other regulatory disclosure requirements

#### Representative List of Clients Served\*

- ▶ City of Celina, TX
- ▶ City of Lancaster, TX
- ▶ Town of Addison, TX
- ▶ City of Phoenix, AZ
- ▶ City of North Little Rock, AR

#### Professional & Community Involvement

- ▶ Member, American Institute of CPAs
- ▶ Member, Texas Society of CPAs

#### Education & Certifications

- ▶ B.S. degree in accounting and business administration, University of Central Arkansas, Conway
- ▶ As of May 2021, she has completed 167 hours of CPE in the last three years

Additional Resource



David M. Coleman, CPA  
Partner

Professional Experience

- ▶ Member of BKD National Public Sector Group
- ▶ 17+ years of experience providing audit and consulting services to a variety of public sector and not-for-profit organizations, including municipalities and their component units, utilities and other service-related entities that receive federal and state assistance
- ▶ Engagement oversight and review responsibilities for numerous governmental and not-for-profit organizations subject to Single Audit requirements

Representative List of Clients Served\*

- ▶ City of Balch Springs, TX
- ▶ Town of Highland Park, TX
- ▶ City of Celina, TX
- ▶ City of Hurst, TX
- ▶ City of Little Rock, AR
- ▶ San Diego Airport Authority

Professional & Community Involvement

- ▶ Member, American Institute of CPAs
- ▶ Member, Texas Society of CPAs
- ▶ Associate Member, Government Finance Officers Association of Texas
- ▶ Office Industry Leader – Not-for-Profit, Government and Higher Education

Presentations & Publications

- ▶ *What Could Go Wrong? Understanding Internal Controls* – Annual Public Sector Seminar, June 2019
- ▶ *CAFR Preparation and Best Practices* – Annual Public Sector Seminar, June 2018
- ▶ *GASB 68 – Year 3 and How to Implement GASB 77 – Tax Abatements*, Annual Public Sector Seminar, September 2017

Education & Certifications

- ▶ Licensed CPA, Arkansas and Texas
- ▶ B.B.A. degree in accounting, Henderson State University, Arkadelphia, Arkansas



## Continuing Professional Education

Our audit professionals are required to receive at least 120 hours of CPE every three years. For auditors involved with audits performed under *Government Auditing Standards*, this education includes the hours required to comply with *Government Auditing Standards Yellow Book* guidance. All individuals, including specialists involved in performing fieldwork on *Government Auditing Standards* audits, are required to obtain at least 24 hours of CPE every two years in subjects directly related to government auditing or the government environment. In addition, engagement team members responsible for planning, directing or reporting on *Government Auditing Standards* audits who spend more than 20 percent of their time performing *Government Auditing Standards* audits also are required to complete a minimum of 80 hours of CPE every two years that directly enhances their professional proficiency to perform audits.

BKD offers an internal industry update seminar for managers through partners, as well as a seminar for our in-charge level employees. These seminars include auditing and accounting issues that are specific to public sector clients, including *Government Auditing Standards*, Single Audits and accounting standards for government financial reporting. BKD professionals also receive additional training from external sources.

## Recognized Learning & Development

For the eighth consecutive year, BKD has been ranked among **Training** magazine's Training Top 100. We also have received **Chief Learning Officer** magazine's LearningElite award since 2016, including either Gold- or Silver-level recognition since 2018. These programs rank an organization's excellence in employer-sponsored training and recognize outstanding outcomes in learning and development.



## Staff Continuity

Your BKD engagement team has been consistently staffed with trusted advisors. The Town can have peace of mind knowing what to expect from this team. This helps reduce the learning curve and saves you the time and frustration of having inexperienced professionals who are unfamiliar with your concerns and disrupt your normal business activities.

This continuity, however, does not result in familiarity that compromises our objectivity. Our responsibility is to provide the Town with an appropriate balance of constructive feedback and value-added solutions. With our hands-on experience, you can continue to expect targeted advice from a team that knows your organization and your industry.

Engagement partners, managers, other supervisory staff, and specialists assigned to the Town's account in a proposal may be removed from the Town's account if those persons leave the firm, are promoted, or are assigned to another office. These persons may also be changed for other reasons but only with the express prior written permission of the Town of Addison. However, in either case, the Town retains the right to approve or reject replacements.

**Other audit personnel may be changed at the discretion of the firm, providing that replacements have substantially the same or better qualifications or experience.**

In the event we are required to make a change to any key personnel assigned to your engagement, we will discuss this with you to explain the circumstances and proposed change. Your lead engagement partner, Kevin Kemp, will be coordinating personnel changes. We generally do not remove key personnel from an audit once it has begun, but occasionally employee turnover or other events beyond our control require such a change. If a personnel change is required, we are confident we can provide a qualified replacement to complete your audit with limited interruption.

We understand engagement team members, consultants and firm specialists mentioned in our response to this RFQ can only be changed with the prior express written permission of the Town, which retains the right to approve or reject replacements.

## COMMITMENT

"BKD has been the best accounting firm I have used—helpful, reliable and responsive. They are terrific at facilitating a schedule that allows our audit to be completed within the established timelines and commitments."

"By working with BKD, we have a relationship with an accounting firm that is knowledgeable of government accounting standards and has resources to address challenging issues."

**Cherie Sanchez**  
Accounting Manager  
City of Westminster, Colorado



## Similar Engagements with Other Government Entities

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum of 5) performed in the last three years that are similar to the engagement described in this solicitation. These engagements should be ranked on the basis of relativity to the current proposal. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

Our clients are our best ambassadors, and we encourage you to contact them about their satisfaction with our services. The following clients have consented to discussing BKD's services and service delivery with you at your convenience.

### City of Carrollton, Texas\*

Scope of Work: Financial Statement Audit & Single Audit  
Date: 2020 to Present  
Engagement Partner: Kevin Kemp  
Total Hours: 800  
Contact Name: Ms. Diana Vaughn, Finance Director/Controller  
Contact Number: 972.466.3113

### City of Mesquite, Texas\*

Scope of Work: Financial Statement Audit, Single Audit & Agreed-Upon Procedures  
Date: 2015 to Present  
Engagement Partner and Director: Kevin Kemp & Rachel Ormsby  
Total Hours: 700  
Contact Name: Ms. Cindy Smith, Director of Finance  
Contact Number: 972.216.6287

### City of Hurst, Texas\*

Scope of Work: Financial Statement Audit, Single Audit & Assistance with Preparation of Annual Financial Report  
Date: 2018 to Present  
Engagement Partner and Director: David Coleman & Rachel Ormsby  
Total Hours: 500  
Contact Name: Mr. Clayton Fulton, Assistant City Manager  
Contact Number: 817.788.7028

### City of Balch Springs, Texas\*

Scope of Work: Financial Statement Audit, Single Audit & Assistance with Preparation of Annual Financial Report  
Date: 2015 to Present  
Engagement Partner and Director: David Coleman and Rachel Ormsby  
Total Hours: 500  
Contact Name: Ms. Susan Cluse, City Manager  
Contact Number: 972.286.4477

### City of Roanoke, Texas\*

Scope of Work: Financial Statement Audit & Assistance with Preparation of Annual Financial Report  
Date: 2014 to Present  
Engagement Partner and Director: Kevin Kemp and Rachel Ormsby  
Total Hours: 350  
Contact Name: Ms. Vicki Rodriguez, Director of Fiscal and Administrative Services  
Contact Number: 817.491.6075



## Representative List of Clients\*

In addition to the references above, BKD is proud to work with other municipalities, including:

City & County of Denver, CO <sup>^</sup>	City of Lawton, OK
City of Abilene, TX <sup>^</sup>	City of Liberty, MO <sup>^</sup>
City of Arlington, TX <sup>^</sup>	City of Lincoln, NE <sup>^</sup>
City of Arvada, CO <sup>^</sup>	City of Little Rock, AR <sup>^</sup>
City of Aurora, CO <sup>^</sup>	City of Mansfield, TX <sup>^</sup>
City of Balch Springs, TX	City of Mesquite, TX <sup>^</sup>
City of Bellevue, NE	City of Midland, TX <sup>^</sup>
City of Bentonville, AR <sup>^</sup>	City of Nebraska City, NE
City of Brookings, SD <sup>^</sup>	City of North Little Rock, AR <sup>^</sup>
City of Bryan, TX <sup>^</sup>	City of Pearland, TX <sup>^</sup>
City of Carrollton, TX <sup>^</sup>	City of Phoenix, AZ <sup>^</sup>
City of Celina, TX <sup>^</sup>	City of Ralston, NE
City of College Station, TX <sup>^</sup>	City of Roanoke, TX <sup>^</sup>
City of Colorado Springs, CO <sup>^</sup>	City of San Antonio, TX <sup>^</sup>
City of Conway, AR <sup>^</sup>	City of South Houston, TX
City of Decatur, TX	City of Springdale, AR
City of Ennis, TX <sup>^</sup>	City of Texarkana, AR <sup>^</sup>
City of Farmers Branch, TX <sup>^</sup>	City of Texarkana, TX <sup>^</sup>
City of Fort Smith, AR	City of University Park, TX <sup>^</sup>
City of Hurst, TX <sup>^</sup>	City of Westminster, CO <sup>^</sup>
City of Keene, TX	Consolidated City of Indianapolis – Marion County, IN <sup>^</sup>
City of Kennedale, TX <sup>^</sup>	Jackson County, MO <sup>^</sup>
City of Kerrville, TX <sup>^</sup>	Sedgwick County, KS
City of Krum, TX	Town of Addison, TX <sup>^</sup>
City of Lancaster, TX <sup>^</sup>	Town of Highland Park, TX <sup>^</sup>

<sup>^</sup>Denotes client who earned recognition under GFOA's Certificate of Achievement (COA) for Excellence in Financial Reporting Program





## Public Sector, Not-for-Profit & Higher Education Clients Served by BKD's Texas Offices

### Other Governmental Entities

Bryan Texas Utilities	Houston Public Media
City of Phoenix Employees' Retirement System	Port of Houston Authority
Central Harris County Regional Water	Port of Houston Authority Retirement Fund
Galveston County Health District	San Diego County Regional Airport Authority
Generation Park Management District	Texarkana Water Utilities
Houston-Galveston Area Council	

### Public Health Districts

Dallas County Hospital District DBA Parkland Health & Hospital System  
Harris County Hospital District DBA Harris Health System  
Matagorda County Hospital District  
Tarrant County Hospital District DBA JPS Health Network  
UMC Health System  
University Medical Center of El Paso

### Higher Education

Abilene Christian University  
Centenary College of Louisiana  
LeTourneau University  
OLLU (Our Lady of the Lake University)  
Parker University  
South Texas College of Law Houston  
St. Edward's University  
Texas Southern University  
Texas Tech University (NCAA Agreed-Upon Procedures)  
Texas Wesleyan University  
University of Dallas  
University North Texas System  
University of St. Thomas

## Municipal Utility, Emergency Services & Other Special Districts

Barker Cypress Municipal Utility District	Harris County Utility District Nos. 06, 14
Bay Colony West Municipal Utility District	Harris County Water Control and Improvement District Nos. 084, 109, 119, 157
Beechnut Municipal Utility District	Harris-Fort Bend Counties Municipal Utility District No. 5
Bissonnet Municipal Utility District	Harris-Waller Counties Municipal District No. 2
Brazoria County Conservation and Reclamation District No. 3	Hunter's Glen Municipal Utility District
Brazoria County Municipal Utility District Nos. 3, 6, 21, 22, 25, 29, 30, 31	Jackrabbit Road Public Utility District
Bridgeland Management District	Kings Manor Municipal Utility District
Camfield Municipal Utility District	Kirkmont Municipal Utility District
Central Harris County Regional Water Authority	Langham Creek Utility District
Cinco Municipal Utility District Nos. 1, 3, 5, 6, 10, 14	Montgomery County Municipal Utility District Nos. 083, 084, 088, 092, 095, 119, 148
Cinco Southwest Municipal Utility District Nos. 1, 2, 3, 4	Morton Road Municipal Utility District
CNP Utility District	North Belt Utility District
Cornerstones Municipal Utility District	North Channel Water Authority
Cypress Hill Municipal Utility District No. 1	NorthPointe Water Control and Improvement District
Cypress-Klein Utility District	Northwest Freeway Municipal Utility District
East Montgomery County Municipal Utility District Nos. 5, 6, 7	Northwest Harris County Municipal Utility District Nos. 09, 12, 15, 29, 32
Emerald Forest Utility District	Northwood Municipal Utility District
Fort Bend County Municipal Utility District Nos. 005, 026, 034, 035, 041, 042, 057, 058, 094, 111, 112, 118, 122, 123, 124, 130, 134A, 134B 134C, 142, 144, 151, 159	Nottingham Country Municipal Utility District
Galveston County Municipal Utility District Nos. 043, 044, 054, 056	Palmer Plantation Municipal Utility District Nos. 1, 2
Generation Park Management District	Plantation Municipal Utility District
Grand Lakes Municipal Utility District Nos. 1, 2, 4	Remington Municipal Utility District No. 1
Grand Lakes Water Control and Improvement District	Renn Road Municipal Utility District
Grand Oaks Municipal Utility District	Rolling Fork Public Utility District
Harris County Emergency Services District Nos. 2, 60	Sagemeadow Utility District
Harris County Municipal Utility District Nos. 008, 033, 036, 043, 070, 081, 096, 105, 118, 122, 130, 147, 155, 156, 158, 165, 170, 171, 173, 179, 182, 183, 185, 188, 189, 200, 202, 205, 216, 221, 222, 248, 275, 278, 284, 316, 321, 341, 342, 344, 345, 354, 355, 358, 359, 360, 361, 365, 370, 389, 390, 391, 396, 397, 400, 406, 410, 412, 418, 419, 434, 427, 438, 504, 529, 536	South Shore Harbour Municipal Utility District Nos. 6, 7
Harris County Industrial Development District Nos. 12, 15	Spencer Road Public Utility District
	Trail of the Lakes Municipal Utility District
	West Harris County Municipal Utility District Nos. 04, 07, 17
	West Keegans Bayou Improvement District
	West Park Municipal Utility District
	West Ranch Management District
	Westlake Municipal Utility District No. 1
	Weston Municipal Utility District
	Willow Fork Drainage District
	Wood Trace Municipal Utility District No. 1



## Prior Engagements with the Town of Addison

The respondent should list separately all engagements within the last five years, ranked on the basis of total staff hours, for the Town by type of engagement (such as, audit, management advisory services, other). For each engagement, the firm should indicate the scope of work, date, engagement partners, total hours, the location of the firm's office from which the engagement was performed, and the name and telephone number of the firm's contact at the Town of Addison.

In the last five years, BKD has been engaged to provide the following services:

### Audit Services

Scope of Work: Financial Statement Audit & Single Audit  
Date: 2016–Present (Audit); 2020–Present (Single Audit)  
Engagement Partner(s): Kevin Kemp  
Total Hours: 500  
BKD Office Location: Dallas  
Town of Addison Contact: Amanda Turner, Controller  
Phone: 972.450.7064

### Advisory Services

Scope of Work: Analysis of Internal Controls Related to Financial & Accounting Operations for Addison Airport  
Date: For the years ending September 30, 2016 and 2017  
Engagement Partner(s): Neely Duncan  
Total Hours: 70  
BKD Office Location: Dallas  
Town of Addison Contact: Joel Jenkinson, Airport Director  
Phone: 972.392.4855

## Other

**Additional information should be included to describe the office's capabilities to audit computerized systems.**

Financial statement audits are not the same as a security or system assessment. Our focus is to identify potential material misstatements that may occur in the financial statements. However, gaining a detailed understanding of client systems and controls is an evolving and expanding element in our audit process, and our capabilities for auditing in an automated environment are substantial. We deploy a mixture of electronic audit tools and data management techniques during this process. As we gain an understanding of your environment and your IT controls, we will share any significant feedback and suggestions based on our observations.

The extent of our work will depend on our assessment of the reliance that should or could be placed on the controls in your system environment that address IT risks relevant to controls over financial reporting. Our approach may include assessing IT general controls (ITGC), such as logical security, change management, computer operations and complementary user entity controls identified by service providers in their System and Organization Controls (SOC) reports.

When controls are not present or effective, or when substantive procedures provide appropriate evidence, we may limit our work around understanding the design of your IT controls.

## SUPPORT

"We are a long term client of BKD and during these many years, we have gone through downsizing as well as upsizing. BKD has been with our organization through both experiences. We have always found their team of professionals to be dependable and ready to assist us with any matter that required a higher level of expertise. We would wholeheartedly recommend them to any organization needing their services."

### Shay Lipe

Director of Finance  
Central Mississippi Planning &  
Development District, Inc.  
Jackson, Mississippi

In more complex environments where reliance on systems improves audit effectiveness and efficiency, our procedures may expand beyond understanding the design to testing the operating effectiveness of IT controls.

While the Town's primary audit team will obtain an understanding of the flow of transactions through your systems, we also have built a team of specialized IT assurance professionals who are focused on the procedures involved in testing the ITGCs that support these systems for the purpose of a financial statement audit.

Beyond testing your systems, BKD continues to invest in our own software tools that enhance our audit practice. Our tools allow us to ingest large blocks of data for trend and anomaly detection, organize unstructured data, e.g., agreements, contracts, leases, for testing and create visualizations of data that assist in our audit procedures.

With respect to these procedures, confidentiality is not negotiable. We take care in our interactions not to interface directly with your systems in a way that may expose your data or create inappropriate security risks. As we work with your data, features such as our secure exchange portal and encrypted systems provide confidence that your data is safe and secure.

**This section should also include a discussion of your previous experience with the Certificate of Achievement Program of the Government Financial Officers' Association (GFOA), examples of how your firm has provided value through the audit process, and information on how your firm monitors client satisfaction and responds to client dissatisfaction.**

### Extensive Experience with the COA Program

Participating in GFOA's COA Program can help enhance the credibility of a municipality's financial statements, particularly with rating agencies. This also is key to increasing constituent and user confidence in the Town's fiscal management practices and overall financial condition. Hundreds of our clients participate in this program annually, which means we have the practical knowledge and expertise necessary to guide you through the process. Numerous BKD professionals also serve on the GFOA's Special Review Committee, including several of your engagement team members, providing us with firsthand insight into what GFOA reviewers are looking for when assessing the required reports.

In addition, with the short window for completing annual audits to meet the GFOA's established deadlines, we understand prompt and accurate professional services are critical in retaining your certificate. A core standard of BKD's Unmatched Client Service philosophy is Responsive Reliability, which guides our service process from initial planning to issuing our final report. You can expect our reports and communication to be efficient and in advance of GFOA's deadlines.

### Access to BKD Public Sector Reporting Solutions

BKD is constantly on the lookout for innovative ways to apply technology to make tedious processes more efficient and effective for our clients. BKD is now a certified implementor of The Reporting Solution (TRS), a cloud-based tool that can help streamline the report preparation process. Through TRS, BKD and our clients can connect to a cloud-based online platform to prepare the report with print-ready financial statements and a word processor that links to a financial database.

In addition, changes can be made and updated in real time for all users to see. This platform allows multiple users to work simultaneously within the financial statement document, thereby creating an efficient, prompt and cost-effective preparation process. BKD also can complete a vigorous review of your Annual Report—including the evaluation of your reports—using our independently prepared checklists designed to aid in financial reporting disclosure accuracy and completeness.





## Providing Value through the Audit Process

Below are examples of how BKD has added value through the audit process.

- ▶ A municipality faced significant personnel issues and no longer had the capacity to prepare its Comprehensive Annual Financial Report. It selected BKD National Public Sector Group to help draft the comprehensive annual financial report. As a result, the municipality met its original deadline of presenting the comprehensive annual financial report to the city council.
- ▶ A midsize municipality that had recently hired a new director of finance wanted to issue its comprehensive annual financial report within six months of the year-end, which had not been accomplished for several years. The municipality selected BKD National Public Sector Group (because of our expertise, local presence and commitment to providing Unmatched Client Service) to issue the financial statements within their desired timeline. Despite the client having several accounting issues and BKD having been engaged relatively close to the client's deadline, we met the deadline and management received accolades from the city council. During the audit, BKD also identified several internal control issues and corresponding ideas for improvement.
- ▶ A small municipality that had been underserved wanted a fresh start from a CPA and advisory firm with industry expertise and breadth of talent. The municipality hired BKD National Public Sector Group. Although the first year of the engagement included restatements, audit adjustments, weaknesses in internal controls and other accounting issues for the city, the client was pleased with BKD's level of attention and our willingness to help city staff understand the audit process, while delivering the audited financial statements on schedule. The city was able to strengthen controls during the audit because of BKD's proactive and frequent communication.

## Monitoring Satisfaction

It may sound simplistic, but we believe the best way to know how we're doing is by simply asking our clients. Leaders of the firm routinely visit clients to monitor their satisfaction with our services, including managing partners and national industry partners. We also monitor client satisfaction by periodically issuing client satisfaction surveys, the results of which have generally been positive.

As part of our dedication to delivering Unmatched Client Service, we are happy to meet with the Town to discuss and develop a plan to address concerns you may have related to our performance.

## 5.6 Scope & Audit Approach – Section 5

The respondent's submittal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Sections 4.1 and 4.2 of this solicitation. In developing the work plan, reference should be made to such sources of information as the Town of Addison's budget and related materials, organizational charts, manuals, and programs, and financial and other management information systems.

### Financial Statement Audit in Accordance with *Government Auditing Standards* & the Uniform Guidance

#### What is an Audit?

Auditing standards set the technical requirements for our process, culminating with the expression of our opinion on the presentation of your financial statements. Our audit will be performed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

#### What is an Audit Experience?

While auditor selection should start with evaluating technical competence, it also should extend to your expectations for a service experience. Your audit experience includes how your engagement is managed, how you and your team are treated, the quality and timeliness of communication you receive and your confidence in the results and guidance you receive. We want you to consider our philosophy around independence, integrity and quality, along with our commitment to Unmatched Client Service and the strength of your proposed engagement team.

#### The BKD Differences That Matter

<b>People</b>	Our people are key components of what differentiates a BKD audit. Through intentional training and our firm culture, our teams integrate a commitment to quality with an appreciation for client needs and expectations. We also bring relevant industry experience, which means you will not be required to train our staff.
<b>Leadership</b>	The engagement executive managing your audit will maintain a high level of involvement with the Town by delegating appropriate tasks to other audit team members as needed while remaining engaged with you and the audit team. Our engagement executives are on site and participate in the supervision and delivery of your audit.
<b>Communication</b>	Challenging matters or simple misunderstandings can arise, and they shouldn't be ignored. While our responsibility is to issue an appropriate opinion on your financial statements, it is important for us to help keep your team informed of issues as they occur and recommend the appropriate solution. Our philosophy is to be courteous and professional, communicate efficiently and make reasonable requests. We are committed to treating you and your team with candor and respect.
<b>Technology</b>	Technology plays a growing role in our audit as we adopt new tools to enhance our effectiveness and efficiency. We have invested heavily in improving dynamic workflows and increasing our audit data analytics capabilities. Though we use traditional tools such as Excel, we also delve deeper into analytic tools with TeamMate Analytics and Galvanize (formerly ACL), unstructured data with Kira and artificial intelligence and trend analysis with MindBridge. These technologies, combined with our secure portal, help improve our results, enhance your experience and increase the insight we can provide.



## Executing the Audit

Once we have established our overall process and communication plans with you, the detailed work can begin. Key elements of that work include:

### Risk Assessment

We will identify and assess risks of material misstatement in your financial statements, including those from potential fraud. Our work is supported by building a strong understanding of your business environment through documents you provide and by gathering information through interviews and tests for significant transaction cycles.

#### Assessing IT Risks

Our risk assessment also includes a more focused evaluation of your IT systems. Organizations with greater IT risk often manage high-volume, automated transactions or otherwise rely heavily on how systems create and manage data that affects financial statement amounts and disclosures. In your environment, obtaining a strong understanding of your systems is important, and our feedback may help you evaluate your own risks. In addition to using our traditional auditors, we may engage professionals from our IT Risk Services (ITRS) division to assist in that evaluation. These individuals can offer specialized experience with specific systems or with overall IT matters such as logical security, change management, computer operations and other areas where risk and fraud relevant to financial reporting can occur.

### Audit Design

Based on risks identified, we will design an audit approach specific to your organization. This tailoring takes into consideration the uniqueness of your operations, the design of internal controls you have implemented, and the nature of financial statement amounts and disclosures. We consider whether matters are truly important (materiality), as well as obtain input about concerns from management and City Council to design the tests we will perform.

### Gathering Evidence

Once the plan is complete, we will execute the audit through a combination of on- and off-site work performed in accordance with the agreed-upon timeline.

### Reviewing the Work

Critical to our process is a review of the team's work by our engagement executive, as well as a quality review by another executive who is independent from the detailed work. The quality review is designed to improve our deliverable by providing a fresh perspective and reinforcing quality.

## GUIDANCE

"The BKD audit approach brought a fresh perspective, and focused on realistic, reasonable and purposeful testing, looking at areas of importance. The engagement partner also provided assistance on new GASB pronouncements and assisted us with reporting requirements."

**Kimberly Auchstetter**  
Finance Director/Treasurer  
Village of New Lenox, Illinois

### Sharing Our Results

We base our audit opinion on the evidence gathered and then communicate our findings. Professional standards drive the content of our opinion and the required communication about any deficiencies and other items we may identify during the audit. Beyond these requirements, we share results formally through our letters and presentations to management and City Council, as well as opportunities for improvement through conversations during the audit process.

### Compliance Audit in Accordance with the Uniform Guidance

BKD performs hundreds of Single Audits annually, focusing on two objectives: first, an audit of your financial statements and reporting on the Schedule of Expenditures of Federal Awards (SEFA) in accordance with *Government Auditing Standards*, and second, a compliance audit for federal awards expended during the fiscal year in accordance with the Uniform Guidance.

As mentioned, approximately one-third of our not-for-profit and governmental clients receive federal funding. Our extensive experience with compliance testing in accordance with OMB requirements can help provide the Town with a Single Audit performed properly and submitted on time.

### Our Approach

During our audit procedures of federal award programs, we do not simply look for findings to report. We look for opportunities to advise you of more efficient ways to comply with federal regulations to reduce the risks of sanctions or reduced funding. BKD has developed contacts at federal agencies and has been able to work cooperatively with these agencies to help clients resolve or avoid issues. Entities subject to the Uniform Guidance and *Government Auditing Standards* will benefit from BKD's specially designed audit programs, checklists and database of federal audit programs.

Identification and testing of your federal programs will be performed primarily during interim fieldwork, which will typically be performed before your fiscal year-end. We have found this to be the most efficient manner in which to perform our audit services when the additional Uniform Guidance requirements are present.

### Training Requirements for Single Auditors

The Town can have confidence in BKD auditors' experience in testing federal funding subject to the Uniform Guidance. As mentioned, our audit professionals are required to receive at least 120 hours of CPE every three years, and for auditors involved with audits performed under *Government Auditing Standards*, this education includes the hours required to comply with *Government Auditing Standards Yellow Book* guidance. Staff members attend a series of core audit and accounting courses over the first four years of their careers. Staff subsequently receive additional training on accounting and auditing for the not-for-profit and governmental environment.

### Broad Audit Risk Considerations

Some risk considerations apply across nearly all of our audits. We pay particular attention to the following items:

#### Significant Accounting Estimates

Nearly all financial statements have significant estimates in amounts and disclosures, even when not readily apparent. Estimates may include amounts ultimately collectible from third parties, expected losses or costs occurring at a specific amount and time, etc. We will gather information supporting management's estimates and challenge key assumptions used to develop these amounts. We also will test estimates on available data and historical trends and document our conclusions on the reasonableness of recorded amounts.



#### Risk of Management Override of Controls

When considering fraud, auditing standards require evaluating the risk that management could override existing controls. We will perform interviews of selected individuals, apply an element of unpredictability in our testing and brainstorm as a team to evaluate risks and possible actions based on our observations. We also will perform journal entry testing, review estimates for bias and significant changes and consider the business rationale for significant unusual transactions.

#### Procedures & Risks Specific to the Public Sector

Audit procedures can vary, but they often include traditional observation, sampling and testing combined with more advanced deployment of technology for trend analysis, summarization of documents and assessment of large data sets.

Our work with hundreds of clients in the public sector means our advisors are very familiar with entities similar to the Town. While no two audits are the same, certain activities are common to governmental entities. Specific risk areas for the Town are likely to include:

##### Investments

This is a significant audit area due to the risks associated with the proper and timely valuation of investments. We employ a variety of audit procedures in this area, including the use of third-party confirmations, obtaining an understanding of management's assessment of fair values, fair market value testing to published sources, etc. In addition, we evaluate the disclosure requirements and the adequacy of completeness and accuracy of the disclosures.

##### Accounts Receivable & Deferred Inflows of Resources & Unearned Revenue

These areas often are a significant risk due to the subjective nature of the Town's estimate for the allowance for doubtful accounts and the proper recognition of revenue for funds that report using the modified accrual basis of accounting and the current financial resources measurement focus that is consistent with the Town's policy. We will test the cutoff of various revenue sources, such as taxes, government grants and customer utility accounts, and review the revenue journal both before and after year end. We may confirm significant accounts receivable, as well as a sample of others to test both existence and proper classification, if considered necessary. In addition, we will test deferred inflows of resources by reviewing subsequent collections and perform various analytical procedures to test both completeness and proper classification of the balances, consistent with the Town's policy of recognizing revenue on the modified accrual basis of accounting.

##### Capital Assets

We will audit the capital asset rollforward activity of each opinion unit, focusing on significant additions and disposals during the year. Current-year additions will be tested to appropriate supporting documentation. A review of repair and maintenance accounts will be performed to help identify whether material additions have been capitalized. New lease agreements will be reviewed to identify whether they have been accounted for properly. Depreciation expense also will be tested for reasonableness, and certain analytical procedures will be performed on the capital outlay line items for governmental funds associated with the conversion to government-wide reporting.

##### Revenue Recognition

Professional standards include a rebuttable presumption that for each audit, there is a risk of material misstatement due to fraud relating to improper revenue recognition. Our approach is to gain an understanding of the revenue recognition criteria and policies and then perform a variety of inquiry, analytical and substantive audit procedures to confirm our understanding.



#### Long-Term Debt

We will confirm the annual payment activity and ending balances of certain bonds, notes and leases payable with trustees. In the case of any refunded debt in the year being audited, we will recalculate the accounting gain or loss by reviewing trustee statements and bond documents to test for proper classification and footnote disclosures. We also will inquire about your policy on reviewing each bond and note for applicable IRS arbitrage requirements, prepare a list of bonds and notes subject to IRS arbitrage requirements and the most recent arbitrage calculation prepared for each bond and challenge the calculation performed to test for completeness and obligations of the Town.

#### Net Position/Fund Balances

Procedures we perform in this area include vouching (or cross-indexing to work performed in other areas) of significant increases and decreases to net position, recalculation of net investment in capital assets for enterprise funds and governmentwide activities, review of documentation supporting the establishment and classifications of new accounts and testing of various nonspendable, restricted, committed and assigned fund balance accounts based on supporting documentation of donor and grantor agreements, enabling legislation, formal actions of city council, such as ordinances and resolutions and other formal policies.

#### Uniform Guidance Testing

We will discuss with management and review the preliminary SEFA as of an interim date to identify the likely major programs for testing. We will perform the majority of our testing prior to year-end and will share our results with you prior to final fieldwork. During final fieldwork, we will assess whether there are any additional major programs that would require testing and conclude our compliance and internal control procedures related to the Uniform Guidance expenditures in agreement with the conclusion of the audit of the financial statements.

#### Utility Receivables & Unbilled Revenues

We will use several methods to audit your receivables and the estimate of unbilled revenues, including using look-back reports, reviewing historical collection methods and assessing of the aging and payor mix of your accounts receivable detail. We will analytically review key ratios such as days in accounts receivable and charge-off rates compared to industry averages and prior year results to help us reach our audit conclusions. We will work with your team before year end on the allowance to see that we understand your methodologies and conclusions.

Finally, we use data analysis software to test subsequent billings and receipts and the accuracy of revenue cutoff to help validate the year-end accounts receivable balance and any unbilled revenue amounts.

### DIRECTION

"BKD, LLP demonstrated excellent customer service in meeting our needs. Their technical knowledge was excellent and extremely valuable to our organization. I highly recommend them to any governmental entity."

**Clint Mercer**  
Chief Accountant  
City of Norman, Oklahoma

**Pensions & Other Postemployment Benefit Obligations**

Due to the subjective nature of the estimation processes associated with determining the estimated Net Pension Liability and Other Postemployment Benefit (OPEB) obligations liability, we will obtain and test the specific actuarial calculations for the Net Pension and OPEB liabilities. First, we will evaluate the professional qualifications and reputation of the actuary. We will read the actuarial reports to obtain an understanding of the methods and assumptions employed and evaluate the cost method used and the significant assumptions underlying the actuarial calculations. Select testing of the underlying data used in the calculation will be performed. We will evaluate the valuation, cost and amortization methods for consistency. The other significant underlying assumptions such as discount rates, rates of return and medical cost trends will be compared with independent external studies of assumptions by such noted organizations as GRS.

**GASB's Updated Lease Standard**

With GASB Statement No. 87, *Leases* (GASB 87), the way leases are handled in public sector accounting has changed. While this rule is intended to provide clarity for users of financial statements, it brings a host of considerations for both lessors and lessees. Governmental entities will be allowed to transition using the facts and circumstances in place at the time of adoption, rather than retroactive to the time each lease was begun.

**Respondents will be required to provide the following information on their audit approach:**

- a. Proposed segmentation of the engagement.
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement.

Proposed Audit Segmentation	Estimated Hours	Staff Level
Risk assessment procedures, including meetings with officials & staff, preliminary analytics, review minutes & design of audit procedures based on assessed risks	50	All Professionals
Document & evaluate internal controls	25	Manager & Associate
Obtain financial policies & procedures, bond documents, leases & grants & other items for our permanent file	10	Manager & Associate
Substantive procedures & analytical review techniques	245	All Professionals
Review prepared Annual Report	50	All Professionals
Single Audit testing	50	Manager & Associate
Supervision, review & technical assistance	40	Partner/Director
Client conferences & meetings to review audit reports	20	Partner, Director & Manager
Reporting – Report to governance & management advisory comments	10	All Professionals

**c. Sample sizes and the extent to which statistical sampling is to be used in the engagement.**

Although it is not possible to set absolute rules for identifying sample sizes, we apply our professional judgment in identifying the appropriate sample size. The objective is to test the population to obtain reasonable confidence that the test objectives have been met. Sample sizes are controlled by the following considerations:

- ▶ Tolerable error (precision) – as the expected monetary conclusion becomes more critical, sample size should increase to tighten the range of the extrapolated estimate
- ▶ Significance of the account to the financial statements – as the significance increases, sample size should increase
- ▶ Assessment of internal control risk – as assessed risk is reduced, sample size for substantive tests should decrease
- ▶ Extent of other substantive audit procedures related to same audit objective (tests of detail, as well as analytical review) – as the extent of other procedures increase, sample size should decrease
- ▶ Frequency and magnitude of expected errors – as the frequency and magnitude of expected errors increase, sample size should increase
- ▶ The size of the population to be sampled and whether a sample is appropriate

We anticipate using certain data extraction tools, such as Galvanize (formerly ACL), in selecting and testing samples or complete populations, where appropriate. These effective tools allow us to efficiently test larger amounts of data.

**d. Extent of use of EDP software in the engagement.**

### Enhancing an Audit with Technology

BKD is a leading firm in working with the development of the AICPA's Dynamic Audit Solution Initiative that focuses on the audit of the future. We believe technology should do more than just execute an audit, which is why we're continuing to invest in significant technological enhancements. Our aim is to make the service process smoother and improve the client experience. We're going beyond simply adapting to an electronic environment—we're deploying tools that harness data analytics, artificial intelligence and powerful benchmarking solutions, all while emphasizing the importance of security and confidentiality.

#### Unstructured Data Analysis

Kira is a data analysis platform that can help accelerate data organization and improve our ability to identify issues when assessing a large volume of documents. Beyond optical character recognition, Kira allows us to quickly and effectively process contracts, leases, debt agreements and other documents to extract relevant information to address disclosures and risk areas sooner.

#### Data Analytics

Our data analytics capabilities continue to expand. While common platforms such as Excel provide some level of data query and investigation, we train our personnel on more advanced tools. Tools such as TeamMate Analytics, Galvanize (formerly ACL) and Alteryx help us ingest and normalize various types of reports you might provide and perform sophisticated analysis on the resulting data. We also deploy a leading analytics tool, MindBridge, that leverages artificial intelligence. Using these tools, we can run analytics on 100 percent of the Town's transaction detail to detect potential anomalies and patterns that indicate risk.



#### Direct Data Ingestion

One of the barriers to using technology is getting the detail from client systems. Tools such as DataShare from Validis allow BKD to directly connect to client systems and securely extract a copy of the general ledger and other accounting records. This allows us to have the data for more sophisticated analysis and saves you substantial time in creating general ledger and trial balance reports, as well as reducing other document requests that can be derived from that data, such as aging details and invoice records. Direct data ingestion is a growing technology space, but the vast variety of systems that clients use can create some limitations. Current tools are compatible with a handful of major accounting applications, and we can evaluate whether our tools would be a good fit for the Town.

#### Improving Business Process Workflows

While our industry-tailored forms have been an important differentiator in our practice thus far, we're now moving to more sophisticated and dynamic checklists and workflows. We believe this new approach will increase efficiency and improve the data gathering experience for all parties. This evolution is enabling greater use of electronic signatures for contracts and will be integral to improved data sharing and transparency between BKD and our clients.

#### BKDconnect Client Sites

We view project management as having multiple elements, with communication, timeliness and facilitating efficient exchanging of information among the most key. BKDconnect Client Sites is an innovative client portal designed to help address the challenges financial engagements present and conveniently connect you with our advisors.

BKDconnect Client Sites can make it easier to:

- ▶ View and manage information about your engagement or project
- ▶ Share documents and files with your BKD advisors and project teams
- ▶ Organize documents and files for retrieval
- ▶ Assign tasks to your team and receive requests for information from BKD
- ▶ Track the progress of tasks toward completion
- ▶ Access our award-winning, industry-specific articles, webinars, videos and more

**e. Type and extent of analytical procedures to be used in the engagement.**

Analytical procedures involve auditing a material assertion or account balance by investigating its relationship to an expectation such as other accounts, historical trends or other related measures. BKD recognizes that stronger analytical procedures can help reduce or eliminate other substantive procedures that are usually more time consuming. We would typically consider:

- ▶ Ratio analysis – comparing relationships among account balances, ratios, nonfinancial data, budgets or industry averages
- ▶ Reasonableness tests – using financial and/or nonfinancial data to develop an expectation of an account balance

Successfully using analytical procedures requires auditors to ask the questions:

- ▶ What is the risk of material misstatement?
- ▶ How would we find those misstatements?

- ▶ Have I gathered enough audit evidence?

When analytical procedures provide sufficient evidence, other substantive audit procedures should not be necessary. If analytical procedures are not sufficient, some combination of analytical and substantive procedures is likely to be the preferred approach.

**f. Approach to be taken to gain and document an understanding of the Town of Addison's internal control structure.**

Understanding your operations and the design of your controls helps create an effective and efficient audit process. Our first objective is to identify those resources that might advance our understanding without extra effort on your part. If you have documentation of your organizational structure, control environment (including technology) and the controls you have in place, along with any testing of those controls, we can often just read and supplement that information as needed. Even when clients have effective controls, their documentation is often limited, so additional effort may be required.

In instances where we start with limited documentation, we will:

- ▶ Perform a risk assessment using your financial statements to identify the relevant areas for documenting our understanding and related testing. While we want to have an understanding of your operations, it isn't necessary for us to document every control, particularly when a control is not related to a significant audit area.
- ▶ Ask you to complete industry-specific questionnaires that summarize your control structure. You might complete these forms directly or we may interview you to guide the process, or some combination of both. This process includes understanding your information system and related controls.
- ▶ Identify who performs or can perform control activities. We can use industry-based assignment of duties forms to capture those assignments.
- ▶ Assess and/or identify key controls you have in place for significant areas of risk. We will look for gaps in your design and potential overlapping assignments of duties that could or should be segregated.
- ▶ Perform limited tests of design effectiveness of control activities. These tests will help us evaluate whether our documentation matches the activities occurring.
- ▶ Consider extended tests of controls. In some cases, your information may be so complex or voluminous that extended control testing is needed to rely on your control and reduce other substantive testing in our audit.
- ▶ Summarize recommendations for your consideration. For minor deficiencies or suggestions, we may discuss changes during our audit. For others, including significant deficiencies or material weaknesses, we will prepare written recommendations for your consideration.
- ▶ In periods following our first audit, the majority of our understanding and documentation will be complete. Going forward, we focus on changes that have occurred and continue performing tests of design effectiveness or expanded testing to evaluate whether control design has remained the same.



## BKD

### **g. Approach to be taken in determining laws and regulations that will be subject to audit test work.**

Identification of applicable laws and regulations will begin with an inquiry of the Town as to your understanding of applicable laws and regulations. In addition, our reviews of various documents, indentures, agreements, etc., will be designed to encompass known laws and regulations within the scope of the audit. We are experienced in auditing public sector entities in the state of Texas and are familiar with the laws and regulatory environment in which you operate.

### **h. Approach to be taken in drawing audit samples for purposes of tests of compliance.**

The sampling approach anticipated to be used in connection with the various areas of the audit is judgmental in nature. The size and nature of the population being tested, along with the assessed risk of the associated financial statement line item affected, will determine the size and approach for selecting a sample. Sample sizes will be sufficient to meet requirements of the various state and federal laws and regulations. As mentioned, we anticipate using data extraction tools, such as Galvanize's (formerly ACL) data extraction and analysis software, in certain situations in selecting and testing samples or complete populations, where appropriate.

### **i. Describe how your firm's approach contributes to improved efficiency and performance.**

As mentioned, BKD is a leading firm in working with the development of the AICPA's Dynamic Audit Solution Initiative that focuses on the audit of the future. We're deploying tools that harness data analytics, artificial intelligence and powerful benchmarking solutions, all while emphasizing the importance of security and confidentiality.

In addition, while many audits rely on a one-size-fits-all approach, ours is decidedly different. We tailor our testing and procedures based on your unique operations and internal processes. We don't want to spend time in areas that are of little value to the Town. We want to focus on the issues and concerns that matter to you while incorporating an appropriate level of testing that allows us to express a proper opinion on your financial statements. That's why involving the Town in our approach is vital from the planning stages onward.

Tailoring an audit approach also includes confirming we have the right team in place to serve you and working with you on the logistics of our process. While we find value in being on site to perform significant elements of our audit, we will work with you to consider the timing and the balance of what work is best done remotely and what value we can add by being face-to-face.

Our approach isn't just about the work we do. It's about providing services efficiently and effectively while limiting interruption to your team's other responsibilities.

## CLARITY

"As the Financial Services Director for Denver Human Services, it's very important for me to be able to trust the firm performing our Single Audit. With other firms, I've had to spend significant time each year repeating very basic information about programs, operations, and systems. I am able to trust our BKD advisors to do a thorough job without me having to explain the complex details and functions of the programs we administer. I really appreciate their expertise and thoughtful approach to their work."

"The BKD team's professionalism and expertise shows in their comprehensive work, and they do a fantastic job of communicating throughout the entire process."

**Lori Noble**  
Financial Services Director  
Denver Human Services  
City and County of Denver,  
Colorado

j. Describe any issues for our Town that you believe may require special attention and discuss how you will handle them in your audit approach.

Based on our history of working with the Town, BKD does not foresee any issues that may require special attention.

The respondent's submittal should also identify in this section any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the Town of Addison.

### Audit Problems

While we do not anticipate significant audit problems, we understand the importance of good channels of communication with key engagement team members to facilitate the discussion of issues that may arise. Once we commence final fieldwork, we would ask for management's participation in weekly progress meetings that would facilitate such communication and allow for timely identification and response to problems that may be encountered.

The work plan submitted should include separate time estimates for the financial audit and single audit work.

Overall, we anticipate the financial statement audit and Single Audit will take approximately 450 hours and 50 hours, respectively.

A separate statement of the firm's approach to and understanding of the provision of technical assistance and advice concerning accounting and auditing issues that may arise during the course of the audit should be included. In addition, a discussion of the firm's approach to the level and amount of the accounting staff support necessary to complete the work as outlined in the solicitation should be included.

### Procedures for Technical Assistance

We respond to questions quickly and do so without hidden fees. We do not bill for responses to your day-to-day questions that require no significant investment of research, time or other costs. Providing a high level of value for the fees you pay is an integral part of our basic engagement philosophy. If an issue is going to take more than one hour to research, we will inform you in advance of the estimated hours and fees it will require.

### Our Expectations of Your Staff

In working with similar clients, we have developed efficient approaches that aim to avoid wasted effort. Your participation helps control costs, reduce unnecessary disruptions and meet deadlines. We need your team to maintain records in good condition, provide the necessary schedules and cooperate with our audit team. Most clients routinely prepare these records and schedules during their normal monthly or annual closing process.

Specific assistance from your personnel may include:

- ▶ Preparing a complete and accurate general ledger trial balance by account, to which very few adjustments are needed
- ▶ Preparing accurate audit schedules to support all significant balance sheet and certain other accounts
- ▶ Responding to auditor inquiries
- ▶ Preparing confirmation and other letters
- ▶ Pulling selected invoices and other documents from files
- ▶ Helping to resolve any differences or exceptions noted
- ▶ Completing documentation of internal controls



► Completing financial statements and footnote information

We will provide a list of the needed schedules well in advance of any deadlines, as well as spreadsheet templates for many of these schedules. We also will meet with your staff, as needed, to help them clearly understand what we need.

The level and amount of involvement can vary, depending on the nature and area of the request. We anticipate efforts needed from your personnel will be primarily related to timely responses to our inquiries.

## 5.7 Proposed Schedule – Section 6

Comment on the firm's ability to meet the timelines indicated in the RFQ and present a schedule of when information to be provided by the Town should be available. The respondent should provide any recommended changes to the schedule that might be required to enhance the timelines and quality of the engagement.

BKD is confident we can continue meeting your requested timeline.

As mentioned, we will provide a list of the needed schedules, as well as spreadsheet templates for many of these schedules. We also will meet with your staff, as needed, to help them clearly understand what we need. We would like to have our planning kick off meeting in July 2021, following by a week or two of interim work in late August/early September 2021, as we have traditionally completed in years past. We will also begin final fieldwork the week after Thanksgiving with wrapping up final fieldwork before the end of the calendar year 2021.

At this time, we have no recommended changes to your schedule.



## 5.8 Other References – Section 7

Describe recent local and regional office auditing experience similar to the type of audit requested and give the name and telephone numbers of client officials responsible for three of the audits listed. These references would be in addition to those listed in Section 4 under paragraph titled - Similar Engagements.

As mentioned, our clients are our best ambassadors, and we encourage you to contact them about their satisfaction with our services. The following clients have consented to discussing BKD's services and service delivery with you at your convenience.

### City of Abilene, TX\*

Mr. Mike Rains  
Director of Finance  
325.676.6324  
mike.rains@abilenetx.gov  
Abilene, TX

### City of Arlington, TX\*

Ms. Amy Trevino  
Controller  
817.459.6312  
amy.trevino@arlingtontx.gov  
Arlington, TX

### City of Phoenix, AZ\*

Mr. Joe Jatzkewitz  
Deputy Finance Director  
602.495.7058  
joe.jatzkewitz@phoenix.gov  
Phoenix, AZ

## CONFIDENCE

"We have been working with BKD for some time, and we appreciate the consistency and reliability of our BKD advisors."

"The BKD team is knowledgeable, friendly, professional and approachable. As a controller, I view them as a great resource and as business advisors."

**Shelley K. Nywall**  
Controller  
Platte River Power Authority  
Fort Collins, Colorado



## 5.9 Additional Data & Other Information – Section 8

Since data not specifically requested must not be included in the foregoing solicitation sections, give any additional information considered essential to the solicitation in this section. If there is no additional information to present, state in this section, "There is no additional information we wish to present."

### Rotation Capabilities

Auditor independence and objectivity are critical elements to a successful audit. Changing individual auditors can be beneficial in providing a fresh look at your financial statements. BKD appreciates the value of a new perspective and, because of our depth of resources, can accommodate partner and director rotations if such requests are made by our clients. That way, you can receive a fresh perspective while still maintaining your working relationship with advisors who are familiar with your operations and understand the challenges you face. We believe audit quality is maintained in long-term working relationships, and you can be confident independence will not be compromised.

### Thinking of Your Future

In addition to the Town's requested service, BKD has an extensive range of service offerings that may be relevant to you now or in the future. If the need arises, a Cybersecurity Risk Assessment could benefit the Town. If you would like additional information about this option, please contact Partner Kevin Kemp at your convenience.

#### Cybersecurity Risk Assessment

BKD Cyber consultants will work with management to identify areas of business risk arising from potential disclosure, modification or loss of personally identifiable information (PII) or electronic protected health information (ePHI). In addition, we will identify the maturity level of the Town's current cybersecurity processes/controls and assign a high, medium or low risk rating. Risk severity will be identified by assessing the likelihood of a breach occurring as well as the potential downstream effects.

Finally, we will work with management to create a remediation road map and recommended timeline, based on the risk severity identified. This timeline will assist the Town's management in effectively allocating financial resources or personnel that may become necessary.

Throughout this process, BKD consultants will maintain a high level of open and frequent communication with the Town's management to better understand your needs and constraints. The Town can expect questions and ideas that promote conversation.

Your proposed team will work on site and assist in facilitating effective service coordination and schedule flexibility, as well as improving lines of communication. Weekly status meetings are part of our service approach.

BKD's cybersecurity assessment approach comprises four distinct phases. A focus on project management and frequent client communication means the Town can be confident engagement objectives are addressed.

## 5.10 Concluding Remarks – Section 9

This section shall contain any final remarks or elaboration which the respondent believes is important for a clear understanding of the proposed services and/or the firm's capabilities.

BKD has enjoyed the working relationship we have forged with the Town over the last five years. As we mentioned earlier, you can have confidence our commitment to you remains unchanged—to serve the Town with integrity while offering the high levels of quality and value you have come to expect from BKD. We look forward to being the service provider you can continue to trust for years to come.

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**“ Unmatched Client Service isn’t  
just a slogan at BKD; it’s the  
backbone of our culture. ”**

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**Theodore D. Dickman, CPA**  
Chief Executive Officer | BKD

# APPENDIX

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## Exceptions to Terms & Conditions

BKD recognizes the RFQ has terms and conditions that must be accepted in full, unless any exceptions are identified in BKD's proposal, per the RFQ's instructions. To this end, certain terms and conditions as referenced in the RFQ may require modification to comply with professional standards and/or BKD's policies. As BKD has successfully resolved similar agreements with the Town previously, BKD is confident the parties can successfully negotiate mutually acceptable terms and conditions. BKD sincerely appreciates the Town's consideration and understanding. BKD looks forward to working with the Town on this engagement.

Therefore, we have identified the following exceptions to the RFQ:

**Section 2.9 Working Paper Retention and Access to Working Papers.** BKD does have some limitations with respect to access to workpapers, in accordance with professional standards and BKD policies. BKD is willing to provide the Town access to select workpapers, to the extent it does not violate our professional standards.

**Contractor Insurance Requirements & Agreement.** BKD can generally comply with the insurance requirements noted in the RFQ; however, there are specific issues which will require further discussion, e.g., additional insured, policy notifications, and cross liability endorsements. As you can appreciate, these specific issues are controlled by the terms of our policies and are outside BKD or any other CPA firm's discretion. BKD is confident, though, any insurance issue will be satisfactorily resolved, if we are given the opportunity to provide professional services to you.

**Indemnification Agreement.** The AICPA Code of Professional Conduct specifies that any indemnification of a client, directly or indirectly, where any fault may be attributable to the client's own actions would impair the auditor's independence under ET Section 1.228.020, Indemnification of an Attest Client. Any auditor indemnifying the Town for claims that result from the Town's own negligence, when such negligence is contributory to a claim, damage, liability, loss, etc., would impair the auditor's independence and cause an auditor to violate the AICPA Code of Professional Conduct. Therefore, the Indemnification Agreement is not signed. If engaged, BKD proposes to limit indemnification only to the extent the claims, damage, liability, loss, etc., result from the services performed by BKD pursuant to this engagement and are caused by BKD's own negligence or intentional misconduct, so as to not indemnify and hold harmless the Town for its own negligence and actions. The AICPA interpretations are shown below:

### 1.228.020 Indemnification of an Attest Client


.01 Threats to compliance with the "Independence Rule" [1.200.001] would not be an acceptable level and could not be reduced to an acceptable level by the application of safeguards if the covered member enters into an agreement providing, among other things, that the covered member indemnifies the attest client for damages, losses, or costs arising from lawsuits, claims, or settlements that relate, directly or indirectly, to the attest client's acts. The covered member's independence would be impaired under these circumstances.



## Conflict of Interest Questionnaire

Town of Addison

Bid 21-104

<b>FORM CIQ</b> <b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor or other person doing business with local governmental entity</b>	
<small>This questionnaire reflects changes made to the law by H.B. 1481, 80th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</small>	
<b>OFFICE USE ONLY</b> questionnaire	
Name of person who has a business relationship with local governmental entity. NA	
Check this box if you are filing an update to a previously filed questionnaire. (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.) _____	
<b>3 Name of local government officer with whom filer has employment or business relationship.</b> Name of 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 ____ No NA	
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 ____ No NA	
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 ____ No NA	
D. Describe each employment or business relationship with the local government officer named in this section. NA _____ _____ _____ _____ _____ _____	
Signature of person doing business with the government's entity  Signature	Date: May 25, 2021 Date

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## Contractor Insurance Requirements &amp; Agreement

Town of Addison

Bid 21-104

**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.

TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1. <b>Workers' Compensation</b> 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 <b>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</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	TOWN OF ADDISON to be listed as <b>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</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	TOWN OF ADDISON to be listed as <b>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</b>
4. <b>Professional Liability</b> Aggregate \$1,000,000.00 per year	Bodily Injury - \$250,000 per person, \$500,000 per occurrence; Property Damage - \$100,000 per occurrence	TOWN OF ADDISON to be listed as <b>ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION</b> or material change in coverage. <b>Insurance company must be A-:VII rated or above.</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](mailto: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# 21-104

Company: BKD, LLP

Printed Name: Partner Kevin Kemp, CPA

Signature:  Date: May 25, 2021

<sup>A</sup> Subject to the negotiations stated on the Exceptions to Terms & Conditions page of this proposal.

## 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#: 21-104

Company Name: BKD, LLP

Signature:

Date: May 25, 2021

This signature page has been intentionally left blank. The terms of this Indemnification Agreement will require modification to comply with auditing standards, as more fully described in the Exceptions to Terms and Conditions page of this proposal.





## Information & Instruction Form

Town of Addison

Bid 21-104

### Information and Instruction Form

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

#### Section I Company Profile

Name of Business: **BKD, LLP**  
Business Address: 14241 Dallas Parkway | Suite 1100 | Dallas, TX 75254  
  
Contact Name: Kevin Kemp, CPA  
Phone#: 972.702.8262  
Fax#: 972.702.0673  
Email: [kkemp@bkd.com](mailto:kkemp@bkd.com)

Name(s) Title of Authorized Company Officers: Partner Kevin Kemp, CPA

Federal ID #: 44-0160260  
W-9 Form: A W-9 form will be required from the successful bidder.

DUNS #: Our DUNS number is 073069437, however, BKD does not supply our financial information to Dun & Bradstreet, so any information obtained may or may not be reliable. We encourage potential clients to contact us directly to receive information about the firm.

Remit Address: If different than your physical address: N/A

#### 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

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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 ~~XXXXXXXX~~

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.

N/A

N/A

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.

N/A

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 120 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"

Due to space limitations, please see the Exceptions to Terms & Conditions page of our proposal.

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.htm>

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

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: Date: May 25, 2021

Title: Partner

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

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## AICPA Peer Review Letter

**BKD**



National Peer  
Review Committee

December 11, 2020

Theodore Dickman  
BKD, LLP  
910 E Saint Louis ST Ste 400  
Springfield, MO 65806-2570

Dear Theodore Dickman:

It is my pleasure to notify you that on December 11, 2020, the National Peer Review Committee accepted the report on the most recent System Review of your firm. The due date for your next review is November 30, 2023. This is the date by which all review documents should be completed and submitted to the administering entity.

As you know, the report had a peer review rating of pass. The Committee asked me to convey its congratulations to the firm.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Fawley".

Michael Fawley  
Chair, National PRC  
+1.919.402.4502

cc: Candace Wright, L. Bennett

Firm Number: 900010002800

Review Number: 577534

220 Leigh Farm Road, Durham, NC 27707-8110  
T: +1.919.402.4502 F: +1.919.419.4713  
[aicpa.org/global.com](http://aicpa.org/global.com) | [cimamaglobal.com](http://cimamaglobal.com) | [aicpa.org](http://aicpa.org) | [cima.org](http://cima.org)

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## BKD Peer Review Report



8550 United Plaza Blvd., Ste. 1001 — Baton Rouge, LA 70809  
225-922-4600 Phone — 225-922-4611 Fax — [pnopa.com](http://pnopa.com)

*Postlethwaite & Netterville and Associates, L.L.C.*

### Report on the Firm's System of Quality Control

To the Partners of BKD, LLP  
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of BKD, LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

#### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

#### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

#### Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; audits of employee benefit plans; audits performed under FDICIA, an audit of a broker-dealer; and examinations of service organizations (SOC 1 and SOC 2 engagements).

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

#### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of BKD, LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. BKD, LLP has received a peer review rating of *pass*.

*Postlethwaite & Netterville*

Baton Rouge, Louisiana  
November 2, 2020



## Facing Risk with Confidence

When choosing an audit, tax or other professional services provider, your decision may partly depend on whether a prospective firm has the resources to go beyond your current needs. At BKD CPAs & Advisors, we're committed to consistently expanding and enhancing our services, technology and expertise so we can help our clients with their most pressing concerns, even as those concerns change daily. Beyond our proposed services, BKD's Risk Advisory Services division can help with an extensive range of risk consulting resources, including:

- **Data Analytics Consulting** – From identifying important trends and opportunities for operational improvements to reducing risk and preventing fraud, our experienced data analysts can help you get more value from your data.
- **BKD WhiteHat Services** – This monthly subscription offers access to a suite of cybersecurity services, including cyber awareness training, penetration and social engineering testing, a confidential fraud hotline and other risk management tools.
- **DEFCON CYBER™** – This risk assessment tool delivers a weekly report, which includes a cybersecurity score to help measure risk and cyber preparedness, as well as steps you can take to help address these risks and strengthen security.
- **Construction Audit** – An effective construction audit is designed to function as a cost management tool by helping to prevent overcharges, contract noncompliance, conflicting charges and other issues common to construction projects.
- **Enterprise Risk Management (ERM)** – ERM consulting can help you review existing risk management activities, develop a unified vision to enhance these activities and more effectively integrate risk management into your culture and daily operations.
- **Forensics & Valuation Services (FVS)** – BKD's FVS professionals can help clients with fraud prevention, detection, response and recovery. With services including **IntegraReport™**, our anonymous fraud reporting hotline, data analyses and assessments to help identify fraud, as well as investigations, litigation support and expert testimony, we have the tools and expertise needed to help clients address fraud concerns from beginning to end.



bkd.com



## BKD PRIDE Values

### PRIDE VALUES



#### WHAT'S IMPORTANT TO YOU?

The role of trust in business can't be oversold. But a trusted advisor is more than someone you lean on for professional expertise. At BKD, we believe being an advisor who's earned your trust is as much about character as it is know-how. These are the traits we share.

P

#### A PASSION FOR HELPING, LEARNING AND IMPROVING

Our dedication and enthusiasm for making tomorrow better than today can help you make informed decisions to improve business and financial outcomes.

R

#### RESPECT FOR EACH OTHER AND THOSE WE SERVE

Our respect for diversity can provide a variety of skills and talents to meet your needs. By respecting the lessons of our legacy and yours, we can help you build on the opportunities that arise from inevitable change.

I

#### INTEGRITY TO DO THE RIGHT THING—NO MATTER WHAT

Our trustworthiness and objectivity can help you make smart business decisions. A trusted advisor tells you what you need to know, not just what you want to hear.

D

#### DISCIPLINE TO GET IT RIGHT THE FIRST TIME

Our well-established procedures and low-risk approach can help resolve issues and advance your goals. We're dedicated to getting the job done without cutting corners.

E

#### A NO-HOLDS-BARRED STANDARD OF EXCELLENCE

Our ambition and knowledge, along with our commitment to lifelong learning and improving our technical and analytical skills, will consistently surpass your expectations.

This combination of qualities represents what we strive for every day when helping your organization move forward with confidence.

[bkd.com](http://bkd.com)

Everyone needs a trusted advisor.  
Who's yours?



[bkd.com](http://bkd.com)

**EXHIBIT B**  
**CONSULTANT'S COST PROPOSAL FOR FY 2021, FY 2022 AND FY 2023**

**BKD**

### Cost Proposal – Separate Envelope

The cost proposal should contain all pricing information relative to performing the audit engagement as described in this solicitation. The total all-inclusive maximum price to be solicited is to contain all direct and indirect costs including all out-of-pocket expenses stated separately.

The Town of Addison will not be responsible for expenses incurred in preparing and submitting the solicitation. Such costs should not be included in the submittal.

The first page of the cost proposal should include the following information:

**1. Name of Firm**

BKD, LLP

**2. Certification that the person signing the submittal is entitled to represent the firm, empowered to make the submittal and authorized to sign a contract with the Town of Addison.**

As a partner of the firm, Kevin Kemp is entitled to represent the firm, empowered to make the submittal and authorized to sign a contract with the Town of Addison, Texas (the Town).

**3. A Total All-inclusive Maximum Price for each of the fiscal year ending September 30, 2021, 2022, and 2023. Identify the fee for out-of-pocket expenses, if any, separately from the fee for audit services.**

**4. A Total All-inclusive Maximum Price for the preparation of the Comprehensive Annual Financial Report.**

**5. A Total All-inclusive Maximum Price for the Town's Single Audit (if required).**

BKD knows our clients do not like fee surprises. Neither do we. Our goal is to be candid and timely, and we want to answer your questions about fees upfront. We determine our fees by evaluating a number of variables: the complexity of the work, the project's scope, the time we will spend and the level of professional staff needed. Total all-inclusive maximum fees for a Financial Statement Audit in Accordance with *Government Auditing Standards*, Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the Uniform Guidance) and State of Texas Single Audit Circular, are provided below.

#### Proposed All-Inclusive Maximum Fees

Town of Addison, Texas			
For the Years Ending September 30	2021	2022	2023
Financial Statement Audit in Accordance with <i>Government Auditing Standards</i>	\$86,000	\$88,500	\$91,250
Compliance Audit in Accordance with the Uniform Guidance & State of Texas Single Audit Circular ( <i>Only if Town Meets Threshold</i> )	\$7,000	\$7,250	\$7,500
<b>Total</b>	<b>\$93,000</b>	<b>\$95,750</b>	<b>\$98,750</b>

The second page of the cost proposal should include a schedule of professional fees and expenses, presented in the format provided in the attachment (Appendix A), that supports the total all-inclusive maximum price.

All estimated out-of-pocket expenses to be reimbursed should be presented in the cost proposal in the format provided in Appendix A. All expense reimbursements should be in the total all-inclusive maximum price submitted by the firm.

1

**EXHIBIT C**  
**ADDISON'S REQUEST FOR PROPOSAL TERMS AND CONDITIONS**

1. **APPLICABILITY:** These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the Town of Addison's Request for Proposal (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," "Proposer," "Contractor," or "Supplier"). Any deviations must be in writing and signed by a representative of the Town's Purchasing Department and the Supplier. No Terms and Conditions contained in the Seller's Proposal, Invoice or Statement shall serve to modify the terms set forth herein. If there is a conflict between the Terms and Conditions and the provisions on the face of the Contract/Purchase Order, the Terms and Conditions will take precedence and control.

2. **OFFICIAL PROPOSAL NOTIFICATION:** The Town utilizes the following for official notifications of proposal 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. The Town is not responsible for receipt of notifications or information from any source other than those listed. It shall be the Supplier's responsibility to verify the validity of all Request for Proposal information received from any source other than the Town. There will be NO COST to the Seller for using BidSync for its Bids/Proposals.

3. **PRIOR OR PENDING LITIGATION OR LAWSUITS:** Each Proposer 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.

4. **COST OF RESPONSE:** Any cost incurred by the Supplier in responding to the Request for Proposal is the responsibility of the supplier and cannot be charged to the Town.

5. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No Town of Addison 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.

6. **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.

7. **INTERLOCAL AGREEMENT:** The successful Proposer agrees to extend prices 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 under Chapter 791 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 terms and conditions of award, to any other participant in a cooperative purchasing program.



8. CORRESPONDENCE: The proposal number must appear on all correspondence and inquiries pertaining to the Request for Proposal. The Purchase Order number must appear on all invoices or other correspondence relating to the contract.

9. INDEMNITY/INSURANCE: See attached Town of Addison minimum requirements.

10. ERROR-QUANTITY: Proposals must be submitted in units of quantity specified, extended, and totaled. In the event of discrepancies in extension, the unit prices shall govern.

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

12. PROPOSAL LIST REMOVAL: The Town reserves the right to remove a Supplier from any Proposal list for: (1) continued failure to be responsive to the Town, (2) failure to deliver merchandise within promised time, (3) delivery of substandard merchandise, or (4) failure to comply with the Contract/Purchase Order requirements.

13. CONTRACT RENEWAL OPTIONS: In the event a clause for option to renew for an additional period is included in the Request for Proposal, all renewals will be based solely upon the option and agreement between the Town and the Supplier. Either party dissenting will terminate the contract in accordance with its initial specified term.

14. TAXES-EXEMPTION: All quotations are required to be submitted LESS Federal Excise and State Sales Taxes. Tax Exemption Certificate will be executed for the successful Supplier.

15. ASSIGNMENT AND SUCCESSORS: The successful Supplier shall not assign, transfer, pledge, subcontract, or otherwise convey, in any manner whatsoever, any contract resulting from this proposal, in whole or in part, without the prior written consent of the Town of Addison.

16. INVOICING: Send ORIGINAL INVOICE to address indicated on the contract/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.

17. ELECTRONIC SIGNATURE – UNIFORM ELECTRONIC TRANSACTION 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.

18. FUNDING OUT CLAUSE: This agreement or contract 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 agreement or contract; (2) funds for this agreement or contract are not appropriated by the Town Council of the Town; and (3) funds for this agreement or contract that are or were

to be provided by grant or through an outside service are withheld, denied or are otherwise not available to the Town.

19. DISPUTE RESOLUTION: 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 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.

20. 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 supplier or 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 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, Supplier represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

21. PATENTS: Seller agrees to **indemnify and hold harmless** the Buyer against all costs and expenses, including but not limited to attorneys fees, and undertakes and **agrees to defend** at seller's own expense, all suits, actions or proceedings in which Buyer or the users of Buyer's products are claimed to have conducted in, or are made defendants of, actual or alleged infringement of any U.S. or foreign patent or other intellectual property right resulting from the use or sale of the items purchased hereunder and further agrees to pay and discharge any and all judgments or decrees which may be rendered in any such suit, action or proceeding.

22. APPLICABLE LAW: This agreement shall be governed by the laws of the State of Texas, including but not limited to the Uniform Commercial Code as adopted by the State of Texas, as

effective and in force on the date of this agreement, without regard to its conflict of laws rules or the conflict of law rules of any other jurisdiction.

23. VENUE: This agreement is performable in Dallas County, Texas, and venue for any suit, action, or legal proceeding under or in connection with this agreement shall lie exclusively in Dallas County, Texas. Proposer 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.

24. TERMINATION FOR CAUSE OR CONVENIENCE: The Town at any time after issuance of this agreement, by 30 days written notice to the Supplier, has the absolute right to terminate this agreement for cause or for convenience (that is, for any reason or no reason whatsoever). "Cause" shall be the 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.

25. FORCE MAJEURE: To the extent either the Town or Proposer shall be wholly or partially prevented from the performance of this agreement or of any obligation or duty under this agreement 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.

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

27. PROTECTION OF TRADE SECRETS OR PROPRIETARY INFORMATION: Proposals will be received and publicly acknowledged at the location, date, and time stated. Sellers, their representatives and interested persons may be present. The proposals shall be received and acknowledged only so as to avoid disclosure of the contents to competing sellers and kept secret during negotiation. However, all proposals shall be open for public inspection after the contract is awarded. Trade secrets and confidential information contained in the proposal and identified by Seller in writing as such will be treated as confidential by the Town to the extent allowable in the Texas Public Information Act and other law.

28. 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.

29. PROPOSAL RESPONSE CONTRACTUAL OBLIGATION: This proposal, submitted documents, and any negotiations, when properly accepted by the Town, shall constitute a contract equally binding between the successful Proposer and the Town. No different or additional terms will become part of this contract except as properly executed in an addendum or change order.

30. 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.

31. NO INDUSTRY DISCRIMINATION. The entity contracting with the Town of Addison does not discriminate against firearm and ammunition industries during the term of the contract. Reference SB 19 as it relates to Chapter 2251 of the Texas Government Code. Discriminating 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 the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.



**EXHIBIT D**  
**CONSULTANT'S ENGAGEMENT LETTER**

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July 7, 2021

Honorable Joe Chow, Mayor  
Members of City Council  
Mr. Wesley S. Pierson, City Manager  
Mr. Steven Glickman, CPA, CGFO  
Chief Financial Officer  
Mr. Wil Newcomer, CPPB, Purchasing Manager  
Town of Addison, Texas  
P.O. Box 9010  
Addison, Texas 75001

We appreciate your selection of **BKD, LLP** as your service provider and are pleased to confirm the arrangements of our engagement in this contract. Within the requirements of our professional standards and any duties owed to the public, regulatory, or other authorities, our goal is to provide you **Unmatched Client Service®**.

In addition to the terms set forth in this contract, including the detailed **Scope of Services**, our engagement is governed by the following, incorporated fully by this reference:

- Terms and Conditions Addendum

**Summary Scope of Services**

As described in the attached **Scope of Services**, our services will include the following:

- Town of Addison, Texas
- Audit Services for the year ended September 30, 2021

**Engagement Fees**

Our fees will be \$93,000 (\$86,000 for the Financial Statement Audit in accordance with *Government Auditing Standards* and \$7,000 for the Compliance Audit in accordance with the Uniform Guidance).

Our pricing for this engagement and our fee structure are based upon the expectation that our invoices will be paid promptly. Payment of our invoices is due upon receipt. We will issue progress billings during the course of our engagement.



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**Contract Agreement**

Please sign and return this contract to indicate your acknowledgment of, and agreement with, the arrangements for our services including our respective responsibilities.

**BKD, LLP**

Acknowledged and agreed to as it relates to the entire contract, including the **Scope of Services and Terms and Conditions Addendum**, on behalf of Town of Addison, Texas.

BY \_\_\_\_\_  
Wesley S. Pierson, City Manager

DATE \_\_\_\_\_

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## Scope of Services

The following apply for all services:

<b>Assistance</b>	Our timely completion of services depends on the assistance you provide us in accumulating information and responding to our inquiries. Inaccuracies or delays in providing this information or the responses may result in untimely filings or inability to meet other deadlines.
<b>Responsibility for Outcomes</b>	<p>We may perform additional services for you that are not covered by this contract. You agree to assume full responsibility for the substantive outcomes of the contracted services and for any other services we may provide, including any findings that may result.</p> <p>You also acknowledge these services are adequate for your purposes, and you will establish and monitor the performance of these services to ensure they meet management's objectives. All decisions involving management responsibilities related to these services will be made by you, and you accept full responsibility for such decisions.</p> <p>We understand you have designated (or will) a management-level individual to be responsible and accountable for overseeing the performance of these services, and you have determined (or will) this individual is qualified to conduct such oversight.</p>
<b>Boycott Israel</b>	As required by Chapter 2271, Texas Government Code, we represent that we do not boycott Israel and will not boycott Israel through the term of this engagement. For purposes of this representation, "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.
<b>Additional Costs Related to COVID-19</b>	<p>Our fees do not consider additional efforts driven by the SARS-CoV-2 virus and the related COVID-19 (COVID-19) environment. Complexities and uncertainties related to various provisions of new laws and the continued issuance of interpretative and procedural guidance from federal agencies may affect our services. Fees related to COVID-19 activities will be billed based on time expended. Additional efforts or services may include:</p> <ul style="list-style-type: none"><li>• Accounting and auditing issues such as other-than-temporary impairment of investments, collectability of receivables, inventory valuation, compliance with debt agreements, modification of lease terms, additional major programs subject to Single Audit, etc.</li></ul>

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#### Audit Services

We will audit the basic financial statements and related notes to the basic financial statements for the following entity with the objective of expressing an opinion on the financial statements; issuing a report on your compliance based on the audit of your financial statements; issuing a report on your internal control over financial reporting based on the audit of your financial statements; expressing an opinion on your compliance, in all material respects, with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Compliance Supplement* that are applicable to each of your major federal award programs; issuing a report on your internal control over compliance based on the audit of your compliance with the types of compliance requirements that are applicable to each of your major federal award programs; and issuing a report on your schedule of expenditures of federal awards:

- Town of Addison, Texas as of and for the year ended September 30, 2021

We will also express an opinion on whether (“supplementary information”) is fairly stated, in all material respects, in relation to the financial statements as a whole.

We will also provide you with the following nonattest services:

- We will complete the auditee portion of the Form SF-SAC (Data Collection Form) through the Federal Audit Clearinghouse. We will not make the submission on your behalf. You will review a draft(s) of the submission prior to transmission and agree that you are solely responsible for approving the final draft for transmission as well as for the auditee submission and certification
- Assisting with formatting the comprehensive annual financial report
- Preparing a draft of the supplementary information, including the schedule of expenditures of federal awards

Rachel Ormsby, Director is responsible for supervising the engagement and authorizing the signing of the report or reports.

We will issue a written report(s) upon completion of our audit(s), addressed to the following parties:

Entity Name	Party Name
Town of Addison, Texas	Mayor and City Council of the Town

You are responsible to distribute our reports to other officials who have legal oversight authority or those responsible for acting on audit findings and recommendations, and to others authorized to receive such reports.

The following apply for the audit services described above:

<b>Our Responsibilities</b>	We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in <i>Government Auditing Standards</i> issued by the Comptroller General of the United States and Title 2 U.S. <i>Code of Federal Regulations</i> (CFR) Part 200, <i>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</i> (Uniform Guidance). Those standards require that we plan and perform the audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by fraud or error, and the audit of compliance with the types of compliance requirements
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described in the *OMB Compliance Supplement* applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

**Limitations & Fraud**

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance having a direct and material effect may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

In making our risk assessments, we consider internal control relevant to your preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of your internal control. However, we will communicate to you in writing any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we identify during the audit. Also, in the future, procedures could become inadequate because of changes in conditions or deterioration in design or operation. Two or more people may also circumvent controls, or management may override the system.

We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate contract to be signed by you and **BKD, LLP**.

**Opinion**

We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other matter paragraph(s), or withdraw from the engagement. If we discover conditions that may prohibit us from issuing a standard report, we will notify you as well. In such circumstances, further arrangements may be necessary to continue our engagement.

**Your Responsibilities**

Management and, if applicable, those charged with governance acknowledge and understand their responsibility for the following:

- For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America

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- For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
- For identifying and ensuring compliance with the laws, regulations, contracts, and grants applicable to your activities (including your federal award programs)
- To provide us with:
  - Access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters
  - Additional information that we may request for the purpose of the audit
  - Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures, or other engagements that satisfy relevant legal, regulatory, or contractual requirements or fully meet other reasonable user needs.

**Written  
Confirmations  
Required**

As part of our audit process, we will request from management and, if applicable, those charged with governance written confirmation acknowledging certain responsibilities outlined in this contract and confirming:

- The availability of this information
- Certain representations made during the audits for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

**Peer Review  
Report**

*Government Auditing Standards* require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our most recent peer review report accompanies this contract.

**Supplementary  
Information**

With regard to any supplementary information that we are engaged to report on:

- Management is responsible for its preparation in accordance with applicable criteria
- Management will provide certain written representations regarding the supplementary information at the conclusion of our engagement
- Management will include our report on this supplementary information in any document that contains this supplementary information and indicates we have reported on the supplementary information
- Management will make the supplementary information readily available to intended users if it is not presented with the audited financial statements



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BKD, LLP Terms and Conditions Addendum

GENERAL

1. **Overview.** This addendum describes **BKD, LLP's** standard terms and conditions ("Terms and Conditions") applicable to Our provision of services to the Client ("You"). The Terms and Conditions are a part of the contract between You and **BKD, LLP**. For the purposes of the Terms and Conditions, any reference to "Firm," "We," "Us," or "Our" is a reference to **BKD, LLP** ("BKD"), and any reference to "You" or "Your" is a reference to the party or parties that have engaged Us to provide services.

BILLING, PAYMENT, & TERMINATION

2. **Billing and Payment Terms.** We will bill You for Our professional fees and costs as outlined in Our contract. Interest will be charged on any unpaid balance after 30 days at the rate of 10 percent per annum, or as allowed by law at the earliest date thereafter, and highest applicable rate if less than 10 percent.

We reserve the right to suspend or terminate Our work for this engagement or any other engagement for nonpayment of fees. If Our work is suspended or terminated, You agree that We will not be responsible for Your failure to meet governmental and other deadlines, for any penalties or interest that may be assessed against You resulting from Your failure to meet such deadlines, and for any other damages (including but not limited to consequential, indirect, lost profits, or punitive damages) incurred as a result of the suspension or termination of Our services.

Our fees may increase if Our duties or responsibilities are increased by rulemaking of any regulatory body or any additional new accounting or auditing standards. Our engagement fees do not include any time for post-engagement consultation with Your personnel or third parties, consent letters and related procedures for the use of Our reports in offering documents, inquiries from regulators, or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

3. **Billing Records.** If these services are determined to be within the scope and authority of Section 1861(v)(1)(I) of the Social Security Act, We agree to make available to the Secretary of Health and Human Services, or to the U.S. Comptroller General, or any of their duly authorized representatives, such of Our books, documents, and records that are necessary to certify the nature and extent of Our services, until the expiration of four (4) years after the furnishing of these services. This contract allows access to contracts of a similar nature between subcontractors and related organizations of the subcontractor, and to their books, documents, and records.
4. **Termination.** Either party may terminate these services in good faith at any time for any reason, including Your failure to comply with the terms of Our contract or as We determine professional standards require. Both parties must agree, in writing, to any future modifications or extensions. If services are terminated, You agree to pay BKD for time expended to date. In addition, You will be billed costs and fees for services from other professionals, if any, as well as an administrative fee of four (4) percent to cover items such as copies, postage and other delivery charges, supplies, technology-related costs such as software licensing, user access, and research tools, and similar expense items.

DISPUTES & DISCLAIMERS

5. **Mediation.** Any dispute arising out of or related to this engagement will, prior to resorting to litigation, be submitted for nonbinding mediation upon written request by either party. Both parties agree to

try in good faith to settle the dispute in mediation. Unless the parties agree otherwise, the American Arbitration Association ("AAA") will administer any such mediation in accordance with its Commercial Mediation Rules. The mediator will be selected by agreement of the parties. If We cannot agree, a mediator shall be designated by the AAA. The mediation proceeding shall be confidential. Each party will bear its own costs in the mediation, but the fees and expenses of the mediator will be shared equally.

6. **Indemnification.** Unless disallowed by law or applicable professional standards, You agree to hold BKD harmless from any and all claims which arise from knowing misrepresentations to BKD, or the intentional withholding or concealment of information from BKD by Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. You also agree to indemnify BKD for any claims made against BKD by third parties, which arise from any wrongful actions of Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. The provisions of this paragraph shall apply regardless of the nature of the claim.
7. **Statute of Limitations.** You agree that any claim or legal action arising out of or related to this contract and the services provided hereunder shall be commenced no more than one (1) year from the date of delivery of the work product to You or the termination of the services described herein (whichever is earlier), regardless of any statute of limitations prescribing a longer period of time for commencing such a claim under law. This time limitation shall apply regardless of whether BKD performs other or subsequent services for You. A claim is understood to be a demand for money or services, demand for mediation, or the service of suit based on a breach of this contract or the acts or omissions of BKD in performing the services provided herein. This provision shall not apply if enforcement is disallowed by applicable law or professional standards.
8. **Limitation of Liability.** You agree that BKD's liability, if any, arising out of or related to this contract and the services provided hereunder, shall be limited to the amount of the fees paid by You for services rendered under this contract. This limitation shall not apply to the extent it is finally, judicially determined that the liability resulted from the intentional or willful misconduct of BKD or if enforcement of this provision is disallowed by applicable law or professional standards.
9. **Waiver of Certain Damages.** In no event shall BKD be liable to You or a third party for any indirect, special, consequential, punitive, or exemplary damages, including but not limited to lost profits, loss of revenue, interruption, loss of use, damage to goodwill or reputation, regardless of whether You were advised of the possibility of such damages, regardless of whether such damages were reasonably foreseeable, and regardless of whether such damages arise under a theory of contract, tort, strict liability, or otherwise.
10. **Severability.** If any portion of this contract is deemed invalid or unenforceable, said finding shall not operate to invalidate the remainder of the terms set forth in this contract.
11. **Assignment.** You acknowledge and agree that the terms and conditions of this contract shall be binding upon and inure to the parties' successors and assigns, subject to applicable laws and regulations.
12. **Disclaimer of Legal or Investment Advice.** Our services do not constitute legal or investment advice.

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#### RECORDS, WORKPAPERS, DELIVERABLES, & PROPRIETARY INFORMATION

13. **Maintenance of Records.** You agree to assume full responsibility for maintaining Your original data and records and that BKD has no responsibility to maintain this information. You agree You will not rely on BKD to provide hosting, electronic security, or backup services, *e.g.*, business continuity or disaster recovery services, to You unless separately engaged to do so. You understand that Your access to data, records, and information from BKD's servers, *i.e.*, BKDconnect, can be terminated at any time and You will not rely on using this to host Your data and records.

14. **BKD Workpapers.** Our workpapers and documentation retained in any form of media for this engagement are the property of BKD. We can be compelled to provide information under legal process. In addition, We may be requested by regulatory or enforcement bodies (including any State Board) to make certain workpapers available to them pursuant to authority granted by law or regulation. Unless We are prohibited from doing so by law or regulation, BKD will inform You of any such legal process or request. You agree We have no legal responsibility to You in the event We determine We are obligated to provide such documents or information. In addition, You agree to compensate or reimburse BKD for all costs and expenses, including reasonable attorney's fees, associated with BKD's compliance with requests or demands for its workpapers or other information related to this engagement, and for any testimony required by summons or subpoena.

15. **Use of Deliverables and Drafts.** You agree You will not modify any deliverables or drafts prepared by Us for internal use or for distribution to third parties. You also understand that We may on occasion send You documents marked as draft and understand that those are for Your review purpose only, should not be distributed in any way, and should be destroyed as soon as possible.

Our report on any financial statements must be associated only with the financial statements that were the subject of Our engagement. You may make copies of Our report, but only if the entire financial statements (exactly as attached to Our report, including related footnotes and supplementary information, as appropriate) are reproduced and distributed with Our report. You agree not to reproduce or associate Our report with any other financial statements, or portions thereof, that are not the subject of Our engagement.

16. **Proprietary Information.** You acknowledge that proprietary information, documents, materials, management techniques, and other intellectual property are a material source of the services We perform and were developed prior to Our association with You. Any new forms, software, documents, or intellectual property We develop during this engagement for Your use shall belong to Us, and You shall have the limited right to use them solely within Your business. All reports, templates, manuals, forms, checklists, questionnaires, letters, agreements, and other documents which We make available to You are confidential and proprietary to Us. Neither You, nor any of Your agents, will copy, electronically store, reproduce, or make any such documents available to anyone other than Your personnel. This provision will apply to all materials whether in digital, "hard copy" format, or other medium.

#### REGULATORY

17. **U.S. Securities and Exchange Commission ("SEC") and other Regulatory Bodies.** Where We are providing services either for (a) an entity that is registered with the SEC, (b) an affiliate of such registrant, or (c) an entity or affiliate that is subject to rules, regulations, or standards beyond those of the American Institute of

Certified Public Accountants ("AICPA"), any term of this contract that would be prohibited by or impair Our independence under applicable law or regulation shall not apply to the extent necessary only to avoid such prohibition or impairment.

18. **Offering Document.** You may wish to include Our report(s) on financial statements in an exempt offering document. You agree that any report, including any auditor's report, or reference to Our firm, will not be included in any such offering document without notifying us. Any agreement to perform work in connection with an exempt offering document, including providing agreement for the use of the auditor's report in the exempt offering document, will be a separate engagement.

Any exempt offering document issued by You with which We are not involved will clearly indicate that We are not involved by including a disclosure such as, "BKD, LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. BKD, LLP also has not performed any procedures relating to this offering document."

19. **BKD Not a Municipal Advisor.** BKD is not acting as Your municipal advisor under Section 15B of the *Securities Exchange Act of 1934*, as amended. As such, BKD is not recommending any action to You and does not owe You a fiduciary duty with respect to any information or communications regarding municipal financial products or the issuance of municipal securities. You should discuss such matters with internal or external advisors and experts You deem appropriate before acting on any such information or material provided by BKD.

#### TECHNOLOGY

20. **Electronic Sites.** You agree to notify Us if You desire to place Our report(s), including any reports on Your financial statements, along with other information, such as a report by management or those charged with governance on operations, financial summaries or highlights, financial ratios, etc., on an electronic site. You recognize that We have no responsibility to review information contained in electronic sites.

21. **Electronic Signatures and Counterparts.** This contract and other documents to be delivered pursuant to this contract may be executed in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same agreement or document, and will be effective when counterparts have been signed by each of the parties and delivered to the other parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this contract or any other document contemplated hereby, bearing an original manual or electronic signature by facsimile transmission (including a facsimile delivered via the internet), by electronic mail in "portable document format" ("pdf") or similar format intended to preserve the original graphic and pictorial appearance of a document, or through the use of electronic signature software, will have the same effect as physical delivery of the paper document bearing an original signature.

22. **Electronic Data Communication and Storage.** In the interest of facilitating Our services to You, We may send data over the internet, temporarily store electronic data via computer software applications hosted remotely on the internet, or utilize cloud-based storage. Your confidential electronic data may be transmitted or stored using these methods. In using these data communication and storage methods,

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We employ measures designed to maintain data security. We use reasonable efforts to keep such communications and electronic data secure in accordance with Our obligations under applicable laws, regulations, and professional standards.

You recognize and accept that We have no control over the unauthorized interception or breach of any communications or electronic data once it has been transmitted or if it has been subject to unauthorized access while stored, notwithstanding all reasonable security measures employed by us. You consent to Our use of these electronic devices and applications during this engagement.

#### OTHER MATTERS

23. **Third-Party Service Providers.** BKD may from time to time utilize third-party service providers, e.g., domestic software processors or legal counsel, or disclose confidential information about You to third-party service providers in serving Your account. BKD maintains, however, internal policies, procedures, and safeguards to protect the confidentiality and security of Your information. In addition, BKD will secure confidentiality agreements with all service providers to maintain the confidentiality of Your information. If We are unable to secure an appropriate confidentiality agreement, You will be asked to consent prior to BKD sharing Your confidential information with the third-party service provider.
24. **Independent Contractor.** When providing services to You, We will be functioning as an independent contractor; and in no event will We or any of Our employees be an officer of You, nor will Our relationship be that of joint venturers, partners, employer and employee, principal and agent, or any similar relationship giving rise to a fiduciary duty to You.
25. **Use of BKD Name.** Any time You intend to reference BKD's firm name in any manner in any published materials, including on an electronic site, You agree to provide Us with draft materials for review and approval before publishing or posting such information.
26. **Praxity.** BKD is an independent accounting firm allowed to use the name "Praxity" in relation to its practice. BKD is not connected, however, by ownership with any other firm using the name "Praxity." BKD will be solely responsible for all work carried out on Your behalf. In deciding to engage BKD, You acknowledge that We have not represented to You that any other firm using the name "Praxity" will in any way be responsible for Our work.
27. **BKD Status as LLP.** BKD is a registered limited liability partnership under Missouri law. Under applicable professional standards, partners of **BKD, LLP** have the same responsibilities as do partners in a general accounting and consulting partnership with respect to conformance by themselves and other professionals in BKD with their professional and ethical obligations. However, partners in a registered limited liability partnership do not have individual civil liability, directly or indirectly, for any debts, obligations, or liabilities of or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract, or otherwise.
28. **Entire Agreement.** The contract, including this *Terms and Conditions Addendum* and any other attachments or addenda, encompasses the entire agreement between You and BKD and supersedes all previous understandings and agreements between the parties, whether oral or written. Any modification to the terms of this contract must be made in writing and signed by both You and BKD.
29. **Force Majeure.** We shall not be held responsible for any failure to fulfill Our obligations if such failure was caused by circumstances beyond Our control.



8550 United Plaza Blvd., Ste. 1001 — Baton Rouge, LA 70809  
225-922-4600 Phone — 225-922-4611 Fax — [pnpcpa.com](http://pnpcpa.com)

Postlethwaite & Netterville and Associates, L.L.C.

#### Report on the Firm's System of Quality Control

To the Partners of BKD, LLP  
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of BKD, LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

#### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

#### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

#### Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; audits of employee benefit plans; audits performed under FDICIA, an audit of a broker-dealer, and examinations of service organizations [SOC 1 and SOC 2 engagements].

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

#### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of BKD, LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. BKD, LLP has received a peer review rating of *pass*.

*Postlethwaite & Netterville*

Baton Rouge, Louisiana  
November 2, 2020

## Council Meeting

9.

**Meeting Date:** 08/10/2021

**Department:** Finance

**Pillars:** Excellence in Asset Management  
Excellence in Transportation Systems

**Milestones:** Implement the Asset Management Plan  
Improve all modes of transportation with infrastructure in an acceptable condition and well maintained  
Continue development and implementation of Long Term Financial Plan

---

### AGENDA CAPTION:

Present, Discuss, and Consider Action on an **Ordinance Authorizing the Issuance of Town of Addison, Texas, General Obligation Bonds, Series 2021; Awarding the Sale Thereof; Levying a Tax, and Providing for the Security and Payment of Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement; Approving the Official Statement; Enacting Other Provisions Relating to the Subject; and Declaring an Effective Date.**

### BACKGROUND:

Since 2012, Addison voters have approved several bond programs to fund various projects throughout Town. Once voter approval is secured, the City Council is authorized to issue bonds to pay for projects.

The proposed 2021 General Obligation Bond issuance totals \$16,095,000 and consists of the following:

- \$8,000,000, from the authorized \$16,000,000 (\$3,000,000 issued to date), from Proposition 1 of the 2012 Bond Election for reconstruction of Midway Road. Council awarded a construction contract to Tiseo Construction on December 8th, 2020. The project is currently under construction with an anticipated completion date in Fiscal Year 2024.
- \$3,145,000, from the authorized \$6,723,000 (\$365,000 issued to date), from Proposition C of the 2019 Bond Election for parks and recreation improvements and facilities. Council approved a contract for design of locker room, pool, and gymnasium and track improvements to the Addison Athletic Club on June 9th, 2020. Design is nearing completion with construction anticipated to begin in September 2021 with an estimated construction timeline of 12-24 months.
- \$4,950,000, from the authorized \$7,395,000 (\$140,000 issued to date), from Proposition D of the 2019 Bond Election for improvements to existing



municipal buildings. Council approved a contract for design of roof and HVAC improvements to the Addison Athletic Club on June 9th, 2020. Design is nearing completion with construction anticipated to begin in September 2021 with an estimated construction timeline of 12-24 months. Additionally, Council approved a professional services contract for engineering and project management of phase one facility projects on April 13, 2021. The phase one projects include roofing, HVAC, and ADA improvements on all Town facilities except the Addison Athletic Club (i.e., Town Hall, Service Center, Finance Building, etc.). It is anticipated that all phase one projects will be completed by the end of Fiscal Year 2022.

Certain details concerning the General Obligation Bonds will not be known until the completion of the sale on August 10, 2021. This information will be made available at the Council meeting on August 10, 2021, prior to the discussion of this item. The ordinance will be updated at the meeting.

The Town of Addison's AAA/Aaa bond ratings from Standard and Poor's and Moody's were reaffirmed as part of this bond sale.

**RECOMMENDATION:**

Administration recommends approval.

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**Attachments**

Ordinance - Authorization of 2021 General Obligation Bonds

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ORDINANCE

relating to

\$ \_\_\_\_\_  
TOWN OF ADDISON, TEXAS  
GENERAL OBLIGATION BONDS  
SERIES 2021

Adopted: August 10, 2021

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF TOWN OF ADDISON, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2021 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_; AWARDING THE SALE THEREOF; LEVYING A TAX, AND PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT; APPROVING THE OFFICIAL STATEMENT; ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the Town of Addison (the “Town”) intends to issue bonds to finance public improvements the City Council considers necessary within the Town; and

WHEREAS, the bonds hereinafter authorized were duly and favorably voted, as required by the Constitution and laws of the State of Texas, at elections held in the Town, on May 12, 2012 and November 5, 2019 (the “Elections”); and

WHEREAS, at the Elections, the following are among the purposes and amounts of the bonds which were authorized, reflecting any amount previously issued pursuant to each voted authorization, the amount therefrom being issued pursuant to this Ordinance, and the balance that remains unissued after the issuance of the bonds herein authorized, to wit: and

<b>Purpose</b>	<b>Date Authorized</b>	<b>Amount Authorized</b>	<b>Amount Previously Issued</b>	<b>Amount Being Issued<sup>(1)</sup></b>	<b>Unissued Balance</b>
Street Utilities	5/12/2012	\$29,500,000	\$ 6,500,000	\$ 8,000,000	\$15,000,000
Parking Facilities	5/12/2012	3,000,000	-0-	-0-	3,000,000
Keller Springs Road and Airport Parkway Improvements	11/5/2019	22,300,000	14,030,000	-0-	8,270,000
Quorum Drive and Montfort Drive Improvements	11/5/2019	33,602,000	-0-	-0-	33,602,000
Parks and Recreation	11/5/2019	6,723,000	365,000	3,145,000	3,213,000
Town Facilities and Improvements	11/5/2019	7,395,000	140,000	4,950,000	2,305,000
Traffic Control Systems	11/5/2019	<u>600,000</u>	<u>600,000</u>	<u>-0-</u>	<u>-0-</u>
		<u>\$103,120,000</u>	<u>\$21,635,000</u>	<u>\$16,095,000</u>	<u>\$65,390,000</u>

<sup>1</sup> Includes premium in the amount of \$ \_\_\_\_\_ allocated to voted authorization.

WHEREAS, the City Council has found and determined that it is necessary and in the best interests of the Town and its citizens that it issue such bonds authorized by this Ordinance; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place, and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

## ARTICLE I

### DEFINITIONS AND OTHER PRELIMINARY MATTERS

#### Section 1.01. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Business Day” means a day that is not a Saturday, Sunday, legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close.

“Bond” means any of the Bonds.

“Bonds” means the bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “Town of Addison, Texas, General Obligation, Series 2021.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code, and (d) the Regulations promulgated under the provisions described in (b) and (c).

“Delivery Date” means the date of delivery of the Bonds to the Purchasers and designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named herein, its office in Dallas, Texas, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the Town and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Bond” means the initial bond authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year commencing February 15, 2022.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” means this Ordinance.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, Dallas, Texas, or any successor thereto as provided in this Ordinance.

“Purchaser(s)” means the initial purchaser(s) of the Bonds as set forth in Section 7.01.

“Record Date” means the last Business Day of the month next preceding an Interest Payment Date.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Representations Letter” means the Blanket Letter of Representations between the Town and DTC.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Town” means the Town of Addison, Texas.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of, redemption premium, if any, or interest on the Bonds as the same come due and payable or money set aside for the payment of Bonds duly called for redemption prior to maturity.

#### Section 1.02. Findings.

The declarations, determinations, and findings declared, made, and found in the preamble to this Ordinance are hereby adopted, restated, and made a part of the operative provisions hereof.

#### Section 1.03. Table of Contents, Titles, and Headings.

The table of contents, titles, and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

#### Section 1.04. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.



## ARTICLE II

### SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

#### Section 2.01. Payment of the Bonds.

(a) Pursuant to the authority granted by the Texas Constitution and laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year thereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the Town, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent per annum (whichever amount is the greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the Town most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the liens and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

#### Section 2.02. Interest and Sinking Fund.

(a) The Town hereby establishes a special fund or account to be designated the "Town of Addison, Texas, General Obligation Bonds, Series 2021, Interest and Sinking Fund" (the "Interest and Sinking Fund") said fund to be maintained at an official depository bank of the Town separate and apart from all other funds and accounts of the Town.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

### ARTICLE III

#### AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

##### Section 3.01. Authorization.

The Town's bonds to be designated "Town of Addison, Texas, General Obligation Bonds, Series 2021" (the "Bonds"), are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, specifically Chapter 1331, Texas Government Code, as amended. The Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_ for the following purposes, to wit: (i) engineering, constructing, reconstructing, improving, repairing, developing, extending and expanding streets, thoroughfares, intersections, grade separations, sidewalks, and other public ways of the Town, including related streetscape improvements, public utility improvements, storm drainage facilities and improvements, signalization and other traffic controls, street lighting and the acquisition of land therefor (2012 Authorization), (ii) acquiring, developing, renovating and improving parks, park facilities, recreation facilities, including the Addison Athletic Club, and open spaces for park and recreation purposes in and for the Town, including the acquisition of land therefor (2019 Authorization), (iii) renovating, repairing, improving, and equipping existing Town service, public safety, conference and administrative facilities, including repair, replacement, and improvement of roofs, mechanical, electrical, plumbing, air conditioning, heating and ventilation equipment and systems, façade improvements, and improvements required by the Americans with Disabilities Act and other applicable laws (2019 Authorization), (iv) improving, acquiring and equipping advanced traffic control systems and facilities and (v) paying of the costs of issuance of the Bonds.

##### Section 3.02. Date, Denomination, Maturities, and Interest.

(a) The Bonds shall be dated August 1, 2021. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on February 15 in the years and in the principal amounts set forth in the following schedule:

<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2/15/2022			2/15/2032		
2/15/2023			2/15/2033		
2/15/2024			2/15/2034		
2/15/2025			2/15/2035		
2/15/2026			2/15/2036		
2/15/2027			2/15/2037		
2/15/2028			2/15/2038		
2/15/2029			2/15/2039		
2/15/2030			2/15/2040		
2/15/2031			2/15/2041		

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption from the later of the date of delivery of the Bonds to the Purchaser (the “Delivery Date”) or the most recent interest payment date to which interest has been paid or provided for at the rates per annum for each maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable semiannually on February 15 and August 15 of each year commencing February 15, 2022, and shall be computed on the basis of a 360-day year of twelve 30-day months.

### Section 3.03. Medium, Method, and Place of Payment.

(a) The principal of, redemption premium, if any, and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a “Special Record Date”) shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the “Special Payment Date,” which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of and mailed on the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner, first class United States mail, postage prepaid, to the address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such alternative banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date, whether at the maturity date or the date of prior redemption thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the Town to be used for any lawful purpose. Thereafter, neither the Town, the Paying Agent/Registrar, nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

#### Section 3.04. Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the Town by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the Town shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the Town had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the Town whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bonds shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bonds

delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the Town, and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one initial Bond (the "Initial Bond") representing the entire principal amount of all Bonds, payable in stated installments to the initial purchaser, or its designee, executed by the Mayor and City Secretary of the Town, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the initial purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of the initial purchaser one registered definitive Bond for each year of maturity of the Bonds in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

#### Section 3.05. Ownership.

(a) The Town, the Paying Agent/Registrar, and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as herein provided (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the Town nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the Town and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

#### Section 3.06. Registration, Transfer, and Exchange.

(a) So long as any Bonds remain outstanding, the Town shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in a denomination or denominations of any integral multiple of \$5,000, and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the Town and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

(f) Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, within 45 calendar days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

#### Section 3.07. Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be canceled and proper records made regarding such payment, redemption, exchange, or replacement. The Paying Agent/Registrar shall then return such canceled Bonds to the Town or may in accordance with law dispose of such cancelled Bonds.

#### Section 3.08. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the Town may execute and, upon the Town's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed, or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions, and other variations as the officers of the Town executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The Town, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.



Section 3.09. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The Town or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction, or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the Town harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the Town and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the Town and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the Town or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed, or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the Town and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

### Section 3.10. Book-Entry-Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Bond, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate bond for each of the maturities thereof.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the Town to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Representations Letter previously executed and delivered by the Town, and applicable to the Town's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

### Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry-Only System.

In the event that the Town or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representations Letter of the Town to DTC, and that it is in the best interest of the Town and the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and

transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

#### Section 3.12. Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as the Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the Representations Letter of the Town to DTC.

### ARTICLE IV

#### REDEMPTION OF BONDS BEFORE MATURITY

##### Section 4.01. Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

##### Section 4.02. Optional Redemption.

(a) The Town reserves the option to redeem Bonds maturing on and after February 15, 2031 in whole or any part, before their respective scheduled maturity dates, on August 15, 2030 or on any date thereafter, such redemption date or dates to be fixed by the Town, at a price equal to the principal amount of the Bonds called for redemption plus accrued interest to the date fixed for redemption.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the Town shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The Town, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03. Reserved.

Section 4.04. Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bonds in an aggregate principal amount equal to the unredeemed portion of the Bonds so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the Town in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.05. Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by first class United States mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06. Payment Upon Redemption.

(a) Before or on each redemption date, the Town shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the Town and shall use such funds solely for the purpose of paying the principal of, redemption premium, if any, and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office of the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

#### Section 4.07. Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the Town defaults in its obligation to make provision for the payment of the principal thereof, redemption premium, if any, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the Town shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the Town.

#### Section 4.08. Conditional Notice of Redemption.

The Town reserves the right to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the Town retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the Town delivers a certificate of the Town to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption and such redemption has been rescinded shall remain Outstanding and the rescission of such redemption shall not constitute an event of default. Further, in the case of a conditional notice of redemption, the failure of the Town to make moneys and or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

#### Section 4.09. Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

### ARTICLE V

#### PAYING AGENT/REGISTRAR

#### Section 5.01. Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, Dallas, Texas, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

Section 5.02. Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03. Maintaining Paying Agent/Registrar.

(a) At all times while any of the Bonds are outstanding, the Town will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the Town and the Paying Agent/Registrar in substantially the form presented at this meeting, such form of agreement being hereby approved. The signature of the Mayor shall be attested by the City Secretary of the Town.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the Town will promptly appoint a replacement.

Section 5.04. Termination.

The Town, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05. Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the Town will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address thereof in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06. Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07. Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.



## ARTICLE VI

### FORM OF THE BONDS

#### Section 6.01. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Bond of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the Town or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds, if any, shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

#### Section 6.02. Form of the Bonds.

The form of the Bonds, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be substantially as follows:

(a) Form of Bond.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas  
County of Dallas  
TOWN OF ADDISON, TEXAS  
GENERAL OBLIGATION BOND  
SERIES 2021

INTEREST RATE:      MATURITY DATE:      DELIVERY DATE:      CUSIP NUMBER:  
\_\_\_\_\_ %      February 15, \_\_\_\_\_      September 14, 2021      \_\_\_\_\_

The Town of Addison (the "Town"), in the County of Dallas, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_

or registered assigns, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been provided for, and to pay interest on such principal amount from the later of Delivery Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing February 15, 2022.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated office in Dallas, Texas, of The Bank of New York Mellon Trust Company, National Association, as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor Paying Agent/Registrar. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expenses of such customary banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a

scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which date shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is dated August 1, 2021 and is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$\_\_\_\_\_ (herein referred to as the "Bonds"), issued pursuant to a certain ordinance of the Town (the "Ordinance") for the purpose of providing funds for certain public improvements within the Town as described in the Ordinance, and to pay for the professional services of attorneys, financial advisors and other professionals in connection with the Project and the issuance of the Bonds.

The Town has reserved the option to redeem the Bonds maturing on or after February 15, 2031, in whole or in part, before their respective scheduled maturity dates, on August 15, 2030, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the Town shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice; from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

The Town reserves the right to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such

other entity as may be authorized by law, no later than the redemption date, or (ii) that the Town retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the Town delivers a certificate of the Town to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional notice of redemption and such redemption has been rescinded shall remain Outstanding and the rescission of such redemption shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the Town to make moneys and or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Town for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The Town, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date, or the Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the Town nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law, and has been authorized by a vote of the properly qualified electors of the Town; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the Town have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the Town, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the Town and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the Town has been duly impressed or placed in facsimile on this Bond.

\_\_\_\_\_  
Mayor, Town of Addison, Texas

\_\_\_\_\_  
City Secretary,  
Town of Addison, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate. The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the Town of Addison, Texas; and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from each Initial Bond if the Comptroller's Registration Certificate appears thereon.

#### CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK MELLON  
TRUST COMPANY,  
NATIONAL ASSOCIATION,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

#### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_

Authorized Signatory

NOTICE: The Signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.



(e) The Initial Bond shall be in the form set forth in subsections (a) through (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings “INTEREST RATE,” and “MATURITY DATE” shall both be completed with the words “As Shown Below” and the words “CUSIP NO.” shall be deleted;

(ii) in the first paragraph of the Bond, the words “on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS” shall be deleted and the following will be inserted: “on the fifteenth day of February in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(Information to be inserted from Section 3.02(c) hereof).

(iii) the Initial Bond shall be numbered T-1.

#### Section 6.03. CUSIP Registration.

The Town may secure identification numbers through the CUSIP Service Bureau managed by S & P Global IQ Intelligence on behalf of the American Bankers Association, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect in regard to the legality thereof and neither the Town nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

#### Section 6.04. Legal Opinion.

The approving legal opinion of Bracewell LLP, Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the Town, which may be executed in facsimile.

#### Section 6.05. Statement Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds, may be printed on each Bond.

## ARTICLE VII

### SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS; FLOW OF FUNDS

#### Section 7.01. Sale of Bonds; Official Statement.

(a) The Bonds, having been duly advertised and offered for sale at competitive bid, are hereby officially sold and awarded to \_\_\_\_\_ (the "Purchaser") for a purchase price equal to the principal amount thereof, plus a cash premium in the amount of \$\_\_\_\_\_, being the bid which produced the lowest true interest cost to the Town. The Initial Bond shall be registered in the name of the Purchaser or its designee.

(b) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Mayor and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved and delivered, with such appropriate variations as shall be approved by the Mayor and the Purchaser, may be used by the Purchaser in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchaser, is hereby ratified, approved and confirmed.

(c) All officers of the Town are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the Town is hereby authorized and directed to issue a check of the Town payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount per series to be the lesser of (i) 1/10th of 1% of the principal amount of such series of the Bonds or (ii) \$9,500.)

(d) The obligation of the Purchaser to accept delivery of the Bonds is subject to the Purchaser being furnished with the final, approving opinion of Bracewell LLP, bond counsel for the Town, which opinion shall be dated and delivered the Closing Date.

#### Section 7.02. Control and Delivery of Bonds.

(a) The Mayor of the Town is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of

Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser or a representative thereof under and subject to the general supervision and direction of the Mayor, against receipt by the Town of all amounts due to the Town under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

#### Section 7.03. Deposit of Proceeds.

(a) The proceeds of the Bonds received on the Closing Date, shall be deposited to a special account of the Town, such moneys to be dedicated and used solely for the purposes for which the Bonds are being issued as herein provided in Section 3.01. To the extent any of such amount is not used for such purposes, such excess shall be deposited to the Interest and Sinking Fund.

### ARTICLE VIII

#### CREATION OF FUNDS AND ACCOUNTS; DEPOSIT OF PROCEEDS; INVESTMENTS

##### Section 8.01. Creation of Funds.

(a) The Town hereby establishes the following special funds or accounts:

(i) The Town of Addison, Texas, General Obligation Bonds, Series 2021, Interest and Sinking Fund; and

(ii) The Town of Addison, Texas General Obligation Bonds, Series 2021 Construction Fund.

(b) These funds or accounts shall be maintained at an official depository of the Town.

##### Section 8.02. Interest and Sinking Fund.

(a) The taxes levied under Section 2.01 shall be deposited to the credit of the Interest and Sinking Fund at such times and in such amounts as necessary for the timely payment of the principal of and interest on the Bonds.

(b) If the amount of money in the Interest and Sinking Fund is at least equal to the aggregate principal amount of the outstanding Bonds plus the aggregate amount of interest due

and that will become due and payable on such Bonds, no further deposits to that fund need be made.

(c) Money on deposit in the Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds as such become due and payable.

Section 8.03. Construction Fund. (a) Money on deposit in the Construction Fund, including investment earnings thereof, shall be used for the purposes specified in Section 3.01 of this Ordinance.

(b) All amounts remaining in the Construction Fund after the accomplishment of the purposes for which the Bonds are hereby issued, including investment earnings of the Construction Fund, shall be deposited into the Interest and Sinking Fund.

Section 8.04. Security of Funds.

All moneys on deposit in the funds referred to in this Ordinance shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds, and moneys on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

Section 8.05. Deposit of Proceeds.

(a) Proceeds of the Bonds in the amount of \$\_\_\_\_\_, (including premium received on the Bonds in the amount of \$\_\_\_\_\_ allocated to voted authorization), shall be deposited to the Construction Fund.

(b) Premium generated on the Bonds in the amount of \$\_\_\_\_\_ shall be deposited to a special fund, such moneys to be dedicated and used for paying the costs of issuance. Any amounts remaining after the payment of the costs of issuance shall be deposited to the Interest and Sinking Fund.

Section 8.06. Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance, at the option of the Town, may be invested in such securities or obligations as permitted under applicable law.

(b) Any securities or obligations in which such money is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.07. Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund be credited to such fund.

(b) Interest and income derived from investment of the funds to be deposited pursuant to Section 7.03(b) hereof shall be credited to the account where deposited until the acquisition or construction of said projects is completed and thereafter, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

## ARTICLE IX

### PARTICULAR REPRESENTATIONS AND COVENANTS

#### Section 9.01. Payment of the Bonds.

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of, redemption premium, if any, and interest on the Bonds as will accrue or mature on the applicable Interest Payment Date, maturity date and, if applicable, on a date of prior redemption.

#### Section 9.02. Other Representations and Covenants.

(a) The Town will faithfully perform, at all times, any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the Town will promptly pay or cause to be paid the principal of, redemption premium, if any, and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the Town will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The Town is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Town in accordance with their terms.

#### Section 9.03. Federal Income Tax Matters.

(a) General. The Town covenants not to take any action or omit to take any action that, if taken or omitted, would cause the interest on the Bonds to be includable in gross income for federal income tax purposes. In furtherance thereof, the Town covenants to comply with sections 103 and 141 through 150 of the Code and the provisions set forth in the Federal Tax Certificate executed by the Town in connection with the Bonds.

(b) No Private Activity Bonds. The Town covenants that it will use the proceeds of the Bonds (including investment income) and the property financed, directly or indirectly, with such proceeds so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code. Furthermore, the Town will not take a deliberate action (as defined in section 1.141-2(d)(3) of the Regulations) that causes the Bonds to be a “private activity bond” unless it takes a remedial action permitted by section 1.141-12 of the Regulations.

(c) No Federal Guarantee. The Town covenants not to take any action or omit to take any action that, if taken or omitted, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

(d) No Hedge Bonds. The Town covenants not to take any action or omit to take action that, if taken or omitted, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code.

(e) No Arbitrage Bonds. The Town covenants that it will make such use of the proceeds of the Bonds (including investment income) and regulate the investment of such proceeds of the Bonds so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code.

(f) Required Rebate. The Town covenants that, if the Town does not qualify for an exception to the requirements of section 148(f) of the Code, the Town will comply with the requirement that certain amounts earned by the Town on the investment of the gross proceeds of the Bonds, be rebated to the United States.

(g) Information Reporting. The Town covenants to file or cause to be filed with the Secretary of the Treasury an information statement concerning the Bonds in accordance with section 149(e) of the Code.

(h) Record Retention. The Town covenants to retain all material records relating to the expenditure of the proceeds (including investment income) of the Bonds and the use of the property financed, directly or indirectly, thereby until three years after the last Bond is redeemed or paid at maturity (or such other period as provided by subsequent guidance issued by the Department of the Treasury) in a manner that ensures their complete access throughout such retention period.

(i) Registration. If the Bonds are “registration-required bonds” under section 149(a)(2) of the Code, the Bonds will be issued in registered form.

(j) Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, the Town will not be required to comply with any of the federal tax covenants set forth above if the Town has received an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes.

(k) Continuing Compliance. Notwithstanding any other provision of this Ordinance, the Town’s obligations under the federal tax covenants set forth above will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the excludability of interest on the Bonds from gross income for federal income tax purposes.

(l) Official Intent. For purposes of section 1.150-2(d) of the Regulations, to the extent that an official intent to reimburse has not previously been adopted by the Town, this Ordinance serves as the Town’s official declaration of intent to use proceeds of the Bonds to reimburse itself from proceeds of the Bonds issued in the maximum amount authorized by this Ordinance for certain expenditures paid in connection with the projects set forth herein. Any



such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 9.04. No Private Use or Payment and No Private Loan Financing.

The Town covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code. Moreover, the Town will certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “private activity bonds” within the meaning of section 141 of the Code.

Section 9.05. No Federal Guaranty.

The Town covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

Section 9.06. No Hedge Bonds.

The Town covenants and agrees not to take any action, or knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code.

Section 9.07. No Arbitrage.

The Town covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code. Moreover, the Town will certify, through an authorized officer, employee or agent, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code.

Section 9.08. Arbitrage Rebate.

If the Town does not qualify for an exception to the requirements of section 148(f) of the Code relating to the required rebate to the United States, the Town will take all necessary steps to comply with the requirement that certain amounts earned by the Town on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the Town will (i) maintain records regarding the

investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the Town allocable to other Bond issues of the Town or moneys that do not represent gross proceeds of any bond issues of the Town, (ii) determine at such times as are required by the applicable Regulations, the amount earned from the investment of the gross proceeds of the Bonds that is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds, or on such other dates as may be permitted under applicable Regulations, all amounts required to be rebated to the federal government. Further, the Town will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

#### Section 9.09. Information Reporting.

The Town covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code.

#### Section 9.10. Record Retention.

The Town will retain all pertinent and material records relating to the use and expenditure of the proceeds of the Bonds until three years after the last Bond is redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Town to retrieve and reproduce such books and records in the event of an examination of the Bonds by the Internal Revenue Service.

#### Section 9.11. Registration.

The Bonds will be issued in registered form.

#### Section 9.12. Deliberate Actions.

The Town will not take a deliberate action (as defined in section 1.141-2(d)(3) of the Regulations) that causes the Bonds to fail to meet any requirement of section 141 of the Code after the issue date of the Bonds unless an appropriate remedial action is permitted by section 1.141-12 of the Regulations, the Town takes such remedial action, and a Counsel's Opinion is obtained that such remedial action cures any failure to meet the requirements of section 141 of the Code.

Section 9.13. Continuing Obligation.

Notwithstanding any other provision of this Ordinance, the Town's obligations under the covenants and provisions of Sections 9.03 through 9.13, inclusive, shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the excludability of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of, redemption premium, if any, or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement, or obligation of the Town, which default materially and adversely affects the rights of the Owners, including but not limited to their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the Town.

Section 10.02. Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to a trustee or trustees therefor, may proceed against the Town for the purpose of protecting and enforcing the rights of the Owners under this Ordinance by mandamus or other suit, action or special proceeding in equity or at law in any court of competent jurisdiction for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

Section 10.03. Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

## ARTICLE XI

### DISCHARGE

#### Section 11.01. Discharge.

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

## ARTICLE XII

### CONTINUING DISCLOSURE UNDERTAKING

#### Section 12.01. Annual Reports.

(a) The Town shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the Town, financial information and operating data with respect to the Town of the general type included in the final Official Statement, being information described in the Tables numbered 1 through 6 and 8 through 15, including financial statements of the Town if audited financial statements of the Town are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the Town, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles appended to the Official Statement, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the Town commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then the Town shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

(b) If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

#### Section 12.02. Material Event Notices.

(a) The Town shall notify the MSRB, in a timely manner not in excess of ten (10) Business Days after the occurrence of the event, of any of the following events with respect to the Bonds:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Town;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.
- (xv) incurrence of a financial obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Town, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Town, any of which reflect financial difficulties.

For these purposes, any event described in the immediately preceding clause (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent,

or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets of business of the Town; and the Town intends the words used in the immediately preceding paragraphs (xv) and (xvi) and the definition of financial obligations in those sections to have the same meanings as when they are used in rule and sec release no. 34-83885, dated August 20, 2018.

(b) The Town shall provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, notice of a failure by the Town to provide required annual financial information and notices of material events in accordance with Sections 12.01 and 12.02. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

#### Section 12.03. Limitations, Disclaimers and Amendments.

(a) The Town shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the Town remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Town in any event will give notice of any redemption calls and any defeasances that cause the Town to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Town’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.



(c) No default by the Town in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

(e) The provisions of this Article may be amended by the Town from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the Town (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the Town so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provide.

## ARTICLE XIII

### AMENDMENTS

#### Section 13.01. Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the Town, and shall not be amended or repealed by the Town so long as any Bond remains outstanding except as permitted in this Section. The Town may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Town may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

## ARTICLE XIV

### MISCELLANEOUS

#### Section 14.01. Changes to Ordinance.

The Mayor and Director of Finance, in consultation with Bond Counsel, are hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Bonds by the Attorney General of Texas.

#### Section 14.02. Partial Invalidity.

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Ordinance.

#### Section 14.03. No Personal Liability.

No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Ordinance, against any official or employee of the Town or any person executing any Bonds.

## ARTICLE XV

### EFFECTIVENESS

#### Section 15.01. Effectiveness.

This Ordinance shall take effect immediately from and after its passage.

APPROVED AND ADOPTED this August 10, 2021.

## Council Meeting

10.

**Meeting Date:** 08/10/2021

**Department:** Finance

**Pillars:** Gold Standard for Financial Health

**Milestones:** Continue development and implementation of Long Term Financial Plan

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### AGENDA CAPTION:

Present, Discuss, and Consider Action on an **Ordinance Authorizing the Issuance of Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021; Awarding the Sale Thereof; Levying a Tax, and Providing for the Security and Payment of Said Bonds; Authorizing the Execution and Delivery of a Paying Agent/Registrar Agreement and an Escrow Agreement; Approving the Official Statement; Enacting Other Provisions Relating to the Subject; and Declaring an Effective Date.**

### BACKGROUND:

At the June 22, 2021, Council meeting, staff presented a plan to take advantage of a favorable market environment to refund, i.e. refinance, the 2013 General Obligation Bonds and 2013A General Obligation Bonds. Estimates provided at the June 22, 2021, Council meeting were that the refunding would create \$296,770, or 7.43%, in Net Present Value savings over the remaining life of the debt. Additionally, staff mentioned that an increasingly favorable market environment since the June 22nd agenda was posted would allow the Town to also refund the 2013 Certificates of Obligation pushing total Net Present Value savings over the remaining life of the debt to approximately \$1,000,000.

Certain details concerning the General Obligation Taxable Refunding Bonds will not be known until the completion of the sale on August 10, 2021. This information will be made available at the Council meeting on August 10, 2021, prior to the discussion of this item. The ordinance will be updated at the meeting.

The Town of Addison's AAA/Aaa bond ratings from Standard and Poor's and Moody's were reaffirmed as part of this bond sale.

### RECOMMENDATION:

Administration recommends approval.

## Ordinance - Authorization of 2021 General Obligation Taxable Refunding Bonds

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ORDINANCE

relating to

\$ \_\_\_\_\_  
TOWN OF ADDISON, TEXAS  
GENERAL OBLIGATION REFUNDING BONDS  
TAXABLE SERIES 2021

Adopted: August 10, 2021

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF TOWN OF ADDISON, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2021 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_; AWARDING THE SALE THEREOF; LEVYING A TAX, AND PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT; APPROVING THE OFFICIAL STATEMENT; ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, there are presently outstanding certain obligations of the Town of Addison, Texas (the "Town"), which are secured by and payable from ad valorem taxes levied on property within the Town in an amount sufficient to pay principal of and interest on such obligations as they become due within the limits prescribed by law; and

WHEREAS, the Town now desires to refund such obligations described on Schedule I hereto (such refunded obligations to be hereinafter referred to as the "Refunded Bonds"); and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207") authorizes the Town to issue refunding bonds for the purpose of refunding or defeasing the Refunded Bonds in advance of their maturities, and to accomplish such refunding or defeasance by depositing directly with a paying agent for the Refunded Bonds (or other qualified escrow agent), the proceeds of such refunding bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Bonds, and provides that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Bonds; and

WHEREAS, Chapter 1207 further authorizes the Town to enter into an escrow agreement with a commercial bank with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the Town and such bank may agree, provided that such deposits may be invested and reinvested only in investments permitted under Chapter 1207 and the ordinances authorizing the Refunded Bonds, and which shall mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or prepayment of the Refunded Bonds;

WHEREAS, the Town desires to authorize the execution of an escrow agreement in order to provide for the deposit of proceeds of the refunding bonds and, to the extent specified pursuant hereto, other lawfully available funds of the Town, to pay the redemption price of the Refunded Bonds when due; and

WHEREAS, the Escrow Agreement hereinafter authorized constitutes an escrow agreement of the kind authorized and permitted by said Chapter 1207;

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Bonds shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the orders authorizing the issuance of the Refunded Bonds shall be, with respect to the Refunded Bonds, discharged, terminated

WHEREAS, the City Council hereby finds and determines that the issuance of the refunding bonds will result in a net present value debt service savings in the amount of \$1,866,359.89 and that such savings and the refunding contemplated in this Ordinance will benefit the Town and that such benefit is sufficient consideration for the refunding of the Refunded Bonds; and

WHEREAS, the City Council of the Town hereby finds and determines that the issuance and delivery of the bonds hereinafter authorized is in the public interest and the use of the proceeds in the manner herein specified constitutes a valid public purpose; and

WHEREAS, the City Council has found and determined that it is necessary and in the best interests of the Town and its citizens that it issue such bonds authorized by this Ordinance; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place, and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

## ARTICLE I

### DEFINITIONS AND OTHER PRELIMINARY MATTERS

#### Section 1.01. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Bond” means any of the Bonds.

“Bonds” means the bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021.

“Business Day” means a day that is not a Saturday, Sunday, legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings, and court decisions.

“Delivery Date” means the date of delivery of the Bonds to the Purchasers and designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named herein, its office in Dallas, Texas, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the Town and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Escrow Agent” means the Bank of New York Mellon Trust Company, N.A. or any successor thereto.

“Escrow Agreement” means the Escrow Agreement relating to the Bonds, by and between the Escrow Agent and the Town authorized in Article 14.

“Escrow Fund” means the fund referred to in Section 14.3 of this Ordinance and established by the Escrow Agreement to hold cash and securities for the payment of principal and interest on the Refunded Bonds.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Bond” means the initial bond authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.



“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year commencing February 15, 2022.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” means this Ordinance.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, Dallas, Texas, or any successor thereto as provided in this Ordinance.

“Purchaser(s)” means the initial purchaser(s) of the Bonds as set forth in Section 7.01.

“Record Date” means the last Business Day of the month next preceding an Interest Payment Date.

“Refunded Bonds” means those obligations of the Town set forth in Schedule I hereto.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Representations Letter” means the Blanket Letter of Representations between the Town and DTC.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Town” means the Town of Addison, Texas.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of, redemption premium, if any, or interest on the Bonds as the same come due and payable or money set aside for the payment of Bonds duly called for redemption prior to maturity.

#### Section 1.02. Findings.

The declarations, determinations, and findings declared, made, and found in the preamble to this Ordinance are hereby adopted, restated, and made a part of the operative provisions hereof.

Section 1.03. Table of Contents, Titles, and Headings.

The table of contents, titles, and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01. Payment of the Bonds.

(a) Pursuant to the authority granted by the Texas Constitution and laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year thereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the Town, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent per annum (whichever amount is the greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the Town most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the liens and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the

aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

Section 2.02. Interest and Sinking Fund.

(a) The Town hereby establishes a special fund or account to be designated the “Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021, Interest and Sinking Fund” (the “Interest and Sinking Fund”) said fund to be maintained at an official depository bank of the Town separate and apart from all other funds and accounts of the Town.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS  
REGARDING THE BONDS

Section 3.01. Authorization.

The Town’s bonds to be designated “Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021” (the “Bonds”), are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, specifically Chapter 1207, Texas Government Code, as amended. The Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_ to provide funds to (i) refund the Refunded Bonds and (ii) pay of the costs of issuance of the Bonds.

Section 3.02. Date, Denomination, Maturities, and Interest.

(a) The Bonds shall be dated August 1, 2021. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on February 15 in the years and in the principal amounts set forth in the following schedule:

<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2/15/2022			2/15/2027		
2/15/2023			2/15/2029		
2/15/2024			2/15/2031		
2/15/2025			2/15/2032		
2/15/2026			2/15/2033		

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption from the later of the date of delivery of the Bonds to the Purchaser (the "Delivery Date") or the most recent interest payment date to which interest has been paid or provided for at the rates per annum for each maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable semiannually on February 15 and August 15 of each year commencing February 15, 2022, and shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.03. Medium, Method, and Place of Payment.

(a) The principal of, redemption premium, if any, and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of and mailed on the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner, first class United States mail, postage prepaid, to the address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such alternative banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date, whether at the maturity date or the date of prior redemption thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the Town to be used for any lawful purpose. Thereafter, neither the Town, the Paying Agent/Registrar, nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

#### Section 3.04. Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the Town by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the Town shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the Town had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the Town whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bonds shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bonds delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the Town, and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one initial Bond (the "Initial Bond") representing the entire principal amount of all Bonds, payable in stated installments to the initial purchaser, or its designee, executed by the Mayor and City Secretary of the Town, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the initial purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of the initial purchaser one registered definitive Bond for each year of maturity of the Bonds in the aggregate

principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

Section 3.05. Ownership.

(a) The Town, the Paying Agent/Registrar, and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as herein provided (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the Town nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the Town and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06. Registration, Transfer, and Exchange.

(a) So long as any Bonds remain outstanding, the Town shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in a denomination or denominations of any integral multiple of \$5,000, and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the Town and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

(f) Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, within 45 calendar



days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

#### Section 3.07. Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be canceled and proper records made regarding such payment, redemption, exchange, or replacement. The Paying Agent/Registrar shall then return such canceled Bonds to the Town or may in accordance with law dispose of such cancelled Bonds.

#### Section 3.08. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the Town may execute and, upon the Town's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed, or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions, and other variations as the officers of the Town executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The Town, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

#### Section 3.09. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The Town or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a

number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction, or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the Town harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the Town and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the Town and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the Town or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed, or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the Town and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

#### Section 3.10. Book-Entry-Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Bond, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate bond for each of the maturities thereof.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of

redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the Town to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Representations Letter previously executed and delivered by the Town, and applicable to the Town's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry-Only System.

In the event that the Town or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representations Letter of the Town to DTC, and that it is in the best interest of the Town and the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12. Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as the Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such

Bonds shall be made and given, respectively, in the manner provided in the Representations Letter of the Town to DTC.

## ARTICLE IV

### REDEMPTION OF BONDS BEFORE MATURITY

#### Section 4.01. Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

#### Section 4.02. Optional Redemption.

(a) The Town reserves the option to redeem Bonds maturing on and after February 15, 2031 in whole or any part, before their respective scheduled maturity dates, on August 15, 2030 or on any date thereafter, such redemption date or dates to be fixed by the Town, at a price equal to the principal amount of the Bonds called for redemption plus accrued interest to the date fixed for redemption.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the Town shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The Town, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

#### Section 4.03. Reserved.

#### Section 4.04. Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the Town in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.05. Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by first class United States mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06. Payment Upon Redemption.

(a) Before or on each redemption date, the Town shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the Town and shall use such funds solely for the purpose of paying the principal of, redemption premium, if any, and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office of the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07. Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the Town defaults in its obligation to make provision for the payment of the principal thereof, redemption premium, if any, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the Town shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the Town.

Section 4.08. Conditional Notice of Redemption.

The Town reserves the right to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the

redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the Town retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the Town delivers a certificate of the Town to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption and such redemption has been rescinded shall remain Outstanding and the rescission of such redemption shall not constitute an event of default. Further, in the case of a conditional notice of redemption, the failure of the Town to make moneys and or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

#### Section 4.09. Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

### ARTICLE V

#### PAYING AGENT/REGISTRAR

##### Section 5.01. Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, Dallas, Texas, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

##### Section 5.02. Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

##### Section 5.03. Maintaining Paying Agent/Registrar.

(a) At all times while any of the Bonds are outstanding, the Town will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the Town and the Paying Agent/Registrar in substantially the form presented at this meeting, such form of agreement being hereby approved. The signature of the Mayor shall be attested by the City Secretary of the Town.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the Town will promptly appoint a replacement.



Section 5.04. Termination.

The Town, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05. Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the Town will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address thereof in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06. Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07. Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

## ARTICLE VI

### FORM OF THE BONDS

Section 6.01. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Bond of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the Town or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds, if any, shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or

produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02. Form of the Bonds.

The form of the Bonds, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be substantially as follows:

(a) Form of Bond.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas  
County of Dallas  
TOWN OF ADDISON, TEXAS  
GENERAL OBLIGATION REFUNDING BOND  
TAXABLE SERIES 2021

INTEREST RATE:      MATURITY DATE:      DELIVERY DATE:      CUSIP NUMBER:  
\_\_\_\_\_ %      February 15, \_\_\_\_      September 14, 2021      \_\_\_\_\_

The Town of Addison (the "Town"), in the County of Dallas, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_ or registered assigns, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been provided for, and to pay interest on such principal amount from the later of Delivery Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing February 15, 2022.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated office in Dallas, Texas, of The Bank of New York Mellon Trust Company,

National Association, as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor Paying Agent/Registrar. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expenses of such customary banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which date shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is dated August 1, 2021 and is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$ \_\_\_\_\_ (herein referred to as the "Bonds"), issued pursuant to a certain ordinance of the Town (the "Ordinance") for the purpose of refunding a portion of the Town's outstanding debt and to pay the costs and expenses associated with issuing the Bonds.

The Town has reserved the option to redeem the Bonds maturing on or after February 15, 2031, in whole or in part, before their respective scheduled maturity dates, on August 15, 2030, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the Town shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice; from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

The Town reserves the right to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the Town retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the Town delivers a certificate of the Town to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional notice of redemption and such redemption has been rescinded shall remain Outstanding and the rescission of such redemption shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the Town to make moneys and or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Town for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The Town, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date, or the Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the Town nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law, and has been authorized by a vote of the

properly qualified electors of the Town; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the Town have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the Town, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the Town and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the Town has been duly impressed or placed in facsimile on this Bond.

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Mayor, Town of Addison, Texas

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City Secretary,  
Town of Addison, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate. The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the Town of Addison, Texas; and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from each Initial Bond if the Comptroller's Registration Certificate appears thereon.

#### CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK MELLON  
TRUST COMPANY,  
NATIONAL ASSOCIATION,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_

Authorized Signatory

NOTICE: The Signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in subsections (a) through (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE," and "MATURITY DATE" shall both be completed with the words "As Shown Below" and the words "CUSIP NO." shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS" shall be deleted and the following will be inserted: "on the fifteenth day of February in the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
-------------	-------------------------	----------------------

(Information to be inserted from Section 3.02(c) hereof).

(iii) the Initial Bond shall be numbered T-1.

Section 6.03. CUSIP Registration.

The Town may secure identification numbers through the CUSIP Service Bureau managed by S & P Global IQ behalf of the American Bankers Association, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that



the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect in regard to the legality thereof and neither the Town nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.04. Legal Opinion.

The approving legal opinion of Bracewell LLP, Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the Town, which may be executed in facsimile.

Section 6.05. Statement Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds, may be printed on each Bond.

ARTICLE VII

SALE AND DELIVERY OF BONDS;  
DEPOSIT OF PROCEEDS; FLOW OF FUNDS

Section 7.01. Sale of Bonds; Official Statement.

(a) The Bonds, having been duly advertised and offered for sale at competitive bid, are hereby officially sold and awarded to \_\_\_\_\_ (the "Purchaser") for a purchase price equal to the principal amount thereof, minus an original issue discount in the amount of \$\_\_\_\_\_, being the bid which produced the lowest true interest cost to the Town. The Initial Bond shall be registered in the name of the Purchaser or its designee.

(b) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Mayor and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved and delivered, with such appropriate variations as shall be approved by the Mayor and the Purchaser, may be used by the Purchaser in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchaser, is hereby ratified, approved and confirmed.

(c) All officers of the Town are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the Town is hereby

authorized and directed to issue a check of the Town payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount per series to be the lesser of (i) 1/10th of 1% of the principal amount of such series of the Bonds or (ii) \$9,500.)

(d) The obligation of the Purchaser to accept delivery of the Bonds is subject to the Purchaser being furnished with the final, approving opinion of Bracewell LLP, bond counsel for the Town, which opinion shall be dated and delivered the Closing Date.

#### Section 7.02. Control and Delivery of Bonds.

(a) The Mayor of the Town is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser or a representative thereof under and subject to the general supervision and direction of the Mayor, against receipt by the Town of all amounts due to the Town under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

### ARTICLE VIII

#### CREATION OF FUNDS AND ACCOUNTS; DEPOSIT OF PROCEEDS; INVESTMENTS

##### Section 8.01. Creation of Funds.

(a) The Town hereby establishes the following special funds or accounts:

(i) The Town of Addison, Texas, General Obligation Refunding Bonds, Taxable Series 2021, Interest and Sinking Fund

(b) This fund or account shall be maintained at an official depository of the Town.

##### Section 8.02. Interest and Sinking Fund.

(a) The taxes levied under Section 2.01 shall be deposited to the credit of the Interest and Sinking Fund at such times and in such amounts as necessary for the timely payment of the principal of and interest on the Bonds.

(b) If the amount of money in the Interest and Sinking Fund is at least equal to the aggregate principal amount of the outstanding Bonds plus the aggregate amount of interest due and that will become due and payable on such Bonds, no further deposits to that fund need be made.

(c) Money on deposit in the Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds as such become due and payable.

#### Section 8.03. Security of Funds.

All moneys on deposit in the funds referred to in this Ordinance shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds, and moneys on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

#### Section 8.04. Deposit of Proceeds.

(a) Proceeds of the Bonds in the amount of \$\_\_\_\_\_, shall be deposited to the Escrow Fund pursuant to the Escrow Agreement to refund the Refunded Bonds, and, to the extent not otherwise provided for, to pay all expenses arising in connection with the refunding of the Refunded Bonds.

(b) The remaining proceeds of the Bonds shall be deposited to a special fund, such moneys to be dedicated and used for paying the costs of issuance. Any amounts remaining after the payment of the costs of issuance shall be deposited to the Interest and Sinking Fund.

#### Section 8.05. Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance, at the option of the Town, may be invested in such securities or obligations as permitted under applicable law.

(b) Any securities or obligations in which such money is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

#### Section 8.06. Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund be credited to such fund.

(b) Interest and income derived from investment of the funds to be deposited pursuant to Section 7.03(b) hereof shall be credited to the account where deposited until the acquisition or construction of said projects is completed and thereafter, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

## ARTICLE IX

### PARTICULAR REPRESENTATIONS AND COVENANTS

#### Section 9.01. Payment of the Bonds.

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of, redemption premium, if any, and interest on the Bonds as will accrue or mature on the applicable Interest Payment Date, maturity date and, if applicable, on a date of prior redemption.

#### Section 9.02. Other Representations and Covenants.

(a) The Town will faithfully perform, at all times, any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the Town will promptly pay or cause to be paid the principal of, redemption premium, if any, and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the Town will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The Town is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Town in accordance with their terms.

## ARTICLE X

### DEFAULT AND REMEDIES

#### Section 10.01. Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of, redemption premium, if any, or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement, or obligation of the Town, which default materially and adversely affects the rights of the Owners, including but not limited to their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the Town.

#### Section 10.02. Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to a trustee or trustees therefor, may proceed

against the Town for the purpose of protecting and enforcing the rights of the Owners under this Ordinance by mandamus or other suit, action or special proceeding in equity or at law in any court of competent jurisdiction for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

#### Section 10.03. Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

### ARTICLE XI

#### DISCHARGE

##### Section 11.01. Discharge.

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

### ARTICLE XII

#### CONTINUING DISCLOSURE UNDERTAKING

##### Section 12.01. Annual Reports.

(a) The Town shall provide annually to the MSRB, (1) within six months after the end of each fiscal year of the Town, financial information and operating data with respect to the Town of the general type included in the final Official Statement, being information described in the Tables numbered 1 through 6 and 8 through 15, including financial statements of the Town if audited financial statements of the Town are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the Town, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles appended to the Official Statement, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the Town commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial

statements is not complete within 12 months after any such fiscal year end, then the Town shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

(b) If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

#### Section 12.02. Material Event Notices.

(a) The Town shall notify the MSRB, in a timely manner not in excess of ten (10) Business Days after the occurrence of the event, of any of the following events with respect to the Bonds:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Town;

(xiii) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

(xv) incurrence of a financial obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Town, any of which affect security holders, if material; and

(xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Town, any of which reflect financial difficulties.

For these purposes, any event described in the immediately preceding clause (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets of business of the Town; and the Town intends the words used in the immediately preceding paragraphs (xv) and (xvi) and the definition of financial obligations in those sections to have the same meanings as when they are used in rule and sec release no. 34-83885, dated August 20, 2018.

(b) The Town shall provide to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, notice of a failure by the Town to provide required annual financial information and notices of material events in accordance with Sections 12.01 and 12.02. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

#### Section 12.03. Limitations, Disclaimers and Amendments.

(a) The Town shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the Town remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Town in any event will give notice of any redemption calls and any defeasances that cause the Town to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes



to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Town's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the Town in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

(e) The provisions of this Article may be amended by the Town from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the Town (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the Town so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provide.

## ARTICLE XIII

### AMENDMENTS

#### Section 13.01. Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the Town, and shall not be amended or repealed by the Town so long as any Bond remains outstanding except as permitted in this Section. The Town may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Town may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

## ARTICLE XIV

### MISCELLANEOUS

#### Section 14.01. Changes to Ordinance.

The Mayor and Director of Finance, in consultation with Bond Counsel, are hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Bonds by the Attorney General of Texas.

#### Section 14.02. Partial Invalidity.

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Ordinance.

#### Section 14.03. No Personal Liability.

No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Ordinance, against any official or employee of the Town or any person executing any Bonds.

## ARTICLE XV

### REDEMPTION OF REFUNDED BONDS; ESCROW AGREEMENT; PURCHASE OF SECURITIES

#### Section 15.01. Payment of Paying Agent.

Prior to the Closing Date, the Town shall ascertain from the paying agent for the Refunded Bonds the amount of all future fees and expenses for its paying agent services with respect to the Refunded Bonds. Concurrently with the sale and delivery of the Bonds, the Town shall cause an amount sufficient to pay such future fees and expenses to be paid to each such paying agent.

Section 15.02. Subscription for Securities. The Mayor and Director of Finance are authorized to make necessary arrangements for and to execute such documents and agreements in connection with the purchase of the Authorized Securities required by and referenced in the Escrow Agreement, if any, as may be necessary for the Escrow Fund and the application for the acquisition of the Authorized Securities is hereby approved and ratified.

#### Section 15.03. Escrow Agreement.

The Escrow Agreement, in substantially the form presented at this meeting, and its execution and delivery by the Mayor is hereby authorized and approved. The signature of the Mayor shall be attested by the City Secretary.

Section 15.04. Payment of Refunded Bonds; Redemption of Refunded Bonds. Following the deposit to the Escrow Fund as herein specified, the Refunded Bonds shall be payable solely from and secured by the cash and securities on deposit in the Escrow Fund for the purpose of refunding the Refunded Bonds and shall cease to be payable from ad valorem taxes, and firm banking and financial arrangements shall have been made for the discharge and final payment or redemption of the Refunded Bonds pursuant to Chapter 1207. The Refunded Bonds are hereby called for redemption prior to maturity on the dates and at the redemption prices set forth in the Schedule I attached hereto. The City Secretary hereby authorized and directed to cause to be delivered to the paying agent/registrar for the Refunded Bonds a certified copy of this Ordinance calling the Refunded Bonds for redemption. The delivery of this Ordinance to the paying agent for the Refunded Bonds shall constitute the giving of notice of redemption to the paying agent for the Refunded Bonds and such paying agent is hereby authorized and directed to give notice of redemption to the owners of the Refunded Bonds in accordance with the requirements of the ordinance authorizing the issuance thereof.

ARTICLE XVI  
EFFECTIVENESS

Section 16.01. Effectiveness.

This Ordinance shall take effect immediately from and after its passage.

APPROVED AND ADOPTED this August 10, 2021.

## SCHEDULE OF REFUNDED OBLIGATIONS

### General Obligation Bonds, Tax-Exempt Series 2013

Original Dated Date	Original Maturity	Interest Rate	Principal Amount Outstanding	Principal Amount Refunded
7/15/2013	2/15/2024	5.000%	\$ 230,000	\$ 230,000
	2/15/2025	5.000%	240,000	240,000
	2/15/2026	5.000%	255,000	255,000
	2/15/2027	5.000%	265,000	265,000
	2/15/2028	5.000%	280,000	280,000
	2/15/2029	4.100%	295,000	295,000
	2/15/2030	4.150%	305,000	305,000
	2/15/2031	4.250%	320,000	320,000
	2/15/2032	4.300%	330,000	330,000
	2/15/2033	4.375%	345,000	345,000
			<u>\$ 2,865,000</u>	<u>\$ 2,865,000</u>

The 2024 – 2033 maturities will be redeemed prior to original maturity on February 15, 2023 at par.

### General Obligation Bonds, Series 2013A (AMT)

Original Dated Date	Original Maturity	Interest Rate	Principal Amount Outstanding	Principal Amount Refunded
7/15/2013	2/15/2024 <sup>(1)</sup>	4.250%	\$ 90,000	\$ 90,000
	2/15/2025 <sup>(1)</sup>	4.250%	95,000	95,000
	2/15/2026 <sup>(1)</sup>	4.250%	100,000	100,000
	2/15/2027 <sup>(1)</sup>	4.250%	105,000	105,000
	2/15/2028 <sup>(1)</sup>	4.250%	110,000	110,000
	2/15/2029 <sup>(2)</sup>	4.800%	115,000	115,000
	2/15/2030 <sup>(2)</sup>	4.800%	120,000	120,000
	2/15/2031 <sup>(2)</sup>	4.800%	125,000	125,000
	2/15/2032 <sup>(2)</sup>	4.800%	130,000	130,000
	2/15/2033 <sup>(2)</sup>	4.800%	140,000	140,000
			<u>\$ 1,130,000</u>	<u>\$ 1,130,000</u>

The 2024 – 2033 maturities will be redeemed prior to original maturity on February 15, 2023 at par.

- (1) Represent mandatory sinking fund installments of a Term Bond with a final maturity of February 15, 2028.
- (2) Represent mandatory sinking fund installments of a Term Bond with a final maturity of February 15, 2033.

### Combination Tax and Revenue Certificates of Obligation, Series 2013

<b>Original Dated Date</b>	<b>Original Maturity</b>	<b>Interest Rate</b>	<b>Principal Amount Outstanding</b>	<b>Principal Amount Refunded</b>
7/15/2013	2/15/2024 <sup>(1)</sup>	5.000%	\$ 490,000	\$ 490,000
	2/15/2025 <sup>(1)</sup>	5.000%	515,000	515,000
	2/15/2026 <sup>(1)</sup>	5.000%	545,000	545,000
	2/15/2027 <sup>(1)</sup>	5.000%	575,000	575,000
	2/15/2028 <sup>(1)</sup>	5.000%	600,000	600,000
	2/15/2029 <sup>(1)</sup>	4.100%	630,000	630,000
	2/15/2030 <sup>(1)</sup>	4.150%	655,000	655,000
	2/15/2031 <sup>(1)</sup>	4.250%	685,000	685,000
	2/15/2032 <sup>(1)</sup>	4.300%	715,000	715,000
	2/15/2033 <sup>(1)</sup>	4.375%	750,000	750,000
			<u>\$ 6,160,000</u>	<u>\$ 6,160,000</u>

The 2024 – 2033 maturities will be redeemed prior to original maturity on February 15, 2023 at par.