



**REGULAR MEETING
OF THE CITY COUNCIL**

October 26, 2021

ADDISON TREEHOUSE

**14681 MIDWAY RD. SUITE 200, ADDISON, TX 75001
6:45 PM WORK SESSION
7:30 PM REGULAR MEETING & EXECUTIVE SESSION**

Notice is hereby given that the Addison City Council will conduct a Regular Meeting on Tuesday, October 26, 2021 at the Addison TreeHouse. Seating for members of the public will be available using CDC recommended social distancing measures. Telephonic or videoconferencing capabilities will be utilized to allow individuals to address the Council. Email comments may also be submitted to: 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.

Call Meeting to Order

Pledge of Allegiance

EXECUTIVE SESSION

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

Section 551.087, Texas Government Code, to discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect or business prospects that the City Council seeks to have locate, stay, or expand in or near the territory of the Town of Addison and with which the City Council is conducting economic development negotiations, and/or to deliberate the offer of a financial or other incentive to such business prospect or business prospects:

- Master Developer Finalists for the Addison Silver Line TOD

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.

WORK SESSION

1. Present **Citizen's Academy Graduation Certifications to the Citizen's Academy Class of 2021.**
2. Present and Discuss **Aesthetic Changes to the DART Silver Line Station as Approved by the Art and Design Committee.**
3. Present and Discuss the **Results of the Compensation Market and Merit Survey Conducted by Town Staff.**
4. Present and Discuss the **Council Calendar for November and December, 2021 and January 2022.**

REGULAR MEETING

Announcements and Acknowledgments Regarding Town and Council Events and Activities

Discussion of Meetings / Events

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.

Consent Agenda

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

5. Consider Action on the **Minutes from the October 12, 2021 City Council Meeting.**

6. Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and Weatherproofing Services for Roofing Restoration and Replacement at the Service Center, Fire Station 2, Addison Theatre Centre, Surveyor Pump Station, and the Addison Circle Pavilion and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$802,831.49.

7. Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and CTJ Maintenance for Custodial Services and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$199,773.84.

8. Consider Action on a **Resolution Approving the Purchase of (1) 2022 F-350 Crew Cab Truck, (1) 2022 Ford F-350 Crew Cab Dump Body Truck, and (1) 2022 Ford F-250 Crew Cab Service Body Truck from Silsbee Ford Through the Purchasing Cooperative Known as TIPS USA** in an Amount Not to Exceed \$157,673.50.

9. Consider Action on a **Resolution Approving a Professional Services Agreement Between the Town of Addison and Garver, LLC. for Construction Project Management Services Related to the Addison Athletic Club Renovations and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$69,950.
10. Consider Action on a **Resolution Approving a Second Amendment to Ground Lease Between the Town of Addison and Duke's Ice House, LLC for Commercial Aviation and Restaurant use on Property Located at 16101 Addison Road, Addison Airport, and Authorizing the City Manager to Execute the Second Amendment.**

Regular Items

11. Present, Discuss, and Consider Action on a **Resolution Approving a Commercial Lease Between the Town of Addison and Jani-King International, Inc. for The Cavanaugh Flight Museum's Use on Property Located at 4572 Claire Chennault Drive, Addison Airport, and Authorizing the City Manager to Execute the Commercial Lease.**
12. Present, Discuss, and Consider Action on a **Resolution Approving a Commercial Lease Between the Town of Addison and Jani-King International, Inc. for The Cavanaugh Flight Museum's Use on Property Located at 4570 Claire Chennault Drive, Addison Airport, and Authorizing the City Manager to Execute the Commercial Lease.**
13. Present, Discuss, and Consider Action to Approve an **Ordinance Amending Chapter 22 (Businesses) of the Code of Ordinances by Reinstating Article VIII (Short Term Rentals), in order to Continue Regulating Short Term Rentals.**

Adjourn Meeting

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.

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.

POSTED BY: _____
Irma G. Parker, City Secretary

DATE POSTED: _____

TIME POSTED: _____

DATE REMOVED FROM BULLETIN BOARD: _____

REMOVED BY: _____

Council Meeting

1.

Meeting Date: 10/26/2021

Department: City Manager

Pillars: Optimize the Addison Brand

Milestones: Define and promote Addison Identity

AGENDA CAPTION:

Present Citizen's Academy Graduation Certifications to the Citizen's Academy Class of 2021.

BACKGROUND:

The Town of Addison offers a Citizen's Academy to provide a behind the scenes look at the Town's operations. During the Academy, participants learn the basics of municipal government through tours, activities and face-to-face interaction with various Town leaders and staff. The Fall 2021 session of the Addison Citizen's Academy will be recognized through the presentation of graduation certificates by Mayor Chow.

RECOMMENDATION:

Mayor Chow to present graduation certificates.

Attachments

Citizen's Academy Fall 2021 Participants

CITIZENS ACADEMY

PARTICIPANTS

Adrienne Wright	Jose Torrealba
Bob Queen	Joseph Hornisher
Bonnie Somer	Lawrence Jones
Charles Hunter	Lilly Anyanwu
Charles Shaw	Marvin Perez
Darren Gardner	Nancy Williams
David Collins	Urenna Onyewuchi
Gail LeVine	Richard Teza
Harold Branson	Shelia Wooldridge
Jimmy Barker	Suzanne Schoenthaler
Jose Iglesias	Zoran Arula



Council Meeting

2.

Meeting Date: 10/26/2021

Department: City Manager

Pillars: Excellence in Transportation Systems

Milestones: Promote Silver Line Development

AGENDA CAPTION:

Present and Discuss **Aesthetic Changes to the DART Silver Line Station as Approved by the Art and Design Committee.**

BACKGROUND:

The DART Art & Design Program was established in 1987 to achieve the following goals:

- Recognize that art is an important component in the creation of public spaces
- Integrate art as an important component of public transit
- Involve the community in the design of stations and related artwork
- Create opportunities for maintenance savings through reduced vandalism

DART's Silver Line Art & Design Program includes the art and design of 10 Stations along the 26-mile Silver Line Corridor. Under this program, a team of architects, artists, engineers and neighborhood advisory committee members collaborate on each station's design from station concept to completion. This includes determining architectural elements such as paving and column cladding, site elements, landscaping and site specific artwork.

Addison's City Council appointed the following members to the DART Cotton Belt Art and Design Committee (Committee) on April 25, 2019 to provide input on the Addison station:

- Patricia Adkins
- Judy Barrett
- Jon Birney
- Kim Boyle
- Barbara Daseke
- Margie Gunther
- Jay Ihrig
- Yasue Kulhanek
- Harriet Mellow
- Robin Moss
- Barbara Papas

- Derek Underwood
- Allen Weatherford
- Ron Whitehead

DART staff, the Committee, and artist Eric McGeheraty met over the course of several workshops to:

- Hold a kick-off meeting
- Conduct a site tour of art in Town
- Discuss artistic value statements and brainstorm (materials, colors, patterns)
- Discuss options and estimates presented
- Prepare a final report and station renderings

The Committee selected a theme to promote the idea of sophisticated fun by use of traditional and easy to maintain materials such as stone, bronze and brick pavers, windscreens engraved with artist depictions of sculptures around Addison, enhanced fencing along ramps at the entrance to the station that resemble fireworks, and fiber optic lights embedded in ramps.

Once DART started construction, it was determined that the fiber optic lighting in the ramps could not be constructed. DART and Archer Western Herzog worked together to give the Committee their second option which was to illuminate all the columns of the station and fully light them. This would illuminate the capital "A" and the blue polycarbonate strip in each column. It was also recommended that the committee consider using the diamond cut pattern in the concrete ramps to match the pattern in Addison Circle.

On September 30, 2021 the Committee met with DART and voted to move forward with the removal of the fiber optic lighting in the ramps, illuminating the 24 columns at the station, and using the diamond cut pattern in the ramp areas without objection.

RECOMMENDATION:

Information only, no action required.

Attachments

Presentation - DART Art and Design

Dallas Area Rapid Transit (DART) Silver Line Project

Addison Art & Design Update

October 26, 2021

The logo for the Addison station, featuring the word "ADDISON" in a bold, blue, sans-serif font centered within a white circle. This circle is set against a blue background that is part of a larger graphic design on the right side of the slide, which includes a grey triangle in the top-left corner and a grey triangle in the bottom-right corner.

Silver Line & Art and Design Program

- Art and design of 10 Stations along the 26-mile Silver Line Corridor
- A team of architects, artists, engineers and neighborhood advisory committee members for each station collaborating from station concept to completion
- Architectural elements including paving and column cladding, site elements, landscaping and site-specific artwork
- Budget: \$140,000

Art and Design Committee

- Addison Council appointed the following members to the DART Cotton Belt Art and Design Committee on April 25, 2019:

- Patricia Adkins
- Judy Barrett
- Jon Birney
- Kim Boyle
- Barbara Daseke
- Margie Gunther
- Jay Ihrig
- Yasue Kulhanek
- Harriet Mellow
- Robin Moss
- Barbara Papas
- Derek Underwood
- Allen Weatherford
- Ron Whitehead

- Committee worked with artist Eric McGeheraty

Selected theme: “Sophisticated Fun.”

- Use of traditional and easy to maintain materials such as stone, bronze and brick pavers.
- Windscreens engraved with artist depictions of sculptures around Addison.
- Enhanced fencing along ramps at the entrance to the station resemble fireworks.
- Fiber-optic lights imbedded in bricks at the entrances.

Addison Station

ADDISON



Addison Station

ADDISON



Addison Station

ADDISON

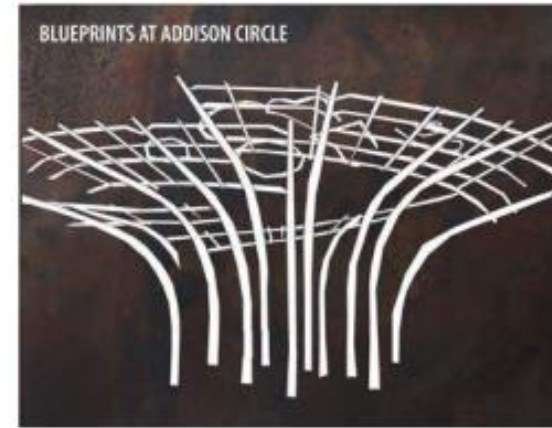




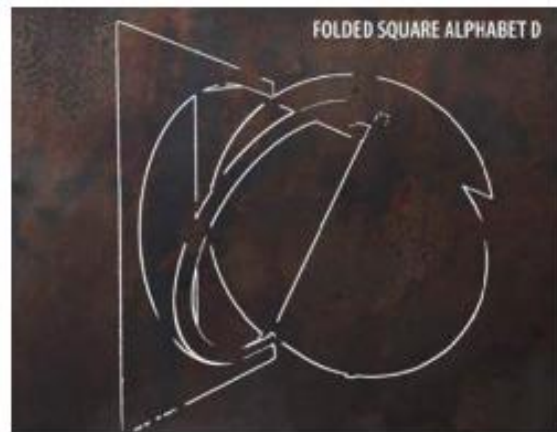
Aerial Ballet Monarch



Aigue-Marine



Blueprints



Folded D



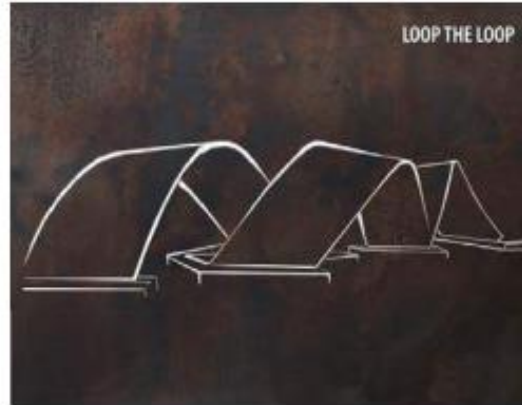
Intersection in Flight



Jacks of All Trades



Let's Play



Loop the Loop



Lost in Wisconsin



Peace & Tranquility



Spectra



Tango Fantasia

Addison Station



Addison Station_ MATERIALS

PAINT

PT-01

SW 3072 DRIFTWOOD – SHERWING WILLIAMS

PT-14

SW 6153 PROTÉGÉ BRONZE – SHERWING WILLIAMS

PAVING

ADDISON CITY BRICK



FLAGSTONE - ASHLAR



DIAMOND SAW-CUT
NATURAL CONCRETE



COLUMN CLADDING ST-02

SPLIT SURFACE LIMESTONE
ASHLAR PATTERN



BLUE POLYCARBONATE



PT-14



FROSTED POLYCARBONATE

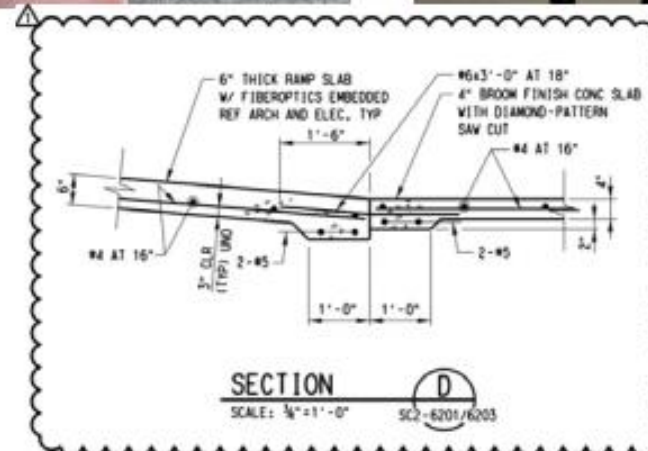
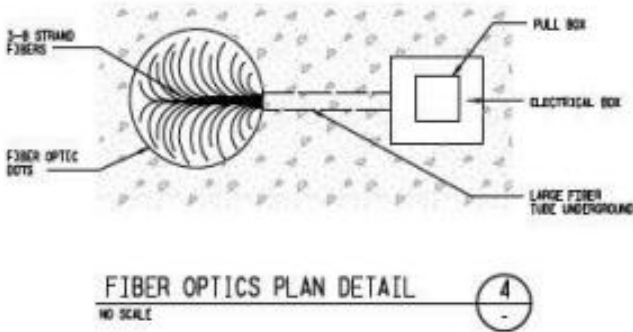
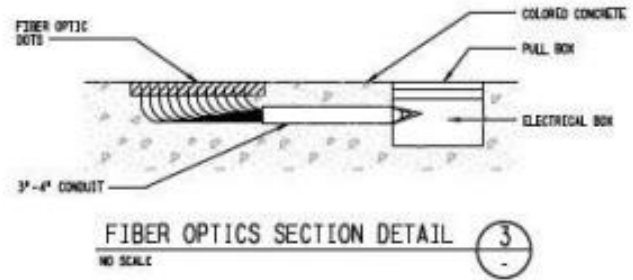


Addison Station

ADDISON



Construction Challenges



let's go.

Art & Design Proposed Changes

- Proposal to remove fiber optic lighting from design and include items requested by the Art & Design Committee:
 - Interior illumination of column cladding for Capital A
 - Interior illumination of column cladding for blue strip
 - Total of 24 columns
- Station entry sloped walkway finish to be updated to:
 - Include diamond cut patters to match Addison Circle
 - Match concrete finish to center of platform



Art & Design Proposed Changes

ADDISON



Art & Design Proposed Changes

ADDISON



Art & Design Proposed Changes

ADDISON



Design Build Schedule

ADDISON



September 2021

Design Build Schedule



CONSTRUCTION 90-DAY SCHEDULE



TOWN OF ADDISON Type of Work		Expected Duration of Work													
		SEPTEMBER					OCTOBER				NOVEMBER				
		1-4	5-11	12-18	19-25	26-30	1-9	10-16	17-23	24-31	1-6	7-13	14-20	21-30	
Civil															
	Maintain Stormwater Prevention Protection Plan (SWPPP) Installation														
	Site and Land Clearing														
Rail															
	Guideway Construction														
Stations															
	Addison Station														
Structures															
	Midway Bridge Construction														
	***Retaining Wall Demo														
	Drainage (Midway to Addison Rd.)														
Systems/Electrical															
	Addison Station Electrical														
Traffic															
	No Activity														
Utilities															
	Explorer Pipeline Midway Rd.														
	Future MCI Relocation (Marsh - Quorum)														

* Permits have not been submitted. These are projected dates for closures. Proper construction notifications will be sent out.

- * Contingent on approved permits/easement
- ** Contingent on Rail Road Agreement
- *** Pending Utility Relocation



Due to the COVID-19 pandemic, all public involvement sessions will take place via video conference. DART urges you to follow the guidelines from the Centers for Disease Control and Prevention (CDC) to keep your family healthy and safe. Stay up to date by attending public involvement sessions online, signing up for construction alerts, visiting DART.org/SilverLine or calling 214-749-2835.

For all questions, comments and concerns, please email the DART Silver Line Project Team at SilverLine@DART.org

Questions?

Council Meeting

3.

Meeting Date: 10/26/2021

Department: City Manager

Pillars: Gold Standard in Financial Health

Milestones: Promote and protect the Addison Way

AGENDA CAPTION:

Present and Discuss the **Results of the Compensation Market and Merit Survey Conducted by Town Staff.**

BACKGROUND:

The City Council has adopted the following compensation philosophy that serves as direction to the City Manager in budgeting for employee compensation:

“The purpose of the merit and market pay plan is threefold:

- To encourage excellence in service by tying salary increases to job performance;
- To reward employees for their efforts and job performance; and
- To remain competitive with other metroplex cities in regards to the Town’s compensation program by paying employees better than the average of our comparison cities.

We support an open range system in compliance with our compensation philosophy. We will annually budget for market and merit adjustments for compensation that are fair and sustainable.”

Regarding employee pay, the Council has defined “better than average” as 1% better than the average of the pay of the Town’s comparison cities. Through Council action, the following 13 cities were selected as the Town’s comparison cities:

- Allen
- Carrollton
- Coppell
- Farmers Branch
- Frisco
- Grapevine
- Flower Mound
- Irving
- Lewisville
- McKinney

- Plano
- Richardson
- University Park

As part of the proposed budget for Fiscal Year 2022, City Manager Wes Pierson included funds equal to a 4% increase in the amount of employee compensation.

At the Town's Budget Workshop on August 4, 2021 the City Council asked how the 4% compensation pool would be used to address potential changes in compensation for Addison employees relative to their counterparts in Addison's 13 comparison cities.

Mr. Pierson committed to the City Council that Town staff would survey the Town's comparison cities to find out what each city would be including in their respective Fiscal Year 2022 budget for market and merit adjustments and, based on that information, decide how to apply the resources approved by the City Council for Fiscal Year 2022 for employee market and merit adjustments.

Staff will share an overview of the survey results and the City Manager's decision regarding employee market and merit adjustments within the funding amount approved by the City Council for Fiscal Year 2022

RECOMMENDATION:

Information only, no action required.

Council Meeting

4.

Meeting Date: 10/26/2021

Department: City Secretary

AGENDA CAPTION:

Present and Discuss the **Council Calendar for November and December, 2021 and January 2022.**

BACKGROUND:

Staff is requesting direction regarding the Council meeting dates for November 2021 - January 2022. Calendars for these months are attached.

The second Council meetings in the months of November and December have historically been canceled due to the holidays.

RECOMMENDATION:

Staff requests direction from the Council.

Attachments

Calendar - November, December, January

November 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 Election – State Constitutional Amendments	3	4	5	6
7	8	9 Council Meeting	10	11	12	13
14	15	16 Planning & Zoning Commission Meeting	17	18 11:30 Employee Merit Luncheon	19	20
21	22	23 Council Meeting - CANCELED	24	25 TOWN HOLIDAY – Thanksgiving	26 TOWN HOLIDAY – Thanksgiving	27
28	29	30				

December 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2 Board/Commission/ Committee Christmas Party	3	4
5	6	7	8	9	10	11
12	13	14 Council Meeting	15	16	17	18
19	20	21 Planning & Zoning Commission Meeting	22	23 TOWN HOLIDAY – Christmas	24 TOWN HOLIDAY – Christmas Eve	25
26	27	28 Council Meeting - CANCELED	29	30	31 TOWN HOLIDAY – New Year's Day	

January 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11 Council Meeting	12 1 st Day to file Application for Place on May 7, 2022 General Election Ballot	13	14	15
16	17 TOWN HOLIDAY – Martin Luther King	18 Planning & Zoning Commission Meeting January 15 th Semi- Annual Ethics Report Due Date	19	20	21	22
23	24	25 Council Meeting	26	27	28	29
30	31					

Council Meeting

5.

Meeting Date: 10/26/2021

Department: City Secretary

AGENDA CAPTION:

Consider Action on the Minutes from the October 12, 2021 City Council Meeting.

BACKGROUND:

The minutes for the October 12, 2021 City Council Meeting have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - October 12, 2021

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

October 12, 2021

**Work Session & Regular Meeting
7:30 p.m.**

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

The Addison City Council conducted its Regular Council Meeting on Tuesday, October 12, 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 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

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.

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

Pledge of Allegiance: Mayor Chow led the Pledge of Allegiance

WORK SESSION

1. Present and Discuss the New Crisis Communications Agency.

Mary Rosenbleeth, Director of Public Communications, presented this item. She advised that in July 2021, staff released a Request for Proposal (RFP) on BidSync for crisis communications services. The RFP included the services provided under the previous contract, including responding to media inquiries concerning crisis communications issues, as well as other assignments (non-crisis and other matters); creating news releases and statements; and serving as

spokesperson for Addison when called upon to do so. In addition to these services, the new RFP required that the contracted firm employ technology for social listening, data mining, and forecasting, as well as assist Town staff with social media communications during emergency situations.

Ms. Rosenbleeth advised that Addison received six responses to the RFP. The submittals were reviewed by a panel consisting of Fire Chief David Jones, Police Chief Paul Spencer, Deputy Airport Director Darci Neuzil, Deputy City Manager John Crawford, Marketing Specialist Amber Patterson, Public Communications Director Mary Rosenbleeth, and Purchasing Manager Wil Newcomer. After reviewing the responses and interviewing three firms, the panel agreed to move forward defining a detailed scope of services and financial arrangement with Addison-based TruePoint Communications.

Ms. Rosenbleeth introduced Jessica Nunez, TruePoint Communications President/Founder, who gave a brief overview of the services they provide. The contract with TruePoint Communications began on October 1, 2021.

REGULAR MEETING

Announcements and Acknowledgements regarding Town and Council Events and Activities

- **Proclamation: Metrocrest Services 50th Anniversary**

Prior to the Work Session discussion, Mayor Chow read and presented the proclamation to Metrocrest Services representatives present at the meeting. Metrocrest Services Chief Executive Officer Tracy Eubanks addressed the Council and expressed his appreciation.

Discussion of Events/Meetings

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 via telephonic means.

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 on the Minutes from the September 7, 2021 Special City Council Meeting.**
3. **Consider Action on the Minutes from the September 14, 2021 City Council Meeting.**
4. **Consider Action on the Minutes for September 28, 2021 City Council Meeting.**
5. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and Addison Arbor Foundation and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$65,000. .**
6. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and Dallas Cat Lady and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$5,000.**
7. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and Dallas County Mental Health & Retardation d/b/a Metrocare Services and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$2,500.**
8. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and Metrocrest Services and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$66,120.**
9. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and Outcry Theatre and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$2,500.**
10. **Consider Action on a Resolution Approving a Grant Funding Agreement Between the Town of Addison and The Family Place and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$2,500.**
11. **Consider Action on a Resolution Approving a Grant Funding Agreement with On Eagles Wings, Inc. d/b/a Woven Health Clinic and Authorizing the City Manager to Execute the Grant Funding Agreement in an Amount Not to Exceed \$5,000.**
12. **Consider Action on a Resolution Approving a Grant Funding Agreement with WaterTower Theatre and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$375,000 in Cash and In-Kind Contributions.**
13. **Consider Action on the Purchase of Water Meters from Thirkettle Corporation DBA as Aqua-Metric Sales Company, Inc Through HGACBuy and Authorizing the City Manager to Execute the Purchase Order in an Amount Not to Exceed \$150,000.**

14. **Consider Action on a Resolution Approving Change Order No. 2 to the Contract Between the Town of Addison and Jim Bowman Construction Company LP for Concrete and Asphalt Repairs Providing for Additional Concrete and Asphalt Repairs Projects in Fiscal Year 2022 and Increasing the Annual Contract Amount by \$1,980,000 for Said Fiscal Year; and Authorizing the City Manager to Execute the Change Order in an Amount Not to Exceed \$1,980,000.**
15. **Consider Action on the Purchase of Traffic Signal Controllers, Traffic Signal Smart Monitoring Devices, Vehicle Detection Upgrades, and Associated Components and the Renewal of Traffic Signal Software Maintenance from Paradigm Traffic Systems, Inc. and Authorizing the City Manager to Execute the Purchase Order in an Amount Not to Exceed \$155,250.**
16. **Consider Action on a Resolution Approving an Agreement with Data Projections, Inc. (DPI) for Town Hall and Addison Treehouse Audio/Video Upgrades and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$98,217.86.**
17. **Consider Action on a Resolution Approving the Second Amendment to the Agreement Between the Town of Addison and Swagit Productions, LCC for Live and On-Demand Video Streaming Services and Equipment and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$110,894.63.**
18. **Consider Action on a Resolution Approving a Professional Consulting Agreement Between the Town of Addison and Sunwest Communications, Inc. for Public Relations Consulting Services and Authorizing the City Manager to Execute the Contract in an Amount Not to Exceed \$90,000.**
19. **Consider Action on an Ordinance Authorizing User Fees for International Flights Arriving at Addison Airport.**

Mayor Chow asked if there were any requests to remove an item from the Consent Agenda for separate discussion. There were no requests to pull items for separate discussion.

MOTION: Council Member Ward moved to approve Consent Agenda Items 2 through 19 as submitted. Council Member Braun seconded the motion. Motion carried unanimously.

Resolution No. R21-053: FY 2022 Addison Arbor Foundation Grant Funding Agreement

Resolution No. R21-054: FY 2022 Dallas Cat Lady Grant Funding Agreement

Resolution No. R21-055: FY 2022 Metrocare Services Grant Funding Agreement

Resolution No. R21-056: FY 2022 Metrocrest Services Grant Funding Agreement

Resolution No. R21-057: FY 2022 Outcry Theatre Grant Funding Agreement

Resolution No. R21-058: FY 2022 The Family Place Grant Funding Agreement

Resolution No. R21-059: FY 2022 Woven Health Clinic Grant Funding Agreement

Resolution No. R21-060: FY 2022 WaterTower Theatre Grant Funding Agreement

Resolution No. R21-062: FY 2022 Additional Concrete and Asphalt Repairs Projects Change Order No. 2 - Jim Bowman Construction Company LP

Resolution No. R21-064: Data Projections, Inc. (DPI) Contract Audio/Video Upgrades - Town Hall, TreeHouse

Resolution No. R21-065: Swagit Productions, LCC 2nd Amendment-Live/On-Demand Video Streaming Services, Equipment

Resolution No. R21-066: Sunwest Communications, Inc. - Public Relations Consulting Services Agreement

Ordinance No. O21-36: Adopting Airport User Fees for International Flights

Regular Items

20. **Hold a Public Hearing, Present, Discuss, and Consider Action on an Ordinance Amending Planned Development (PD) District Ordinance O20-54 for a 2.034-Acre Property Located at 3820 Belt Line Road, to Modify Minimum Lot Size Requirements and to Establish Future Cross-Access Requirements. Case 1838-Z/3820 Belt Line Road. (Former Humperdink's Property)**

Ken Schmidt, Director of Development Services, presented this item. He advised the applicant requested to modify the minimum lot size requirement for a 2.034-acre property located at 3820 Belt Line Road. In addition, staff recommends a requirement that cross-access be provided to ensure that access and circulation between future parcels is appropriately addressed. The property is vacant at this time, but it formally served as the location of Humperdink's Restaurant and Brew Pub.

Mr. Schmidt reviewed that in November 2020 Council approved rezoning the property to allow for the development of a new two-story building on the eastern portion of the site while maintaining the existing restaurant building on the western portion. This Planned Development is based on the Belt Line District standards and established a minimum required lot size which would encompass the entire parcel. Mr. Schmidt provided a proposed site plan reflecting the subdivided parcels. Discussion followed as to the need for the cross-access on the property.

Mr. Schmidt advised that no responses to the mailed public notices were received, and the Planning and Zoning Commission recommended approval with a vote of 7-0.

Mayor Chow opened and closed the public hearing with no one wishing to speak.

Council Member Willesen inquired when redevelopment of the parcel might occur. The applicants representative Bohler Engineer Mathias Haubert, P.E., responded that there are no specific plans at this time.

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

Ordinance No. O21-37: Amend PD Ordinance, 3820 Belt Line Road, Case 1838-Z/3820

21. Present, Discuss, and Consider Action on a Resolution Adopting an Investment Strategy and Approving Brokers, Dealers, and Financial Institutions for Fiscal Year 2021-2022.

Steven Glickman, Chief Financial Officer, presented this item. He reviewed that the Public Funds Investment Act (PFIA) requires the Council to annually adopt the Town's Investment Policy. The document has been drafted to comply with all aspects of the PFIA. This policy applies to the investment and management of all funds invested by the Town. Direct management responsibility for the investment program is delegated by the City Council to the Chief Financial Officer. The investment policy has the following priorities:

- Preservation and safety of principal
- Understanding the suitability of the investment to the financial requirements of the Town
- Liquidity
- Marketability of the investment if the need arises to liquidate the investment prior to maturity
- Diversification of the investment portfolio
- Yield

Mr. Glickman advised that the Finance staff determined that no changes are needed to the Town's investment policy. He noted that the proposed Resolution includes the Town's Investment Policy as Exhibit A, and the list of recommended qualified brokers, dealers, and financial institutions list is included as Exhibit B.

Mayor Chow and Deputy Mayor Pro Tempore Walden spoke in favor of the policy and the Finance staff.

MOTION: Council Member Willesen moved to approve. Council Member Wheeler seconded the motion. Motion carried unanimously.

Resolution No. R21-067: Adopt Investment Strategy and Approve Brokers, Dealers, and Financial Institutions for Fiscal Year 2021-2022

22. Present, Discuss, and Consider Action on a Resolution Approving an Agreement Between the Town of Addison and Northridge Construction Group, LLC for the Addison Athletic Club Renovations Project and Authorizing the City Manager to Execute the Agreement and Related Project Documents in an Amount Not to Exceed \$4,035,083* \$4,035,085 and Providing for a Total Project Budget in an Amount Not to Exceed \$5,077,631.

Jana Tidwell, Director of Parks and Recreation, presented this item. She reviewed that in June 2020, Council approved an agreement in the amount of \$495,000 with LPA Architects to prepare construction documents to receive bids from contractors for the renovation of the Addison Athletic Club (AAC). Additionally, as part of the fiscal year 2020 operating budget, funds were approved to cash fund core building improvements at the AAC. The core building improvements were focused on updating building interior finishes and furnishings. These projects were not done due

to uncertainty related to the economic impact of the COVID-19 pandemic on Town revenues. In discussions with the City Council, staff recommended that the improvements be incorporated into the development of the AAC project renovation plans, and includes the following items:

- Paint interior walls (excluding the gymnasium and locker room)
- Replace flooring (excluding wood, fitness, and locker room floors)
- Reconfigure the front desk to improve function
- Remove desk in the fitness area to increase useable space
- Consolidate and update signage
- Replace outdated furniture
- Partially replace lighting
- Secure the administrative office

Ms. Tidwell advised that as the architect began to develop construction drawings, they identified additional elements of the facility that need repair or updating. Staff directed LPA to include those elements as alternate bid items in the construction plans. The alternate items are mostly related to the ceiling inside the building and replacing items to match updated materials that will be used.

Ms. Tidwell reviewed that voters approved a total of \$5,077,631 for the AAC Renovation Project budget. Staff utilized bid information and other project costs to establish a breakdown of the project budget as follows:

Project Budget Amount	
Base Construction Project	\$4,035,085
Soft Costs – Design	\$499,080
Soft Costs – Construction Management	\$70,000
Project Contingency	\$473,466
Total Bond Funds Allocated	\$5,077,631

Ms. Tidwell advised that four bids for the renovation project were received with Northridge Construction Group submitting the lowest responsible bid in the amount of \$4,035,085. This consists of Core Building Improvements totaling \$527,853, and Bond Item Improvements totaling \$3,507,232. If unused elsewhere, the Contingency Funds will be applied toward the following list of Alternate Bid Items:

ALTERNATE BID ITEMS		
Item Description		Cost
D	Replace Cabinets & Sink in the Community Room	\$26,200
E	Replace Elevator Interior Finishes and Lighting	\$25,200
J	Replace Ceiling Grid and Ceiling Tiles Throughout the Building	\$84,100
Q	Add Graphic on Natatorium Wall	\$8,100
R	Install Impact Resistant Ceiling at Racquetball Court	\$65,000
S	Paint Exposed Ceiling Structure in the Gym	\$19,200
T	Paint Atrium Ceiling	\$24,000
U	Replace Retractable Skylight Panes	\$23,100

Discussion regarding the priority of the Alternate items followed.

Ms. Tidwell added that references for Northridge Construction Group were favorable. She advised Staff is recommending awarding the contract to Northridge Construction Group for the Base Bid Items in an amount not to exceed \$4,035,085 and establishing a total project cost of \$5,077,631. Staff is also recommending that any unused Contingency funds be applied toward the Alternate Bid Items.

Mayor Chow inquired as to the disparity between the amount of the bids. City Manager Pierson advised that it is up to the bidder to ensure they have evaluated all components of the project and submit the correct amounts. The differences in the number of days needed as submitted by the bidders to complete the project were discussed.

Mayor Pro Tempore Quintanilla inquired whether the facility would remain open during the construction. Ms. Tidwell responded that the facility would remain open with certain elements being closed periodically as needed. She added however that the locker room will not be open during construction and temporary restrooms will be available.

*NOTE: City Manager Pierson noted that the Agenda Header showed an incorrect amount. The actual amount should read \$4,035,085.

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

Resolution No. R21-068: Award Bid for Addison Athletic Club Renovation to Northridge Construction Group, LLC

Adjourn Meeting

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

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma G. Parker, City Secretary

Council Meeting

6.

Meeting Date: 10/26/2021

Department: General Services

Pillars: Excellence in Asset Management

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information system

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and Weatherproofing Services for Roofing Restoration and Replacement at the Service Center, Fire Station 2, Addison Theatre Centre, Surveyor Pump Station, and the Addison Circle Pavilion and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$802,831.49.

BACKGROUND:

In November 2019 Addison voters approved Proposition D which included \$7,395,000 for improvements at existing municipal facilities including the restoration or replacement of roofs. Phase one of these projects includes the restoration or replacement of the roofs at the Service Center, Fire Station 2, Addison Theatre Centre, Surveyor Pump Station, and the Addison Circle Park Pavilion. The roofs on each of these facilities have exceeded their useful life and, though frequently patched and repaired, continue to have substantial leaks.

The two roofs at the Theatre Centre need complete replacement while the other roofs in this phase of projects can be restored. Restoration is a less extensive and more economical process that is performed when the core of the roofing material has remained free of moisture. A full replacement is needed only if the core of the roof has shown to have moisture through testing.

Roof Replacement vs. Restoration

Facility	Roof Restoration	Roof Replacement	Warranty Years
Service Center	X		30
Fire 2	X		30
Theatre Poly Roof		X	30

Theatre Lobby		X	30
Surveyor Pump Station	X		30
Addison Circle Park Pavilion	X		30

Staff, along with the Town's representative McKinstry, solicited bids from four (4) contractors all of whom are part of cooperative purchasing programs. Cooperative purchasing programs are agencies that bid out services and products for their members to provide the leverage to achieve better pricing on products, equipment, and services. Weatherproofing Services was the low bidder with a cost of \$802,931.49. Weatherproofing Services received excellent reviews on all references checked. Staff recommends Weatherproofing Services for this project.

Vendor	Bid Amount
Weatherproofing Services	\$802,831.49
LBK	\$889,278.00
McClung	\$905,762.00
Anchor Roofing	\$947,000.00

\$1,079,775 was budgeted for the restoration or replacement of these roofs.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Weatherproofing Services

Bid Tabulation

Project Scope - Theatre Metal Roof

Project Scope - Theatre

Project Scope - Fire 2, Pump Station, Service Center, and Pavilion

Project Scope - Service Center

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH WEATHERPROOFING SERVICES FOR THE TOWN BUILDINGS ROOF RESTORATION AND REPLACEMENT PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$802,831.49; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Weatherproofing Services to provide roof restoration and replacement services for various Town buildings.

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

SECTION 1. The City Council hereby approves the agreement between the Town of Addison (“Town”) and Weatherproofing Services for roof restoration and replacement services for various buildings within the Town in an amount not-to-exceed of \$802,831.49, a copy of which is attached to this Resolution as **Exhibit A**. 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 **26th** day of **OCTOBER 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A
**Agreement with Weatherproofing Services for
Roof Restoration and Repairs**

(Attached)

CONTRACTOR AGREEMENT
Roof Restoration and Replacement Project
(Various Town Buildings)

This **CONTRACTOR AGREEMENT** ("Agreement") is made as of the Effective Date by and between **Weatherproofing Services**, hereinafter called "CONTRACTOR", and the **Town of Addison, Texas**, hereinafter called "CITY".

RECITALS

WHEREAS, CITY desires CONTRACTOR to perform certain work and services set forth in Section 1 (the "Scope of Services"), and

WHEREAS, CONTRACTOR has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in the Contract Documents, and enumerated under Section 1, of this Agreement;

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, CITY and CONTRACTOR agree as follows:

Section 1. Scope of Services

Upon issuance of a written notice to proceed by CITY, CONTRACTOR agrees to provide to CITY the necessary services, labor, materials, equipment and supplies related to the Roof Restoration and Replacement Project (the "Project"), such services being more fully described in the Contract Documents and pursuant to the scope of services attached hereto as Exhibit A.

Section 2. Term of Agreement

The term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and shall continue until CONTRACTOR completes the services required herein to the satisfaction of CITY and has been paid in full by City, unless sooner terminated as provided in Section 9, below.

Section 3. Contract Documents

A. This Agreement is a part of the Contract Documents, which include:

- 1) This Agreement, including all exhibits and addenda hereto;
- 2) CITY'S plans and specifications for the Project (including all specifications and warranties applicable to the materials provided by Tremco Incorporated for the Project);
- 3) CITY'S written notice(s) to proceed to the CONTRACTOR;
- 4) Properly authorized change orders; and
- 5) Any other materials distributed by the CITY that relate to the Project.

In the event there exists a conflict between any term, provision and/or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this Section 3. If discrepancies are found that may impact CONTRACTOR's work or services related to the Project, it shall be the CONTRACTOR's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the Project. Should CONTRACTOR fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the Project, CONTRACTOR shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the Project.

Section 4. Contractor Obligations

A. CONTRACTOR shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should CITY require additional services not included under this Agreement, CONTRACTOR shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by CITY; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for CONTRACTOR to perform the services under this Agreement, CONTRACTOR shall be authorized to engage the services of any agents, assistants, persons, or corporations that CONTRACTOR may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of CITY. The cost of such personnel and assistance shall be a reimbursable expense to CONTRACTOR only if authorized in writing in advance by CITY.

C. Unless otherwise agreed, CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the Scope of Services. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

D. CONTRACTOR shall comply with all laws, ordinances, rules and regulations governing CONTRACTOR's performance of this Agreement.

E. All minor details of the work not specifically mentioned in the Scope of Services or Project Drawings but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are set forth in this Agreement. CONTRACTOR will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this Agreement shall be understood to mean and include all work that may be required by CITY to be done by CONTRACTOR to accomplish any alteration or addition to the work in conformance with the Contract Documents. It is agreed that CONTRACTOR shall perform all extra work under the direction of the City's Representative when presented with a written work order signed by the City's Representative, subject, however, to the right of CONTRACTOR to require written confirmation of such extra work order by CITY. Payment for extra work shall be as agreed in the work order.

F. CONTRACTOR agrees to indemnify, defend, and save CITY harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies incurred in the furtherance of the performance of this Agreement. When CITY requests, CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

Section 5. Payment

A. CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in conformance with the Contract Documents in a total amount not to exceed EIGHT HUNDRED AND TWO THOUSAND EIGHT HUNDRED AND THIRTY-ONE AND 49/100 DOLLARS (\$802,831.49) ("Contract Price"), subject to additions or deletions for changes or extras agreed upon in writing. Unless otherwise provided herein, payment to CONTRACTOR shall be monthly based on the CONTRACTOR'S monthly progress report and detailed monthly itemized statement for services

that shows the names of the CONTRACTOR'S employees, agents, contractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form reasonably acceptable to CITY. CITY shall pay such monthly statements within thirty (30) days after receipt and CITY verification of the services.

B. CITY may deduct from any amounts due or to become due to CONTRACTOR any sum or sums owing by CONTRACTOR to CITY. In the event of any breach by CONTRACTOR of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY'S premises, arising out of CONTRACTOR's performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONTRACTOR an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by CONTRACTOR.

C. CITY may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating possible filing of claims;
- (3) Failure of CONTRACTOR to make payments promptly to subcontractors or for material or labor which CITY may pay as an agent for the CONTRACTOR; or
- (4) Damages to another contractor or subcontractor.

When the above grounds are removed, or CONTRACTOR provides a surety bond satisfactory to CITY which will protect CITY in the amount withheld because of said grounds, CITY will release the amounts withheld.

Section 6. Responsibilities

A. CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of all materials (including Tremco Incorporated's specifications for the materials), construction, installation and other services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform with the Contract Documents.

B. Neither CITY's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR's negligent performance of any of the services furnished under this Agreement.

Section 7. Time for Performance

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with CITY's requirements. Unless otherwise agreed in writing by the parties, CONTRACTOR shall have completed the Project on or before June, 7, 2022, subject to any extension(s) approved by CITY in conformance with this Section 7.

B. In the event CONTRACTOR's performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONTRACTOR may request an extension of time for the performance of same

as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to CONTRACTOR, unless CONTRACTOR shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONTRACTOR have agreed in writing upon the allowance of additional time to be made.

D. CONTRACTOR understands and agrees that time is of the essence of this contract, and that for each day of delay beyond the number of calendar days provided for the completion of any component of the work or services herein specified and contracted for (after due allowance for such extension of time as may otherwise be provided for extension of time herein), CITY may withhold permanently from the Contract Price an amount equal to \$1,500 per day, which the parties mutually agree is the amount reasonably necessary to mitigate the effect upon CITY of CONTRACTOR's delay in performance for this particular Project.

E. In case CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the City, or if CONTRACTOR fails to comply with the orders of the CITY, when such orders are consistent with the Contract Documents, then, and in that case, where performance and payment bonds exist, the Sureties on these bonds may be notified in writing by CITY and directed to complete the work (at CITY'S sole discretion), and a copy of said notice shall be delivered to CONTRACTOR. After receiving said notice of abandonment, CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the CITY or the Surety on the performance bond, or another contractor in completion of the work; and CONTRACTOR shall not receive any rental or credit therefor, it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement. Nothing in this section shall be deemed a waiver of any remedy available to the CITY under this Agreement and the CITY shall retain all remedies upon default provided in Section 14 herein.

(1) In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, written ten (10) days after service of such notice, then the CITY may provide for completion of the work in either of the following elective manners:

- a. The CITY may employ such force of labor and use such machinery, equipment, tools, materials and supplies as said CITY may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and expense so charged shall be deducted and paid by the CITY out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same had been completed by the CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or its Surety shall pay the amount of such excess to the CITY; or
- b. The CITY under sealed bids, when and in the manner required by law, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this Agreement. In the case of any increase in cost to the CITY under the new contract as compared to what would have been the cost under this Agreement, such increase shall be charged to the CONTRACTOR

and the Surety shall be and remain bound therefor. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this Agreement, the CONTRACTOR and/his Surety shall be credited therewith.

Section 8. Ownership of Project; Bill of Sale

A. CONTRACTOR warrants that title to all work, including all equipment and materials incorporated into the Project, will pass to CITY no later than the time of final payment. CONTRACTOR further warrants that upon payment by CITY, all Work for which payments have been received from CITY shall be free and clear of liens, claims, security interests or other encumbrances in favor of CONTRACTOR or any other person or entity whatsoever.

B. CONTRACTOR agrees to assign to CITY at the time of completion of the Scope of Services all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees to perform the Project in such manner to preserve all manufacturer's warranties. If necessary as a matter of law, CONTRACTOR may retain the right to enforce directly any such manufacturers' warranties during the one year period following the date of acceptance of the Project by City.

Section 9. Termination

A. CITY may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to CONTRACTOR. In the event suspension or termination is without cause, payment to CONTRACTOR, in accordance with the terms of this Agreement, will be made based on services reasonably determined by CITY to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. If CITY requires a modification of this Agreement with CONTRACTOR, and in the event CITY and CONTRACTOR fail to agree upon a modification to this Agreement, CITY shall have the option of terminating this Agreement and CONTRACTOR's services hereunder at no additional cost other than the payment to CONTRACTOR, in accordance with the terms of this Agreement, for the services reasonably determined by CITY to be properly performed by CONTRACTOR prior to such termination date.

Section 10. Insurance

A. CONTRACTOR shall during the term hereof maintain in full force and effect all insurance policies required by the CITY, which shall strictly comply with CITY's adopted insurance requirements for projects of this nature and scope, including, at a minimum: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONTRACTOR's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence (\$2,000,000.00 aggregate) for injury to persons (including death), and for property damage; (ii) policy of automobile liability insurance covering any vehicles owned and/or operated by CONTRACTOR, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of CONTRACTOR's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00.

B. All insurance and certificate(s) of insurance shall contain the following provisions: (1) name CITY, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against CITY for injuries,

including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to CITY of any material change of or to the insurance required herein.

C. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

D. A certificate of insurance evidencing the required insurance and all endorsements shall be submitted prior to commencement of services.

Section 11. Indemnification.

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY CONTRACTOR'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF CITY, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY CITY ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AND/OR ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 12. Assignment

CONTRACTOR shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of CITY.

Section 13. Applicable Laws

CONTRACTOR shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the state of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

Section 14. Default of CONTRACTOR

In the event CONTRACTOR fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONTRACTOR, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONTRACTOR except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONTRACTOR to and from meetings called by CITY at which CONTRACTOR is required to attend, but shall not include any loss of profit of CONTRACTOR. In the event, of such termination, CITY may proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by subletting the work to another contractor.

B. CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of CONTRACTOR.

Section 15. Adjustments in Services

No claims for extra services, additional services or changes in the services will be made by CONTRACTOR without written consent from CITY prior to the performance of such services.

Section 16. Execution Becomes Effective

This Agreement will be effective upon signing of the Agreement by authorized representatives of CONTRACTOR and CITY.

Section 17. Agreement Amendments

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

Section 18. Severability.

In the event 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 provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 19. Independent Contractor.

In satisfying the conditions of and providing the services under this Agreement, CONTRACTOR is acting independently, and CITY assumes no responsibility or liabilities to any third party in connection with CONTRACTOR's actions. All services to be performed by CONTRACTOR pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of CITY. CONTRACTOR shall supervise the performance of its services and shall be entitled to control the manner and means by which

its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this Agreement.

Section 20. Right-Of-Access.

CITY will obtain and/or furnish right-of-access on any project site for CONTRACTOR to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services. CONTRACTOR will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.

Section 21. Notice.

Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to CITY: Wesley S. Pierson, City Manager
City of Town of Addison
5300 Belt Line Road
Town of Addison, Texas 75254

With copy to: City Attorney
City of Town of Addison
5300 Belt Line Road
Town of Addison, Texas 75254

If to CONTRACTOR: Weatherproofing Services
Attn: Gary Place [NAME], Vice President [TITLE]
2336 Oak Grove Lane
Aubrey, Texas 76227

Section 22. Counterparts

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

Section 23. Recitals; Exhibits.

All recitals and exhibits attached hereto are incorporated and made a part hereof for all purposes.

Section 24. Survival of Obligations.

Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 25. Sales and Use Taxes

CONTRACTOR understands and acknowledges that CITY is a governmental entity and exempt from the payment of sales and use taxes for certain materials and equipment conveyed to City as part of this Project

or otherwise incorporated into the Project. CITY agrees to provide CONTRACTOR such documentation as may otherwise be required by state law to allow CONTRACTOR to avoid payment of sales and uses taxes for materials and equipment with respect to the Project to the extent allowed by law.

Section 26. Audits and Records.

CONTRACTOR agrees that during the term hereof the CITY and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of CONTRACTOR's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the CITY or date of termination if sooner.

Section 27. Conflicts of Interests.

CONTRACTOR represents that no official or employee of the CITY has any direct or indirect pecuniary interest in this Agreement.

Section 28. Hazardous Materials.

CONTRACTOR shall report the presence and location of any hazardous materials it notices or which a contractor of similar skill and experience should have noticed to the CITY.

Section 29. No Boycott Israel and/or No Industry Discrimination.

Pursuant to Texas Government Code Chapter 2270, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not current discriminate against firearm and ammunition industries and will not for the term of the contract. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date of last execution hereof.

FOR CITY:

Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

ATTEST:

By: _____
Irma Parker, City Secretary

FOR CONTRACTOR:

Weatherproofing Services

By:  _____
Gary Plank [Name], Vice President [Title]

Date: 10/20/21

EXHIBIT "A"
SCOPE OF SERVICES
Roof Restoration and Weatherproofing Project
(Various Town Buildings)

(attached)



WEATHERPROOFING SERVICES

OMNIA Partners CPN # TX-R180903-312072

PROPOSAL NUMBER: 211310-102-01

DATE: 10/13/2021

TO:
Town of Addison
5300 Beltline Road
Addison, Texas 75254

JOB SITE:
Multiple Sites

ATTENTION: Town of Addison

RE: Roofing

We propose to furnish equipment, labor and materials to complete the following scope:

Scope of Work -

- Setup safety and staging equipment
- Perform Scope of Work per Tremco specifications

Theatre - Metal Roof Replacement -

Material Price	\$122,499
Labor Price	\$80,211
Total Price	\$202,710

Service Center - Restoration -

Material Price	\$176,810
Labor Price	\$189,626
Total Price	\$366,436

Pavillion - Restoration -

Material Price	\$55,959
Labor Price	\$45,814
Total Price	\$101,773

Fire Station #2 - Restoration -

Material Price	\$17,673
Labor Price	\$34,877
Total Price	\$52,550

Surveyor Pump Station - Restoration -

Material Price	\$16,928
Labor Price	\$25,990
Total Price	\$42,918



2336 Oak Grove Lane, Crossroads, Texas 76227 * 972-731-8222 * 972-731-8225 FAX

Website: www.WsTexas.com * Email: Service@WsTexas.com

EXHIBIT A - SCOPE OF SERVICES



Overall Cost -	
Total Base Amount (Labor and Material) w/Add.....	\$766,387
Allowances for Unknown (\$5k for each bldg).....	\$25,000
Total Final with Allowances.....	\$791,387
Discount	\$7,371.87
Final Cost.....	\$784,015.13
Bond Cost (2.4% max).....	\$18,816.36
Total Final with Allowances.....	\$802,831.49

All work to be done in a good workmanship like manner with daily removal of debris.



2336 Oak Grove Lane, Crossroads, Texas 76227 * 972-731-8222 * 972-731-8225 FAX

Website: www.WsTexas.com * Email: Service@WsTexas.com

BUILDINGS	ORIGINAL BUDGET	McClung	Anchor Roofing	Weatherproofing	LBK	NOTES
THEATRE - POLY ROOF & METAL ROOF - REPLACEMENT						
Replacement Materials	\$125,545.00	\$118,707.00	\$112,030.00	\$122,499.00	\$145,799.00	
Replacement Labor		\$149,027.00	\$137,970.00	\$80,211.00	\$154,799.00	
Replacement Total		\$267,734.00	\$250,000.00	\$202,710.00	\$300,598.00	
SERVICE CENTER - RESTORATION						
Restoration Materials	\$388,386.00	\$267,416.00	\$256,300.00	\$176,810.00	\$210,861.00	
Restoration Labor		\$165,162.00	\$180,900.00	\$189,626.00	\$165,941.00	
Restoration Total		\$432,578.00	\$437,200.00	\$366,436.00	\$376,802.00	
PAVILION - RESTORATION						
Restoration Materials	\$297,500.00	\$61,660.00	\$88,700.00	\$55,959.00	\$55,411.00	
Restoration Labor		\$44,181.00	\$34,500.00	\$45,814.00	\$56,589.00	
Restoration Total		\$105,841.00	\$123,200.00	\$101,773.00	\$112,000.00	
FIRE STATION #2 - RESTORATION						
Restoration Materials	\$119,000.00	\$19,533.00	\$33,200.00	\$17,673.00	\$13,457.00	
Restoration Labor		\$20,642.00	\$27,400.00	\$34,877.00	\$23,982.00	
Restoration Total		\$40,175.00	\$60,600.00	\$52,550.00	\$37,439.00	
SURVEYOR PUMP STATION - RESTORATION						
Restoration Materials	\$74,672.00	\$19,719.00	\$31,250.00	\$16,928.00	\$13,457.00	
Restoration Labor		\$14,715.00	\$19,750.00	\$25,990.00	\$23,982.00	
Restoration Total		\$34,434.00	\$51,000.00	\$42,918.00	\$37,439.00	
OVERALL COST PER CONTRACTOR						
	Original Budget	McClung	Anchor Roofing	Weatherproofing	LBK	Notes
Total Bid Amount	\$1,079,775.00	\$880,762.00	\$922,000.00	\$766,387.00	\$864,278.00	Base amount (Labor + Material)
Allowances for Unknowns		\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$5k contingency for unknowns at each building
Total Final		\$905,762.00	\$947,000.00	\$791,387.00	\$889,278.00	Weatherproofing is lowest overall bidder
			Total Final w/ Bond	\$802,831.49		
			ORIGINAL BUDGET MINUS FINAL COST	\$276,943.51		

SECTION 074113.06 - METAL ROOF PANELS, STANDING SEAM

PART 1 - GENERAL

1.1 SUMMARY

A. Section Includes:

1. Removal of existing standing seam metal roof down to metal deck.
2. Architectural standing-seam metal roof panels.
3. Metal roof accessories.
4. Plywood roof sheathing
5. Roof insulation.
6. Miscellaneous metal framing.

1.2 DEFINITIONS

- ##### A. Metal Roof Panel Assembly: Metal roof panels, attachment system components, miscellaneous metal framing, thermal insulation, and accessories necessary for a complete weathertight roofing system.

1.3 PREINSTALLATION MEETINGS

A. Preinstallation Conference: Conduct conference at Project site.

1. Meet with Owner, Owner's insurer if applicable, testing and inspecting agency representative, metal roof panel Installer, metal roof panel manufacturer's representative, substrate Installer, and installers whose work interfaces with or affects metal roof panels including installers of roof accessories and roof-mounted equipment.
2. Review and finalize construction schedule and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
3. Review methods and procedures related to metal roof panel installation, including manufacturer's written instructions.
4. Examine substrate conditions for compliance with requirements, including flatness and attachment to structural members.
5. Review structural loading limitations of substrate during and after roofing.
6. Review flashings, special roof details, roof drainage, roof penetrations, equipment curbs, and condition of other construction that will affect metal roof panels.

7. Review governing regulations and requirements for insurance, certificates, and testing and inspecting if applicable.
8. Review temporary protection requirements for metal roof panel assembly during and after installation.
9. Review roof observation and repair procedures after metal roof panel installation.
10. Document proceedings, including corrective measures and actions required, and furnish copy of record to each participant.

1.4 ACTION SUBMITTALS

- A. Product Data: For each type of product indicated. Include construction details, material descriptions, dimensions of individual components and profiles, and finishes for each type of roof panel and accessory.
- B. Shop Drawings: Show fabrication and installation layouts of metal roof panels; details of edge conditions, side-seam and endlap joints, panel profiles, corners, anchorages, trim, flashings, closures, and accessories; and special details specific to project, signed and sealed by the qualified professional engineer responsible for their preparation. Distinguish between factory- and field-assembled work.
- C. Accessory Details: Include details of the following items:
 1. Flashing and trim.
 2. Pipe penetration flashings.
 3. Roof curbs.
 4. Gutters.
 5. Downspouts.
- D. Shop Drawings for Snow Guards:By snow guard manufacturer. Show fabrication and installation layouts and attachment to other construction.
- E. Samples for Initial Selection: For each type of metal roof panel indicated with factory-applied color finishes.
 1. Include similar Samples of trim and accessories involving color selection.
- F. Samples for Verification: For each type of exposed finish required.

1.5 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For manufacturer, Installer , and manufacturer's technical representative.

1. Submit Installer qualifications in the form of an original letter on manufacturer's letterhead signed by authorized manufacturer representative.
 - B. Material Certificates: For thermal insulation, from manufacturer.
 - C. Product Test Reports: Based on evaluation of comprehensive tests performed by a qualified testing agency, for each product. Indicate compliance with requirements in Performance Requirements Article:
 1. Air Infiltration.
 2. Water Penetration.
 3. Hydrostatic-Head Resistance.
 4. Wind-Uplift Resistance.
 - D. Field Quality Control Reports.
 - E. Sample Warranties: For special warranties.
- 1.6 CLOSEOUT SUBMITTALS
- A. Maintenance Data: For metal roof panels to include in maintenance manuals.
- 1.7 QUALITY ASSURANCE
- A. Manufacturer Qualifications: A manufacturer of plant-fabricated metal roof panel systems listed in this Section and meeting performance requirements, with a minimum of five years' experience providing metal roof panel systems for projects of similar type and scope, offering engineering, warranty, technical inspection, and maintenance inspection services specified.
 - B. Installer Qualifications: An employer of workers trained and certified by manufacturer, including a full-time on-site supervisor with a minimum of five years' experience installing similar work, able to communicate verbally with Contractor, Architect, and employees, and qualified by the manufacturer to furnish warranty of type specified.
 1. Manufacturer's On-Site Roll Former Operators: Experienced full-time employees of metal roof panel manufacturer.
 - C. Manufacturer's Technical Representative Qualifications: An authorized full-time employee representative of manufacturer, certified as a Registered Roof Observer by the Roof Consultants Institute, and experienced in the installation and maintenance of the specified roof panel system and qualified to determine Installer's compliance with the requirements of this Project.
 - D. Testing Agency Qualifications: An independent testing agency with the experience and capability to conduct the testing and inspection indicated.
 1. Inspection personnel shall be certified as a Registered Roof Observer by the Roof Consultants Institute, and shall be experienced in the installation and maintenance of the

specified roofing system and qualified to determine Installer's compliance with the requirements of this Project.

- E. Source Limitations: Obtain metal roof panels and accessories from a single source supplied or approved by metal roof panel manufacturer.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Deliver components, sheets, metal roof panels, and other manufactured items so as not to be damaged or deformed. Package metal roof panels for protection during transportation and handling.
- B. Unload, store, and erect metal roof panels in a manner to prevent bending, warping, twisting, and surface damage.
- C. Stack metal roof panels on platforms or pallets, covered with suitable weathertight and ventilated covering. Store metal roof panels to ensure dryness. Do not store metal roof panels in contact with other materials that might cause staining, denting, or other surface damage.
- D. Protect strippable protective covering on metal roof panels from exposure to sunlight and high humidity, except to extent necessary for period of metal roof panel installation.
- E. Protect foam-plastic insulation as follows:
 - 1. Do not expose to sunlight, except to extent necessary for period of installation and concealment.
 - 2. Protect against ignition at all times. Do not deliver foam-plastic insulation materials to Project site before installation time.
 - 3. Complete installation and concealment of plastic materials as rapidly as possible in each area of construction.

1.9 PROJECT CONDITIONS

- A. Weather Limitations: Proceed with installation only when existing and forecasted weather conditions permit metal roof panel work to be performed according to manufacturer's written instructions and warranty requirements.
- B. Field Measurements: Verify actual dimensions of construction contiguous with metal roof panels by field measurements before fabrication.

1.10 COORDINATION

- A. Coordinate sizes and locations of roof curbs, equipment supports, and roof penetrations with actual equipment provided.
- B. Coordinate metal roof panels with rain drainage work, flashing, trim, and construction of substrate, parapets, walls, and other adjoining work to provide a leakproof, secure, and noncorrosive installation.

1.11 WARRANTY

- A. Manufacturer's Warranty: Roof System Manufacturer's standard form in which Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within warranty period, as follows.
 - 1. Form of Warranty: Manufacturer's standard warranty form.
 - 2. Scope of Warranty: Work of this Section and including sheet metal details and termination details installed by the roof system Installer and approved by the Roof System Manufacturer.
 - 3. Warranty Period: 30 years from date of completion.
- B. Installer Warranty: Installer's warranty signed by Installer, as follows.
 - 1. Form of Warranty: Form acceptable to Roofing Manufacturer and Owner.
 - 2. Scope of Warranty: Work of this Section.
 - 3. Warranty Period: 2 years from date of completion.
- C. Metal Finishes: Written warranty in which Manufacturer agrees to repair finish or replace factory-finished components that show evidence of deterioration of factory-applied finishes under normal atmospheric conditions within specified warranty period.
 - 1. Color fading, ASTM D 2244: Greater than 5 Hunter units.
 - 2. Chalking, ASTM D 4214: Greater than a No. 8 rating.
 - 3. Finish breakdown: Cracking, checking, peeling, or adhesive failure.
 - 4. Finish Warranty Period: 40 years from date of Substantial Completion.
- D. Manufacturer Inspection Services: By manufacturer's technical representative, to report maintenance responsibilities to Owner necessary for preservation of Owner's warranty rights. The cost of manufacturer's inspections is included in the Contract Sum.
 - 1. Inspections to occur in following years: 2, 5, 10, 15, 20, and 25 following completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Basis of Design Manufacturers/Products: Subject to compliance with requirements, provide products by one of the following manufacturers comparable to the Basis of Design product specified:
 - 1. Tremco, Inc., Beachwood, OH, (800) 562-2728, www.tremcoroofing.com.

2.2 PERFORMANCE REQUIREMENTS

- A. General Performance: Metal roof panels shall comply with performance requirements without failure due to defective manufacture, fabrication, installation, or other defects in construction.
- B. Wind-Uplift Resistance: Provide metal roof panel assemblies that comply with UL 580 for wind-uplift-resistance class indicated.
 - 1. Uplift Rating: UL 90.
- C. Hail Resistance: Provide metal roof panel assemblies listed with UL as Class 4 hail resistant panels.
- D. Air Infiltration: Air leakage through assembly of not more than the following when tested according to ASTM E 1680, based upon 16 inch (406 mm) wide panel:
 - 1. Maximum 0.0001 cfm/sq. ft. (0.001 L/s x sq. m) of roof area at test-pressure difference of -1.57 lbf/sq. ft. (-75.2 Pa).
 - 2. Maximum 0.0028 cfm/sq. ft. (.014 L/s x sq. m) of roof area at test-pressure difference of -20.00 lbf/sq. ft. (-958 Pa).
- E. Water Penetration under Static Pressure: No water penetration when tested according to ASTM E 1646 at the following test-pressure difference:
 - 1. Test-Pressure Difference: 20.00 lbf/sq. ft. (958 Pa).
- F. Hydrostatic-Head Resistance: No water penetration when tested according to ASTM E 2140.
- G. Thermal Movements: Allow for thermal movements resulting from ambient and surface temperature changes. Base calculations on surface temperatures of materials due to both solar heat gain and nighttime-sky heat loss.
 - 1. Temperature Change (Range): [120 deg F (67 deg C), ambient; 180 deg F (100 deg C)], material surfaces.

2.3 ARCHITECTURAL STANDING-SEAM METAL ROOF PANELS

- A. General: Provide factory-formed metal roof panels designed to be installed by lapping and interconnecting raised side edges of adjacent panels with joint type indicated and mechanically attaching panels to supports using concealed clips in side laps. Include clips, cleats, pressure plates, and accessories required for weathertight installation.
 - 1. Steel Panel Systems: Unless more stringent requirements are indicated, comply with ASTM E 1514.
- B. Vertical-Rib, Seamed-Joint, Standing-Seam Metal Roof Panels: Factory-formed symmetrical panels with vertical ribs at panel edges and flat pan between ribs; designed for sequential installation in either direction by mechanically attaching panels to supports using concealed clips located under one side of panels and engaging opposite edge of adjacent panels, and

mechanically seaming panels together utilizing a seam cap, and configured to enable future replacement of individual panels without disturbing adjacent panels.

1. Basis-of-Design Product: Tremco, Inc., TremLock T-138.
2. Aluminum-Zinc Alloy-Coated Steel Sheet: ASTM A 792/A 792M, Class AZ50 coating designation, Grade 50 (Class AZM150 coating designation, Grade 340), prepainted by the coil-coating process to comply with ASTM A 755/A 755M ([with chromate acrylic coating]); structural quality.
 - a. Thickness: 0.028-inch/24 ga. (0.71-mm) minimum thickness.
 - b. Surface: Smooth, flat finish.
 - c. Exposed Coil-Coated Finish: 2-Coat Fluoropolymer.
 - d. Color: As selected by Architect from manufacturer's standard colors.
3. Clips: Low-movement floating clips to accommodate thermal movement; fixed clips where design permits; intermittent or continuous clips as required to meet performance requirements; and with clip bearing plate where required.
 - a. Material: 0.064-inch- (1.63-mm-) nominal thickness, zinc-coated (galvanized) or aluminum-zinc alloy-coated steel sheet.
4. Joint Type: Field mechanically seamed.
5. Seam Cap: Match panel material and finish; provide with two rows of integral factory hot-applied sealant.
6. Panel Pan Configuration: Striated.
7. Panel Seam Height: Not less than 1-3/8 inch (34.9 mm).
8. Panel Coverage: 16 inches (406 mm).

2.4 METAL ROOF ACCESSORIES

- A. Metal Roof Accessories, General: Provide components approved by roof panel manufacturer and as required for a complete metal roof panel assembly including trim, copings, fasciae, corner units, ridge closures, clips, flashings, sealants, gaskets, fillers, closure strips, and similar items. Match material and finish of metal roof panels unless otherwise indicated.
 1. Closures: Provide closures at eaves and ridges, fabricated of same metal as metal roof panels.
- B. Panel Sealants: Provide one of the following identical to that used in test panels meeting performance requirements:

1. Sealant Tape: Pressure-sensitive, 99 percent solids, gray polyisobutylene or butyl rubber compound sealant tape with release-paper backing. Provide permanently elastic, nonsag, nontoxic, nonstaining tape 1 inch (25 mm) wide and 1/8 inch (3 mm) thick, with nylon spacer beads to prevent overcompression of the sealant tape.
 2. Butyl-Rubber-Based, Solvent-Release Sealant: ASTM C 1311, with nylon spacer beads to prevent overcompression of the sealant tape.
- C. Flashing and Trim: Formed from same material as roof panels, prepainted with coil coating, minimum 0.028 inch (0.71 mm) thick. Provide flashing and trim as required to seal against weather and to provide finished appearance. Locations include, but are not limited to, eaves, rakes, corners, bases, framed openings, ridges, fasciae, and fillers. Finish flashing and trim with same finish system as adjacent metal roof panels.
- D. Pipe Penetration Flashings: Flexible boot type, with stainless steel compression ring, and stainless steel pipe strap. Use silicone-type boot at hot pipes.
- E. Gutters: Formed from same material roof panels. Match profile of gable trim, complete with end pieces, outlet tubes, and other special pieces as required. Fabricate in minimum 96-inch- (2400-mm-) long sections, of size and metal thickness according to SMACNA's "Architectural Sheet Metal Manual." Furnish gutter supports spaced a maximum of 36 inches (900 mm) o.c., fabricated from same metal as gutters. Provide wire ball strainers of compatible metal at outlets. Finish gutters to match metal roof panels.
- F. Downspouts: Formed from same material as roof panels. Fabricate in 10-foot- (3-m-) long sections, complete with formed elbows and offsets, of size and metal thickness according to SMACNA's "Architectural Sheet Metal Manual." Finish downspouts to match gutters.
- G. Pipe Penetration Flashing: Premolded EPDM pipe collar with flexible aluminum ring bonded to base and stainless steel pipe clamp to secure collar to pipe.
- H. Roof Curbs: Fabricated from aluminum sheet, minimum 0.080 inch (1.2 mm) thick; with bottom of skirt profiled to match roof panel profiles, and welded top box, integral internal fastener flange, and water diverter. Fabricate curb subframing of minimum 0.0598-inch- (1.5-mm-) thick, angle-, C-, or Z-shaped galvanized steel sheet. Fabricate curb and subframing to withstand indicated loads, of size and height indicated. Finish roof curbs to match metal roof panels.
1. Insulate roof curb with 1-inch- (25-mm-) thick, rigid insulation.

2.5 FIELD-INSTALLED THERMAL INSULATION

- A. Faced, Polyisocyanurate Board Insulation: ASTM C 1289, Type II, Class 2 glass-fiber mat, Grade 3, with maximum flame-spread and smoke-developed indexes of 75 and 450, respectively, based on tests performed on unfaced core. FM Approvals 4450/4470 approved. CFC-, HCFC-, and HFC- free.
1. Minimum R-Value of 25.

2.6 SUBSTRATE BOARDS

- A. Glass-Mat Gypsum Sheathing Board: ASTM C 1177/C 1177M.
 - 1. Type and Thickness: Type X, 5/8 inch (16 mm).
 - 2. Product: Subject to compliance with requirements, provide Dens-Dek by Georgia-Pacific Corporation.
- B. Substrate-Board Fasteners: Factory-coated steel fasteners and metal or plastic plates complying with corrosion-resistance provisions in FMG 4470, designed for fastening substrate board to substrate.

2.7 UNDERLAYMENT MATERIALS

- A. Self-Adhering, High-Temperature Sheet: 30 to 40 mils (0.76 to 1.0 mm) thick minimum, consisting of slip-resisting, polyethylene-film top surface laminated to layer of butyl or SBS-modified asphalt adhesive, with release-paper backing; cold applied. Provide primer when recommended by underlayment manufacturer.
 - 1. Thermal Stability: Stable after testing at 240 deg F (116 deg C); ASTM D 1970.
 - 2. Low-Temperature Flexibility: Passes after testing at minus 20 deg F (29 deg C); ASTM D 1970.

2.8 MISCELLANEOUS MATERIALS

- A. Panel Fasteners: Self-tapping screws, bolts, nuts, self-locking rivets and bolts, end-welded studs, and other suitable fasteners designed to withstand design loads. Provide exposed fasteners with heads matching color of metal roof panels by means of plastic caps or factory-applied coating. Provide EPDM, PVC, or neoprene sealing washers.

2.9 FABRICATION

- A. Fabricate and finish metal roof panels and accessories at the factory to greatest extent possible, by manufacturer's standard procedures and processes and as necessary to fulfill indicated performance requirements. Comply with indicated profiles and with dimensional and structural requirements.
- B. Provide panel profile, including major ribs and intermediate stiffening ribs, if any, for full length of panel.
- C. Fabricate metal roof panel side laps with factory-installed captive gaskets or separator strips that provide a tight seal and prevent metal-to-metal contact, in a manner that will seal weathertight and minimize noise from movements within panel assembly.
- D. Sheet Metal Accessories: Fabricate flashing and trim to comply with recommendations in SMACNA's "Architectural Sheet Metal Manual" that apply to the design, dimensions, metal, and other characteristics of item indicated.

1. Form exposed sheet metal accessories that are without excessive oil canning, buckling, and tool marks and that are true to line and levels indicated, with exposed edges folded back to form hems.
2. Conceal fasteners and expansion provisions where possible. Exposed fasteners are not allowed on faces of accessories exposed to view.
3. Fabricate cleats and attachment devices of size and metal thickness recommended by SMACNA's "Architectural Sheet Metal Manual" or by metal roof panel manufacturer for application, but not less than thickness of metal being secured.

2.10 FINISHES

- A. Comply with NAAMM's "Metal Finishes Manual for Architectural and Metal Products" for recommendations for applying and designating finishes.
- B. Protect mechanical and painted finishes on exposed surfaces from damage by applying a strippable, temporary protective covering before shipping.
- C. Appearance of Finished Work: Noticeable variations in same piece are not acceptable. Variations in appearance of adjoining components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.
- D. Steel Panels and Accessories:
 1. Two-Coat Fluoropolymer: AAMA 621. Fluoropolymer finish containing not less than 70 percent PVDF resin by weight in color coat. Prepare, pretreat, and apply coating to exposed metal surfaces to comply with coating and resin manufacturers' written instructions.
 2. Concealed Finish: Apply pretreatment and manufacturer's standard white or light-colored acrylic or polyester backer finish, consisting of prime coat and wash coat with a minimum total dry film thickness of 0.5 mil (0.013 mm).

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine substrates, areas, and conditions, with Installer present, for compliance with requirements for installation tolerances, metal roof panel supports, and other conditions affecting performance of the Work.
 1. Examine primary and secondary roof framing to verify that rafters, purlins, angles, channels, and other structural panel support members and anchorages have been installed within alignment tolerances required by metal roof panel manufacturer.
 2. Examine solid roof substrate to verify that substrate joints are supported by framing or blocking and that installation is within flatness tolerances required by metal roof panel manufacturer.

3. Examine roughing-in for components and systems penetrating metal roof panels to verify actual locations of penetrations relative to seam locations of metal roof panels before metal roof panel installation.
4. For the record, prepare written report, endorsed by Installer, listing conditions detrimental to performance of the Work.
5. Proceed with installation only after unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Clean substrates of substances harmful to insulation, including removing projections capable of interfering with insulation attachment.
- B. Substrate Board: Install substrate boards over roof substrate on entire roof surface. Attach with substrate-board fasteners.
 1. Install substrate board with long joints in continuous straight lines, perpendicular to roof slopes with end joints staggered between rows. Tightly butt substrate boards together.
 2. Comply with requirements for fire-rated construction.
- C. Miscellaneous Framing: Install subpurlins, eave angles, furring, and other miscellaneous roof panel support members and anchorage according to metal roof panel manufacturer's written instructions.

3.3 THERMAL INSULATION INSTALLATION

- A. Comply with insulation manufacturer's written instructions applicable to products and application indicated. Install insulation that is undamaged, dry, and unsoiled and that has not been left exposed at any time to ice, rain, and snow. Coordinate installing roofing system components so insulation is not exposed to precipitation or left exposed at the end of the workday.
- B. Extend insulation in thickness indicated to cover entire roof. Provide sizes to fit applications indicated and selected from manufacturer's standard thicknesses, widths, and lengths. Seal all joints and penetrations air- and vapor-tight.
- C. Rigid Board Insulation: Install insulation with long joints of insulation in a continuous straight line with end joints staggered between rows, abutting edges and ends between boards. Fill gaps exceeding 1/4 inch (6 mm) with insulation.
 1. Where overall insulation thickness is 2 inches (50 mm) or greater, install 2 or more layers with joints of each succeeding layer staggered from joints of previous layer a minimum of 6 inches (150 mm) in each direction.
 2. Cut and fit insulation within 1/4 inch (6 mm) of nailers, projections, and penetrations.

3.4 UNDERLAYMENT INSTALLATION

- A. Self-Adhering Sheet Underlayment: Apply primer if required by manufacturer. Comply with temperature restrictions of underlayment manufacturer for installation. Apply at locations indicated below, wrinkle free, in shingle fashion to shed water, and with end laps of not less than 6 inches (150 mm) staggered 24 inches (600 mm) between courses. Overlap side edges not less than 3-1/2 inches (90 mm). Roll laps with roller. Cover underlayment within 14 days.
1. Apply over entire roof surface

3.5 METAL ROOF PANEL INSTALLATION, GENERAL

- A. Provide metal roof panels of full length from eave to ridge unless otherwise indicated or restricted by shipping limitations.
- B. Thermal Movement. Rigidly fasten metal roof panels to structure at one and only one location for each panel. Allow remainder of panel to move freely for thermal expansion and contraction. Predrill panels for fasteners.
1. Point of Fixity: Fasten each panel along a single line of fixing located at ridge.
 2. Avoid attaching accessories through roof panels in a manner that will inhibit thermal movement.
- C. Install metal roof panels as follows:
1. Commence metal roof panel installation and install minimum of 300 sq. ft. (27.8 sq. m.) in presence of factory-authorized representative.
 2. Field cutting of metal panels by torch or abrasive saw is not permitted.
 3. Locate and space fastenings in uniform vertical and horizontal alignment.
 4. Provide metal closures at rake edges, rake walls, and each side of ridge and hipcaps.
 5. Flash and seal metal roof panels with weather closures at eaves, rakes, and perimeter of all openings.
 6. Install ridge and hipcaps as metal roof panel work proceeds.
 7. Install metal flashing to allow moisture to run over and off metal roof panels.
- D. Fasteners:
1. Steel Roof Panels: Use stainless-steel fasteners for surfaces exposed to the exterior and galvanized-steel fasteners for surfaces exposed to the interior.
- E. Anchor Clips: Anchor metal roof panels and other components of the Work securely in place, using manufacturer's approved fasteners according to manufacturers' written instructions.

- F. Metal Protection: Where dissimilar metals will contact each other or corrosive substrates, protect against galvanic action by painting contact surfaces with bituminous coating, by applying rubberized-asphalt underlayment to each contact surface, or by other permanent separation as recommended by metal roof panel manufacturer.
 - 1. Use slip sheet where roof panels will contact wood, ferrous metal, or cementitious construction.
- G. Joint Sealers: Install gaskets, joint fillers, and sealants where indicated and where required for weatherproof performance of metal roof panel assemblies. Provide types of gaskets, fillers, and sealants indicated or, if not indicated, types recommended by metal roof panel manufacturer.
 - 1. Seal metal roof panel end laps with double beads of tape or sealant, full width of panel. Seal side joints where recommended by metal roof panel manufacturer.
 - 2. Prepare joints and apply sealants to comply with requirements in Division 07 Section "Joint Sealants."

3.6 METAL ROOF PANEL INSTALLATION

- A. Standing-Seam Metal Roof Panels: Fasten metal roof panels to supports with concealed clips at each standing-seam joint at location, spacing, and with fasteners recommended by manufacturer.
 - 1. Install clips to supports with self-tapping fasteners.
 - 2. Install bearing / pressure plates over rigid insulation at all clip locations indicated in manufacturer's written installation instructions.
 - 3. Erection Tolerances: Shim and align metal roof panel units within installed tolerance of 1/4 inch in 20 feet (1:960) on slope and location lines as indicated and within 1/8-inch (3 mm) offset of splices and alignment of matching profiles.
 - 4. Seamed Joint: Crimp standing seams with manufacturer-approved, motorized seamer tool so clip, metal roof panel, and factory-applied sealant are completely engaged. ()
 - 5. Watertight Installation:
 - a. Apply a continuous ribbon of sealant or tape to seal joints of metal panels, using sealant or tape as recommend in writing by manufacturer as needed to make panels watertight.
 - b. Provide sealant or tape between panels and protruding equipment, vents, and accessories.

3.7 ACCESSORY INSTALLATION

- A. General: Install accessories with positive anchorage to building and weathertight mounting and provide for thermal expansion. Coordinate installation with flashings and other components.

1. Install components required for a complete metal roof panel assembly including trim, copings, ridge closures, seam covers, flashings, sealants, gaskets, fillers, closure strips, and similar items.
- B. Flashing and Trim: Comply with performance requirements and manufacturer's written installation instructions. Provide concealed fasteners where possible, and set units true to line and level as indicated. Install work with laps, joints, and seams that will be permanently watertight and weather resistant.
 1. Form trim and transition joints using compressed joints with captive butyl sealant capable of resisting static water pressure. Cleated joints and exposed joint sealants do not meet this requirement.
 2. Install exposed flashing and trim that is without excessive oil canning, buckling, and tool marks and that is true to line and levels indicated, with exposed edges folded back to form hems. Install sheet metal flashing and trim to fit substrates and to result in waterproof and weather-resistant performance.
 3. Expansion Provisions: Provide for thermal expansion of exposed flashing and trim. Space movement joints at a maximum of 10 feet (3 m) with no joints allowed within 24 inches (600 mm) of corner or intersection. Where lapped expansion provisions cannot be used or would not be sufficiently weather resistant and waterproof, form expansion joints of intermeshing hooked flanges, not less than 1 inch (25 mm) deep, filled with mastic sealant (concealed within joints).
- C. Gutters: Join sections with riveted and soldered or lapped, riveted, and sealed joints. Attach gutters to eave with gutter hangers spaced not more than 36 inches (914 mm) o.c. using manufacturer's standard fasteners. Provide end closures and seal watertight with sealant. Provide for thermal expansion.
- D. Downspouts: Join sections with telescoping joints. Provide fasteners designed to hold downspouts securely 1 inch (25 mm) away from walls; locate fasteners at top and bottom and at approximately 60 inches (1500 mm) o.c. in between.
 1. Provide elbows at base of downspouts to direct water away from building.
 2. Connect downspouts to underground drainage system indicated.
- E. Roof Curbs: Install curbs at locations indicated on Drawings. Install flashing around bases where they meet metal roof panels.
- F. Pipe Flashing: Form flashing around pipe penetration and metal roof panels. Fasten and seal to metal roof panels as recommended by manufacturer.

3.8 FIELD QUALITY CONTROL

- A. Manufacturer's Technical Representative: Engage a qualified manufacturer's technical representative acceptable to Owner for a minimum of inspections twice a week on site to perform substrate examination, interim observations, and final roof inspections, and to prepare reports.

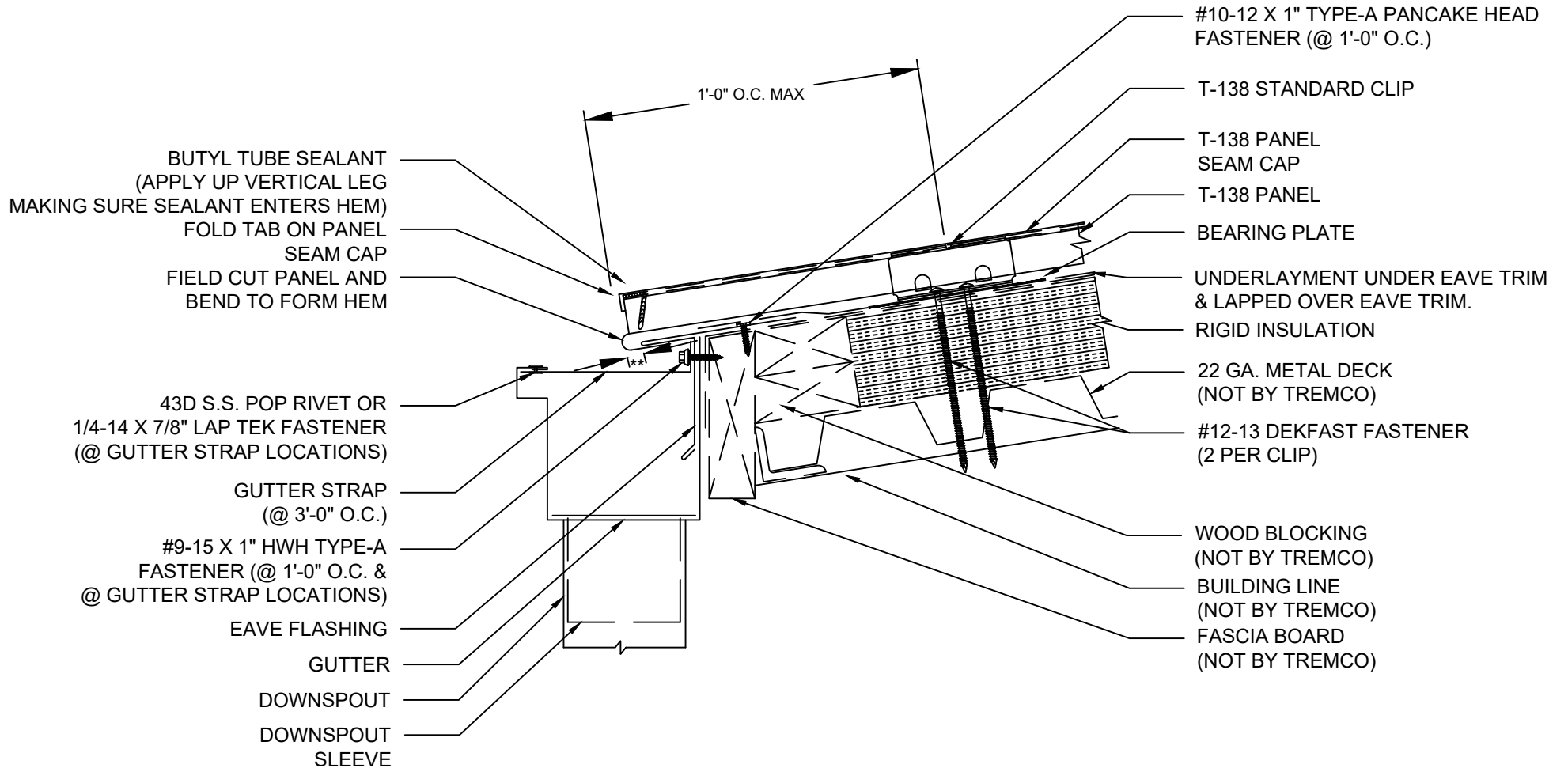
- B. Remove and replace applications of metal roof panels where inspections indicate that they do not comply with specified requirements.
- C. Additional inspections, at Contractor's expense, will be performed to determine compliance of replaced or additional work with specified requirements.

3.9 CLEANING

- A. Remove temporary protective coverings and strippable films, if any, as metal roof panels are installed unless otherwise indicated in manufacturer's written installation instructions. On completion of metal roof panel installation, clean finished surfaces as recommended by metal roof panel manufacturer. Maintain in a clean condition during construction.
- B. Replace metal roof panels that have been damaged or have deteriorated beyond successful repair by finish touchup or similar minor repair procedures.

END OF SECTION 074113.06

**** CLEARANCE REQUIRED FOR THERMAL MOVEMENT**



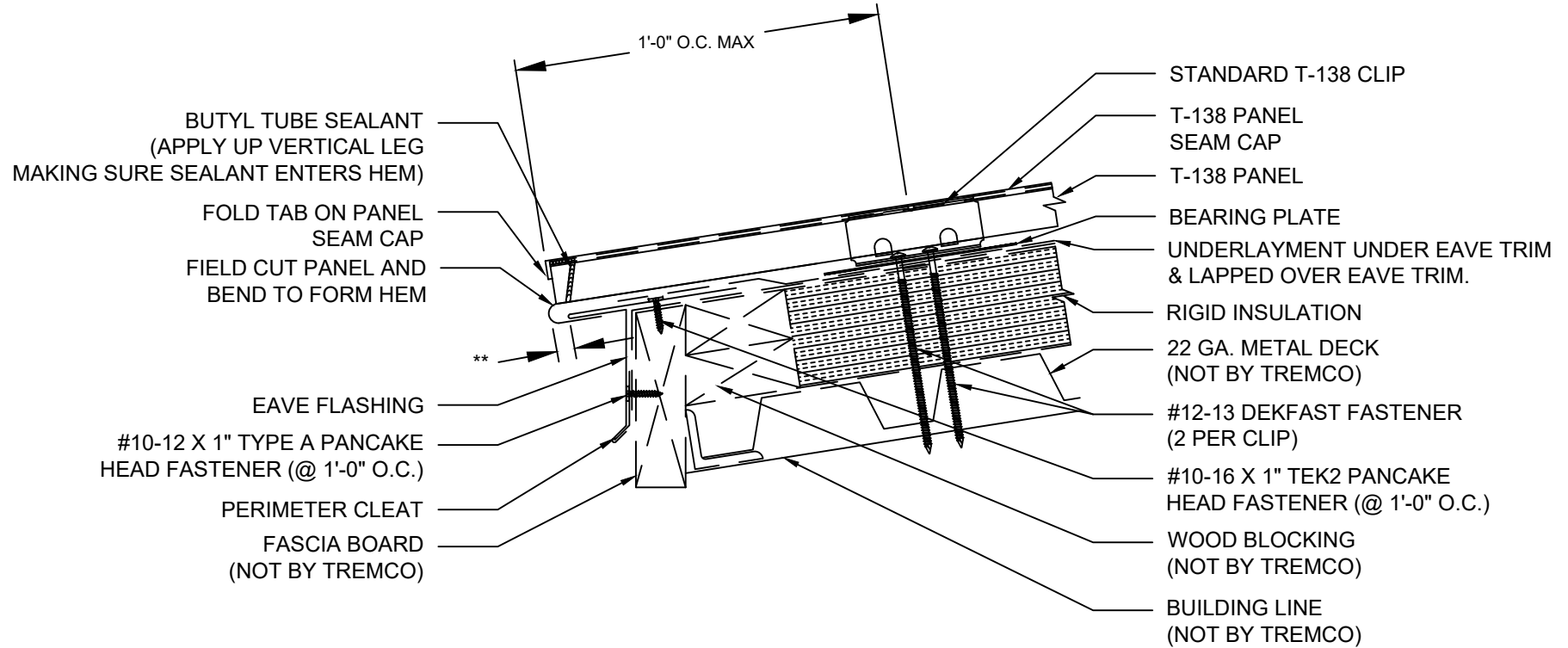
**TREMLOCK T-138 ISO-METAL DECK
EAVE WITH GUTTER**

T-138-1

N.T.S.



** CLEARANCE REQUIRED FOR THERMAL MOVEMENT

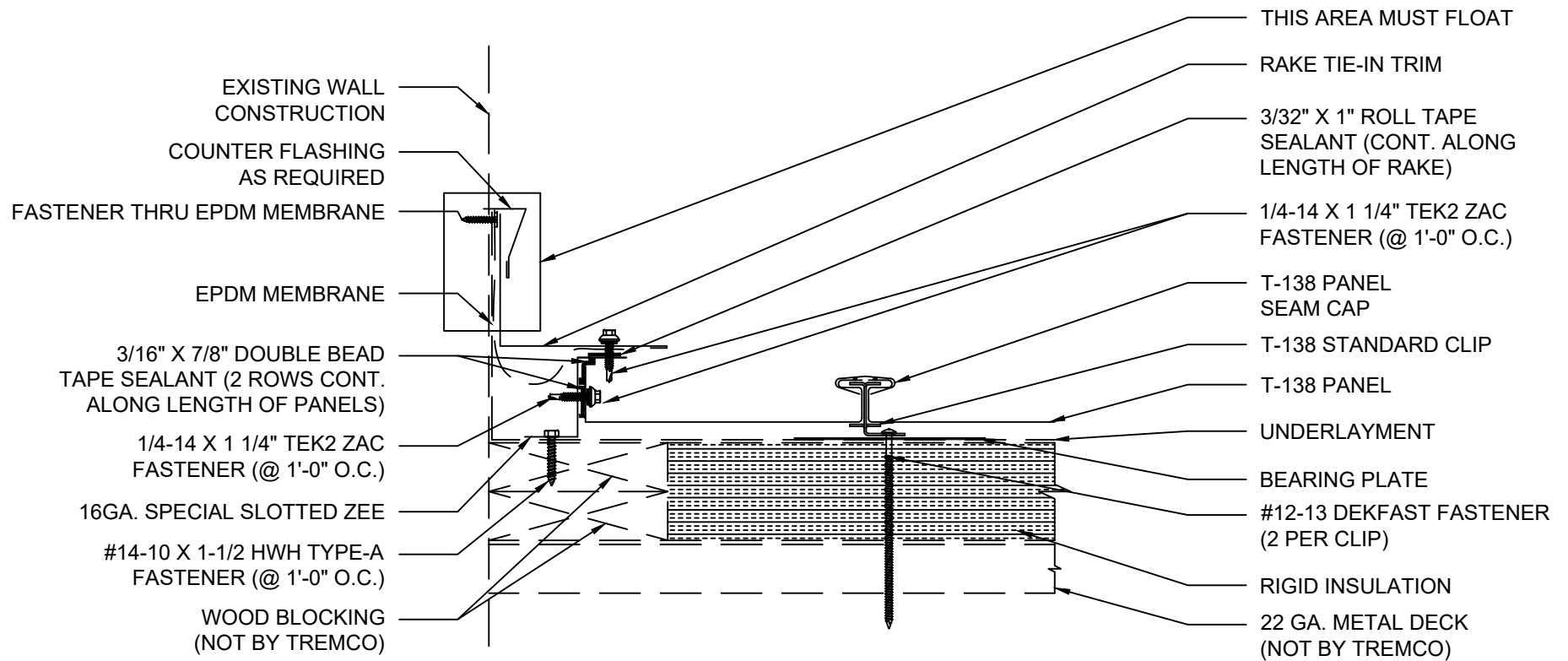


TREMLOCK T-138 ISO-METAL DECK
EAVE

T-138-2

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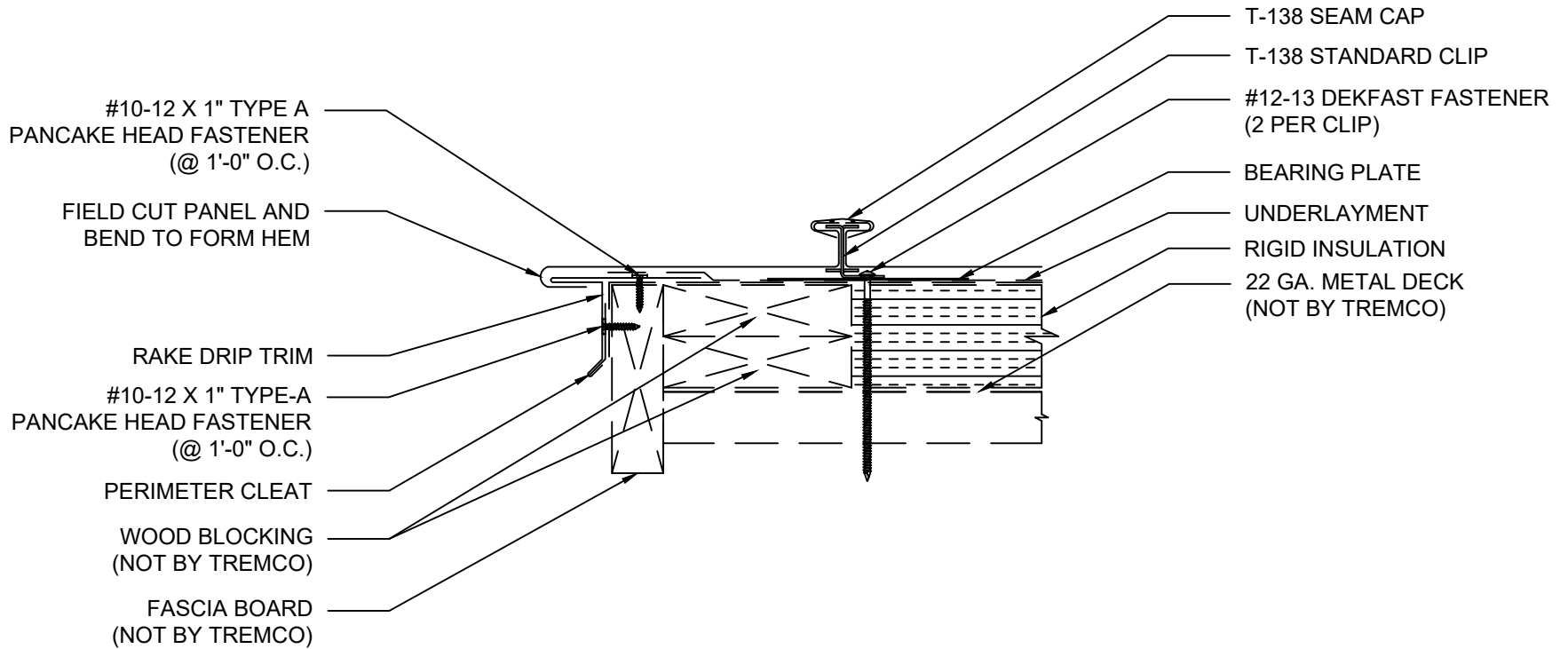
TREMCO
ROOFING & BUILDING MAINTENANCE



TREMLOCK T-138 ISO-METAL DECK
FLOATING RAKE TIE-IN

T-138-3

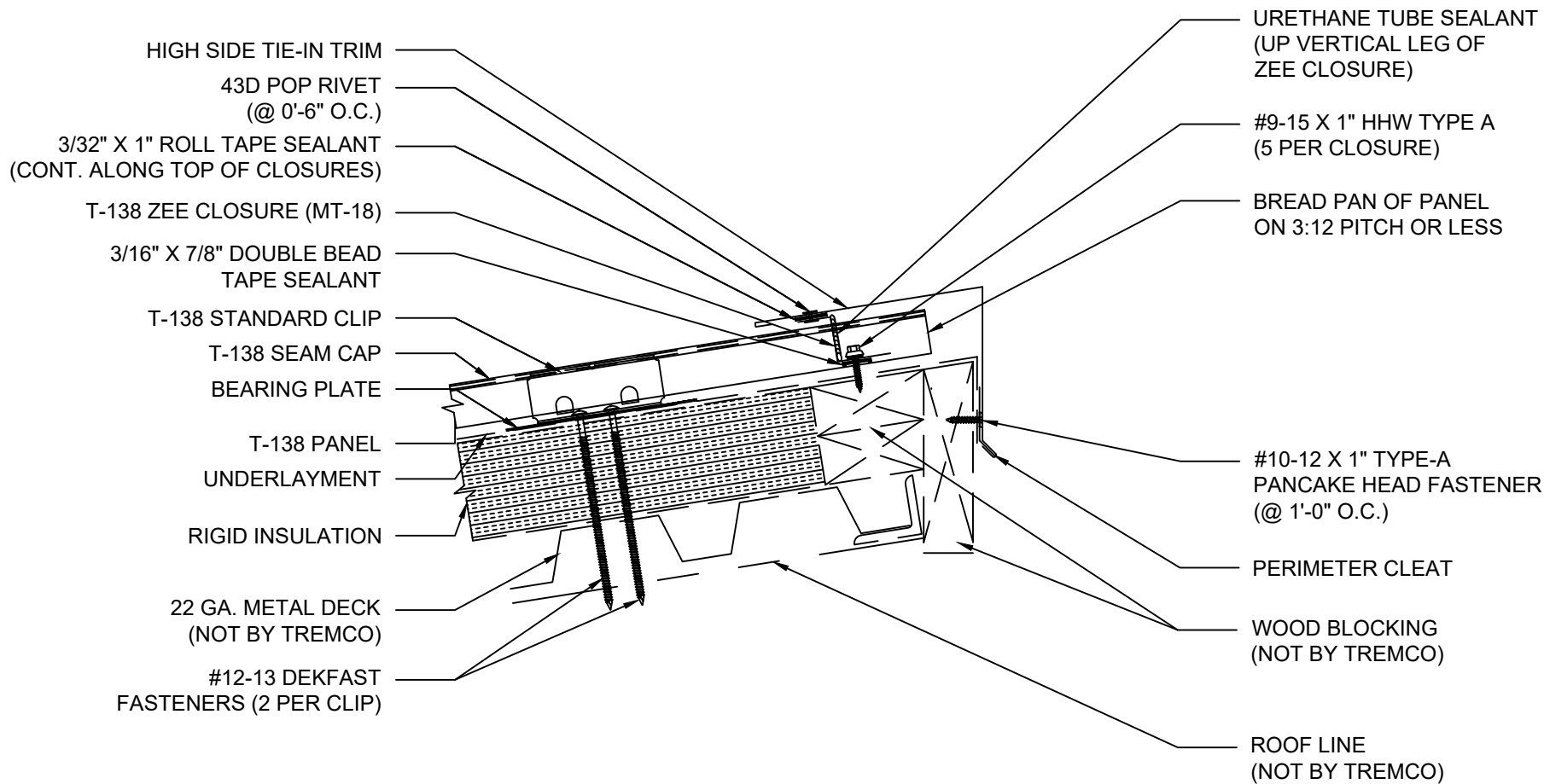
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TREMLOCK T-138 ISO-METAL DECK
FLOATING RAKE

T-138-4

N.T.S.

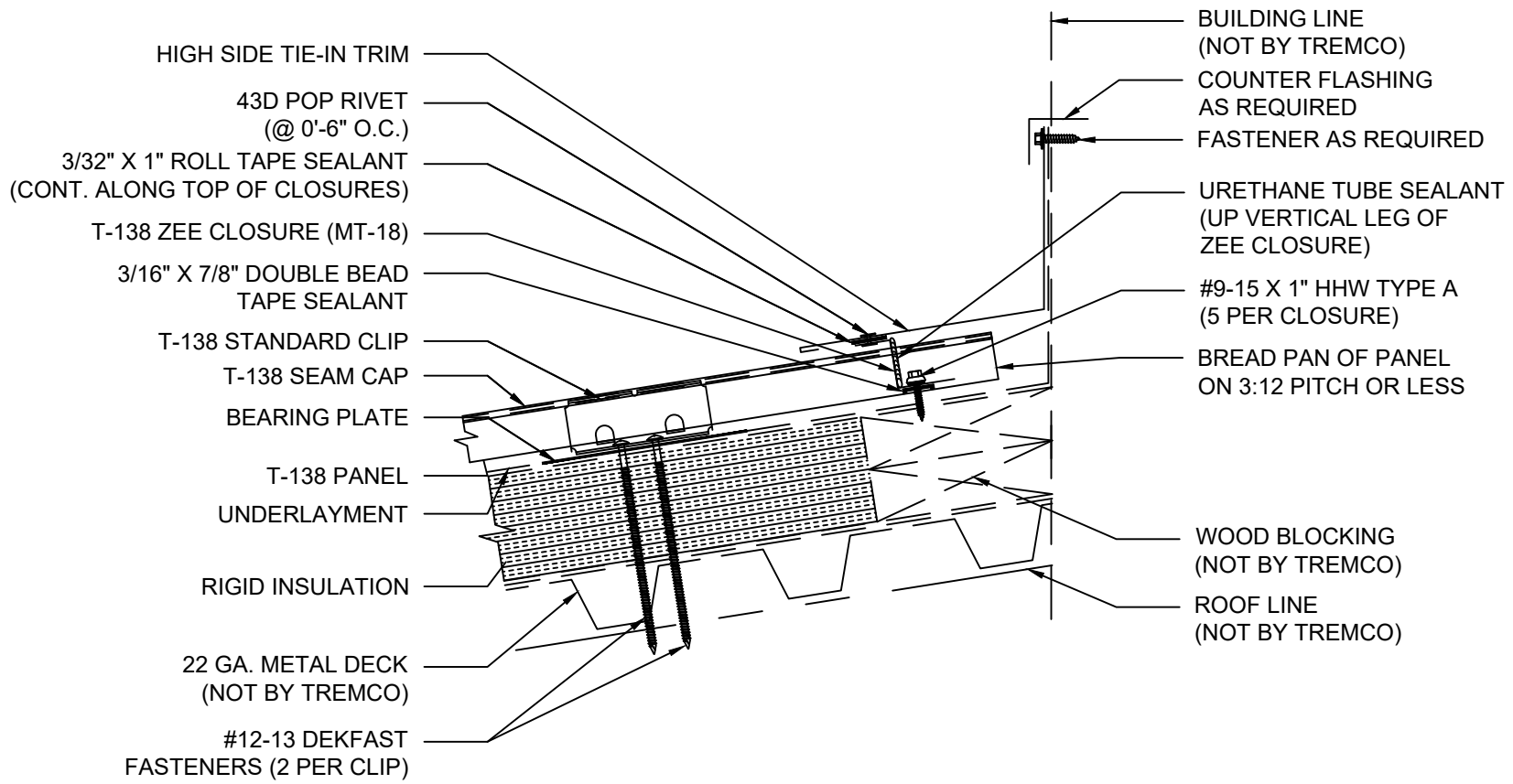


TREMLOCK T-138 ISO-METAL DECK
HIGH EAVE

T-138-5

N.T.S.



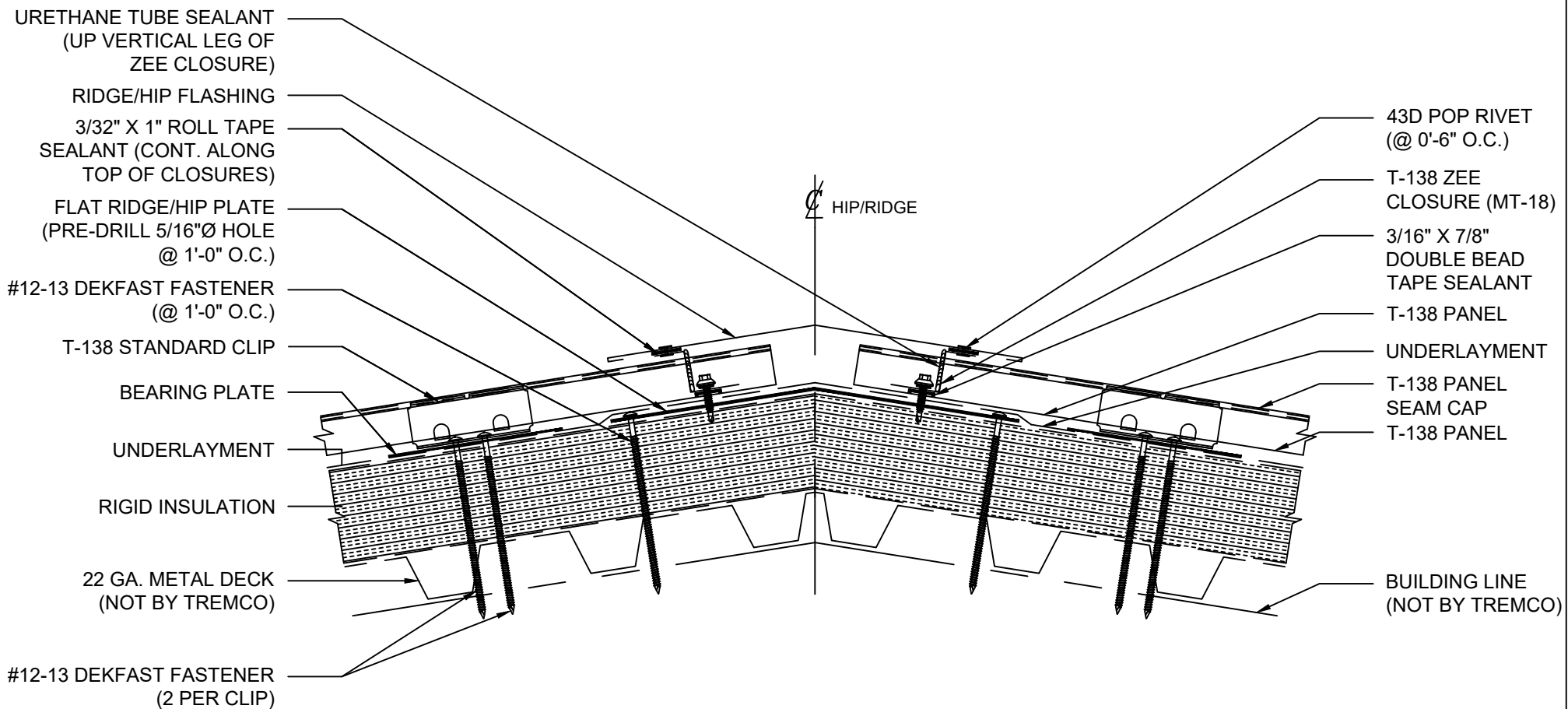


TREMLOCK T-138 ISO-METAL DECK
FIXED HIGH SIDE TIE-IN

T-138-6

N.T.S.





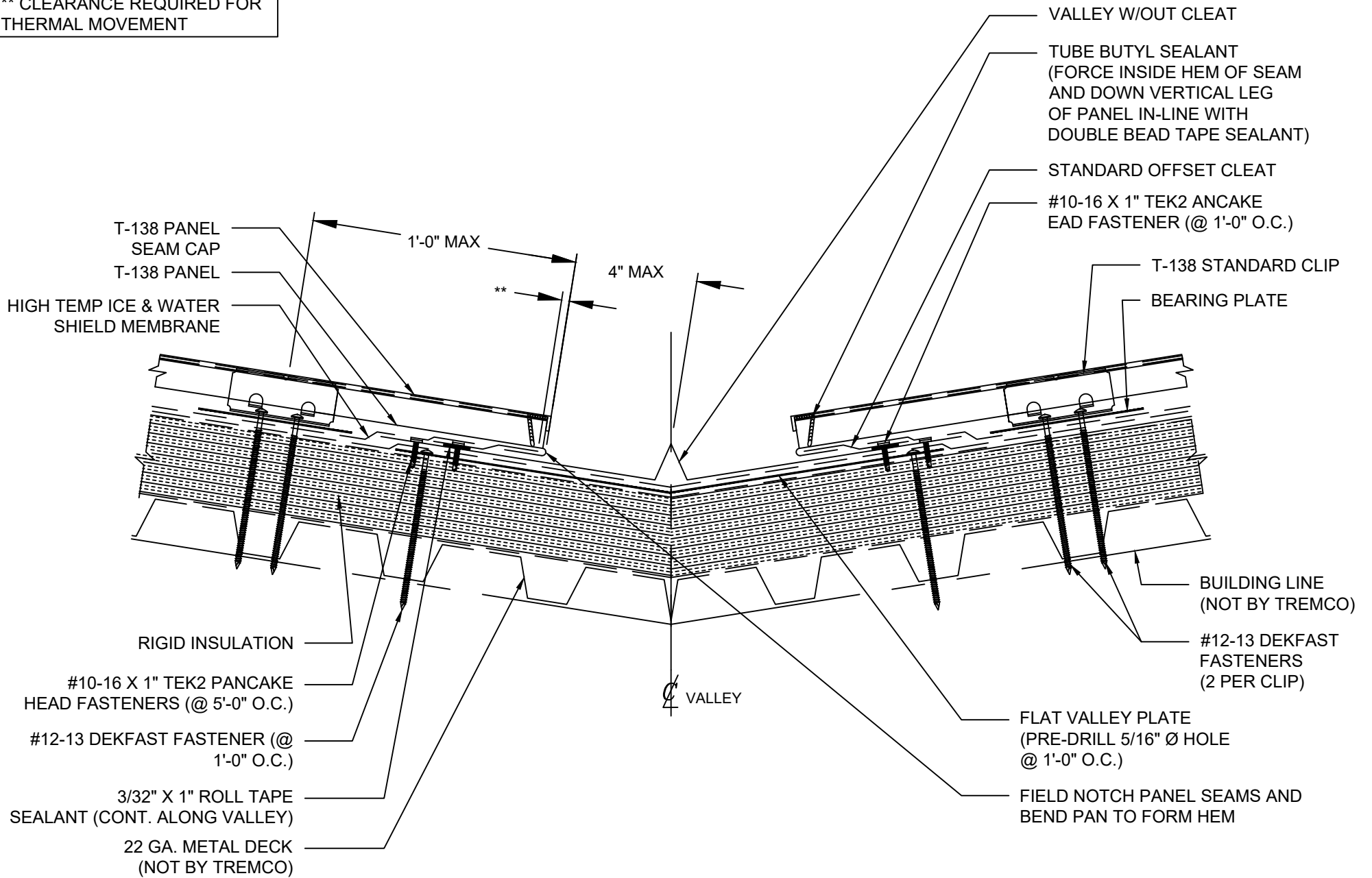
TREMLOCK T-138 ISO-METAL DECK
FIXED RIDGE/HIP

T-138-7

N.T.S.

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** CLEARANCE REQUIRED FOR THERMAL MOVEMENT



TREMLOCK T-138 ISO-METAL DECK VALLEY

T-138-8

N.T.S.



SECTION 075600.13 - FLUID-APPLIED MEMBRANE ROOFING, INSULATED

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes fluid-applied roof membrane system on insulated concrete deck, consisting of the following:
1. Roof insulation and cover board.
 2. Base-ply sheet.
 3. Application of reinforced fluid-applied polyurethane roof membrane and membrane flashings.

1.2 ROOFING CONFERENCES

- A. Roofing Preinstallation Conference: Conduct conference at Project site. Review methods and procedures related to roofing system.
1. Meet with Owner, Owner's insurer if applicable, testing and inspecting agency representative if applicable, roofing materials manufacturer's representative, roofing Installer including project manager and foreman, and installers whose work interfaces with or affects roofing including installers of roof accessories and roof-mounted equipment requiring removal and replacement as part of the Work.
 2. Review methods and procedures related to preparation, including membrane roofing system manufacturer's written instructions.
 3. Review drawings and specifications.
 4. Review temporary protection requirements for existing roofing system that is to remain, during and after installation.
 5. Review roof drainage during each stage of roofing and review roof drain plugging and plug removal procedures.
 6. Review and finalize construction schedule, and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
 7. Review base flashings, special roofing details, drainage, penetrations, equipment curbs, and condition of other construction that will affect re-coating.
 8. Review HVAC shutdown and sealing of air intakes.
 9. Review shutdown of fire-suppression, -protection, and -alarm and -detection systems.

10. Review procedures for asbestos removal or unexpected discovery of asbestos-containing materials.
11. Review governing regulations and requirements for insurance and certificates if applicable.
12. Review existing conditions that may require notification of Owner before proceeding.

1.3 DEFINITIONS

- A. Roofing Terminology: Refer to ASTM D1079 "Standard Terminology Relating to Roofing and Waterproofing" and glossary in applicable edition of NRCA's "The NRCA Roofing Manual: Membrane Roof Systems" for definition of terms related to roofing work in this Section.

1.4 ACTION SUBMITTALS

- A. Product Data: For each type of product specified.
- B. Sustainable Design Submittals:
 1. Product Test Reports for Solar Reflectance: For roof coating, indicating that coated roof will comply with solar reflectance index requirement.
- C. Shop Drawings: Include plans, elevations, sections, details, and attachments to other work. Provide roof plan showing orientation and types of roof deck and orientation of membrane roofing and fastening spacings and patterns for mechanically fastened components.
 1. Base flashings and terminations.
 - a. Indicate details meet requirements of NRCA and FMG required by this Section.
 2. Tapered insulation, including slopes.
 3. Crickets, saddles, and tapered edge strips, including slopes.

1.5 INFORMATIONAL SUBMITTALS

- A. Contractor's Product Certificate: Submit notarized certificate, indicating products intended for Work of this Section, including product names and numbers and manufacturers' names, with statement indicating that products to be provided meet the requirements of the Contract Documents.
- B. Qualification Data: For Installer, Manufacturer, and Roofing Inspector.
 1. Letter written for this Project indicating manufacturer approval of Installer to apply specified products and provide specified warranty.
 2. Certificate indicating Installer is qualified in Project jurisdiction to perform asbestos abatement.

- C. Product Test Reports: Based on evaluation of comprehensive tests performed by manufacturer and witnessed by a qualified testing agency, for components of roofing system.
- D. Warranties: Unexecuted sample copies of special warranties.
- E. Photographs or Videotape: Show existing conditions of adjoining construction and site improvements, including exterior and interior finish surfaces, which might be misconstrued as having been damaged by re-coating operations. Submit before Work begins.
- F. Inspection Reports: Reports of Roofing Inspector. Include weather conditions, description of work performed, tests performed, defective work observed, and corrective actions required and carried out.
 - 1. Submit report within 48 hours after inspection.

1.6 CLOSEOUT SUBMITTALS

- A. Maintenance Data: To include in maintenance manuals.
- B. Warranties: Executed copies of approved warranty forms.

1.7 QUALITY ASSURANCE

- A. Installer Qualifications: An employer of workers trained and certified by manufacturer, including a full-time on-site supervisor with a minimum of five years' experience installing products comparable to those specified, able to communicate verbally with Contractor, and employees, and the following:
 - 1. Qualified by the manufacturer to install manufacturer's product and furnish warranty of type specified.
- B. Manufacturer Qualifications: Approved manufacturer listed in this Section, with minimum five years' experience in manufacture of specified products in successful use in similar applications.
 - 1. Approval of Other Manufacturers and Comparable Products: Submit the following in accordance with project substitution requirements, within time allowed for substitution review:
 - a. Product data, including certified independent test data indicating compliance with requirements.
 - b. Samples of each component.
 - c. Sample submittal from similar project.
 - d. Project references: Minimum of five installations of specified products not less than five years old, with Owner contact information.
 - e. Sample warranty.

- C. Roofing Inspector Qualifications: A technical representative of manufacturer not engaged in the sale of products and experienced in the installation and maintenance of the specified roofing system, qualified to perform roofing observation and inspection specified in Field Quality Control Article, to determine Installer's compliance with the requirements of this Project, and approved by the manufacturer to issue warranty certification. The Roofing Inspector shall be one of the following:

- 1. An authorized full-time technical employee of the manufacturer.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Deliver roofing materials to Project site in original containers with seals unbroken and labeled with manufacturer's name, product brand name and type, date of manufacture, approval or listing agency markings, and directions for storing and mixing with other components.
- B. Handle and store roofing materials, and place equipment in a manner to avoid significant or permanent damage to deck or structural supporting members.
- C. Protect materials from physical damage and from deterioration by sunlight, moisture, soiling, and other sources. Store in a dry location. Comply with manufacturer's written instructions for handling, storing, and protecting.

1.9 PROJECT / FIELD CONDITIONS

- A. Protect building, adjacent buildings, walkways, site improvements, exterior plantings, and landscaping from damage or soiling from roofing operations.
- B. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities.
- C. Weather Limitations: Proceed with roofing work only when existing and forecasted weather conditions permit Work to proceed without water entering into existing roofing system or building.
 - 1. Store all materials prior to application at temperatures between 60 and 90 deg. F (16 and 32 deg C).
 - 2. Apply coatings within range of ambient and substrate temperatures recommended by manufacturer. Do not apply materials when air temperature is below 50 or above 110 deg. F (10 or above 43 deg C).
 - 3. Do not apply roofing in snow, rain, fog, or mist.
- D. Daily Protection: Coordinate installation of roofing so insulation and other components of roofing system not permanently exposed are not subjected to precipitation or left uncovered at the end of the workday or when rain is forecast.
- E. Owner will occupy portions of building immediately below roofing area. Conduct roofing so Owner's operations will not be disrupted. Provide Owner with not less than 72 hours' notice of activities that may affect Owner's operations.

1.10 WARRANTY

- A. Manufacturer's Warranty: Roof System Manufacturer's standard form in which Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within warranty period, as follows.
 - 1. Form of Warranty: Manufacturer's standard warranty form.
 - 2. Scope of Warranty: Work of this Section and including sheet metal details and termination details installed by the roof system Installer and approved by the Roof System Manufacturer.
 - 3. Warranty Period: 20 years from date of completion.
- B. Manufacturer Inspection Services: By manufacturer's technical representative, to report maintenance responsibilities to Owner necessary for preservation of Owner's warranty rights. The cost of manufacturer's inspections is included in the Contract Sum.
 - 1. Inspections to occur in following years: 2, 5, 10, 15 following completion.
- C. Installer Warranty: Installer's warranty signed by Installer, as follows.
 - 1. Form of Warranty: Form acceptable to Roofing Manufacturer and Owner.
 - 2. Scope of Warranty: Work of this Section.
 - 3. Warranty Period: 2 years from date of completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Basis of Design: The roof system specified in this Section is based upon products of Tremco, Inc., Beachwood, OH, (800) 562-2728, www.tremcoroofing.com that are named in other Part 2 articles. Provide specified products.
 - 1. Manufacturers of comparable products: Approved by Architect prior to bid.
- B. Source Limitations: Obtain components for roofing system from same manufacturer as membrane roofing or manufacturer approved by membrane roofing manufacturer.

2.2 PERFORMANCE REQUIREMENTS

- A. General: Provide roofing membrane and base flashings that remain watertight; do not permit the passage of water; and resist specified uplift pressures, thermally induced movement, and exposure to weather without failure.
 - 1. Accelerated Weathering: Roofing system shall withstand 2000 hours of exposure when tested according to ASTM G152, ASTM G154, or ASTM G155.

2. Impact Resistance: Roof membrane shall resist impact damage when tested according to ASTM D3746/D3746M, ASTM D4272/D4272M, or the "Resistance to Foot Traffic Test" in FM Approvals 4470.
 - B. Material Compatibility: Provide roofing materials that are compatible with one another under conditions of service and application required, as demonstrated by roofing manufacturer based on testing and field experience.
 - C. Roofing System Design: Provide roofing system that is identical to systems that have been successfully tested by a qualified testing and inspecting agency in accordance with ANSI/FM 4474, UL 580, or UL 1897, and to resist uplift pressures.
 1. All Zones (Corner, Perimeter, and Field-of-Roof) Uplift Pressures: As indicated on Drawings.
 - D. SPRI Wind Design Standard: Manufacture and install copings and roof edge flashings tested according to ANSI/SPRI ES-1.
 1. Design Pressure: As indicated on Drawings.
 - E. Flashings: Comply with requirements of Division 07 Sections "Sheet Metal Flashing and Trim" and "Manufactured Roof Specialties." Provide base flashings, perimeter flashings, detail flashings and component materials that comply with requirements and recommendations of the following:
 1. FMG 1-49 Loss Prevention Data Sheet for Perimeter Flashings.
 2. FMG 1-29 Loss Prevention Data Sheet for Above Deck Roof Components.
 3. NRCA Roofing Manual (Sixth Edition) for construction details and recommendations.
 4. SMACNA Architectural Sheet Metal Manual (Seventh Edition) for construction details.
 - F. Exterior Fire-Test Exposure: ASTM E108, Class A; for application and roof slopes indicated, as determined by testing identical membrane roofing materials by a qualified testing agency. Materials shall be identified with appropriate markings of applicable testing agency.
- 2.3 MATERIALS
- A. General: Roofing materials recommended by roofing system manufacturer for intended use and compatible with components of existing membrane roofing system.
 - B. Temporary Roofing Materials: Selection of materials and design of temporary roofing is responsibility of Contractor.
 - C. General: Provide adhesive and sealant materials recommended by roofing manufacturer for intended use and compatible with built-up roofing.
 1. Liquid-type auxiliary materials shall comply with VOC limits of authorities having jurisdiction.

2.4 SHEET MATERIALS

A. Base-Ply Sheet:

1. SBS-modified asphalt coated composite polyester / fiberglass/fiberglass mat reinforced high tensile strength base sheet, ASTM D4601 Type II.
 - a. Basis of design product: Tremco, BURmastic Composite Ply HT.
 - b. Tensile Strength at 77 deg. F (25 deg. C), minimum, ASTM D5147: Machine direction, 165 lbf/in (725 N); Cross machine direction, 150 lbf/in (660 N).
 - c. Tear Strength at 77 deg. F (25 deg. C), minimum, ASTM D5147: Machine direction, 260 lbf (1150 N); Cross machine direction, 230 lbf (1120 N).
 - d. Thickness, minimum, ASTM D5147: 0.060 inch (1.5 mm).

2.5 FLUID-APPLIED ROOFING MEMBRANE

A. Polyurethane Elastomeric Fluid-Applied System: Two-coat reinforced fluid-applied roofing membrane formulated for application over prepared existing roofing substrate.

1. Base Coat:

- a. Polyurethane Roof Coating System Base Coat: Bio-based, low-odor low-VOC two-part, for use with a compatible top coat.
 - 1) Basis of design product: Tremco, AlphaGuard BIO Base Coat.
 - 2) Combustion Characteristics, UL 790: Maintains combustion characteristics of existing roof system.
 - 3) Volatile Organic Compounds (VOC), maximum, ASTM D3960: 1 g/L.
 - 4) Accelerated Weathering, 5000 hours, ASTM G154: Pass.
 - 5) Hardness, Shore A, minimum, ASTM D2240: 80.
 - 6) Solids, by volume, ASTM D2697: 100 percent.
 - 7) Bio-Based Content, Minimum: 70 percent.
 - 8) Minimum Thickness, Base Coat reinforced over Smooth BUR, MB, Concrete, Single-Ply: 48 mils (1.22 mm) wet.

2. Top Coat:

- a. Polyurethane roof coating system top coat, bio-based low-odor low-VOC two-part, for application over compatible base coat.

- 1) Basis of design product: Tremco, AlphaGuard BIO Top Coat.
 - 2) Combustion Characteristics, UL790: Maintains combustion characteristics of existing roof system.
 - 3) Volatile Organic Compounds (VOC), maximum, ASTM D3960: 6 g/L.
 - 4) Solar Reflectance Index (SRI), ASTM E1980: For white, not less than 103.
 - 5) Accelerated Weathering, 5000 hours, ASTM G 154: Pass.
 - 6) Hardness, Shore A, minimum, ASTM D2240: 81.
 - 7) Solids, by volume, ASTM D2697: 100 percent.
 - 8) Bio-Based Content, Minimum: 60 percent.
 - 9) Minimum Thickness, reinforced system: 32 mils (0.81 mm) wet.
 - 10) Minimum Thickness, Slip-Resistant Coat: 24 mils (0.60 mm) wet.
 - 11) Color: White.
3. Reinforcing Fabric:
- a. Polyester Reinforcing and Protection Fabric: 100 percent stitch-bonded mildew-resistant polyester fabric intended for reinforcement of compatible fluid-applied membranes and flashings and as a protection layer under pavers or stone aggregates.
 - 1) Basis of design product: Tremco, Permafab.
 - 2) Tensile Strength, Minimum, ASTM D1682: 50 lbf (23 kg) avg..
 - 3) Elongation, Minimum, ASTM D1682: 60 percent.
 - 4) Tear Strength, Minimum, ASTM D1117: 16 lbf (7.3 kg) avg..
 - 5) Weight: 3 oz./sq. yd (102 g/sq. m).
4. Primers:
- a. Primer for Intercoat and Substrate Adhesion: Single-part, quick-drying primer to promote adhesion of urethane products to previous urethane coats and to other approved surfaces.
 - 1) Basis of design product: Tremco, Geogard Primer.
 - 2) Volatile Organic Compounds (VOC), maximum, ASTM D3960: 100 g/L.

- 3) Coverage Rate, 400 sq. ft/ gal. (10 m²/ L): 4 mils (0.10 mm) wet.

2.6 ADHESIVE MATERIALS

A. Base-Ply Sheet Adhesive:

1. Cold-applied bio-based low odor urethane roofing adhesive, two-part, USDA BioPreferred, formulated for compatibility and use with specified roofing membranes and flashings.
 - a. Basis of design product: Tremco, POWERply Endure BIO Adhesive TF.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3690: 0 g/L.
 - c. Low Temperature Flexibility, ASTM D2240: Pass at -30 deg F (-34 deg C).
 - d. Solids, by Volume, ASTM D2697: 100 percent.
 - e. Biobase Content, Minimum, ASTM D6866: 70 percent.

B. Flashing Base-Ply Sheet Adhesive: Same product as base-ply sheet adhesive.

2.7 AUXILIARY ROOFING MEMBRANE MATERIALS

A. General: Auxiliary materials recommended by roofing system manufacturer for intended use and compatible with existing roofing system and fluid-applied roofing system.

B. Joint Sealant: Elastomeric joint sealant compatible with applied coating, with movement capability appropriate for application.

1. Joint Sealant, Polyurethane: ASTM C920, Type S, Grade NS, Class 50 single-component moisture curing sealant, formulated for compatibility and use in dynamic and static joints; paintable.
 - a. Basis of design product: Tremco, TremSEAL Pro.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 40 g/L.
 - c. Hardness, Shore A, ASTM C661: 40.
 - d. Adhesion to Concrete, ASTM C794: 35 pli.
 - e. Tensile Strength, ASTM D412: 350 psi (2410 kPa).
 - f. Color: Closest match to substrate.

C. Miscellaneous Accessories: Provide miscellaneous accessories recommended by roofing system manufacturer.

2.8 ROOF INSULATION

- A. General: Preformed roof insulation boards manufactured or approved by roofing manufacturer, selected from manufacturer's standard sizes suitable for application, of thicknesses indicated.
 - 1. Provide preformed saddles, crickets, tapered edge strips, and other insulation shapes where indicated for sloping to drain. Fabricate to slopes indicated, not less than two times the roof slope.
- B. Roof Insulation:
 - 1. Board Insulation, Polyisocyanurate: CFC- and HCFC- free, with recycled content glass-fiber mat facer on both major surfaces, ASTM C1289 Type II Class 1.
 - a. Basis of design product: Tremco, Trisotech Insulation.
 - b. Compressive Strength, ASTM D1621: Grade 2: 20 psi (138 kPa).
 - c. Conditioned Thermal Resistance at 75 deg. F (24 deg. C): 14.4 at 2.5 inches (50.8 mm) thick.

2.9 INSULATION ACCESSORIES

- A. General: Roof insulation accessories recommended by insulation manufacturer for intended use and compatible with built-up roofing.
- B. Fasteners: Factory-coated steel fasteners and metal or plastic plates meeting corrosion-resistance provisions in FM Global 4470, designed for fastening roof insulation to substrate and acceptable to roofing manufacturer.
- C. Roof Insulation Adhesive:
 - 1. Urethane adhesive, bead-applied, low-rise two-component solvent-free low odor, formulated to adhere roof insulation to substrate.
 - a. Basis of design product: Tremco, Low Rise Foam Insulation Adhesive.
 - b. Flame Spread Index, ASTM E84: 10.
 - c. Smoke Developed Index, ASTM E84: 30.
 - d. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 0 g/L.
 - e. Tensile Strength, minimum, ASTM D412: 250 psi (1720 kPa).
 - f. Peel Adhesion, minimum, ASTM D903: 17 lbf/in (2.50 kN/m).
 - g. Flexibility, 70 deg. F (39 deg. C), ASTM D816: Pass.
- D. Insulation Cant Strips: ASTM C208, Type II, Grade 1, cellulosic-fiber insulation board.

- E. Tapered Edge Strips: ASTM C208, Type II, Grade 1, cellulosic-fiber insulation board.
- F. Cover Board:
 - 1. Gypsum panel, cellulosic fiber reinforced, water-resistant, ASTM C1278/C1278M.
 - a. Basis of design product: Tremco/USG Securock.
 - b. Thickness: 1/2 inch (13 mm).
- G. Substrate Joint Tape: 6- or 8-inch- (150- or 200-mm-) wide, coated, glass fiber.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine substrates, areas, and conditions, with Installer present, for compliance with the following requirements and other conditions affecting performance of roofing system:
 - 1. Verify that roof openings and penetrations are in place and curbs are set and braced and that roof drain bodies are securely clamped in place.
 - 2. Concrete Deck:
 - a. Verify that minimum concrete drying period recommended by roofing manufacturer has passed.
 - b. Verify that concrete substrate is visibly dry and free of moisture. Test for capillary moisture by plastic sheet method according to ASTM D4263.
 - c. Verify that concrete curing compounds that will impair adhesion of roofing components to roof deck have been removed.
- B. Proceed with installation once unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Remove existing roofing and protect existing building in accordance with requirements of Division 07 Section "Preparation for Re-Roofing."
- B. Clean substrate of dust, debris, moisture, and other substances detrimental to roofing installation according to roofing manufacturer's written instructions. Remove sharp projections.
- C. Protect existing roofing system that is indicated to remain, and adjacent portions of building and building equipment.
 - 1. Mask surfaces to be protected. Seal joints subject to infiltration by coating materials.
 - 2. Limit traffic and material storage to areas of existing roofing membrane that have been protected.

3. Maintain temporary protection and leave in place until replacement roofing has been completed.
- D. Shut down air intake equipment in the vicinity of the Work in coordination with the Owner. Cover air intake louvers before proceeding with re-coating work that could affect indoor air quality or activate smoke detectors in the ductwork.
 1. Verify that rooftop utilities and service piping affected by the Work have been shut off before commencing Work.
- E. Maintain roof drains in functioning condition to ensure roof drainage at end of each workday. Prevent debris from entering or blocking roof drains and conductors. Use roof-drain plugs specifically designed for this purpose. Remove roof-drain plugs at end of each workday, when no work is taking place, or when rain is forecast.
 1. Do not permit water to enter into or under existing membrane roofing system components that are to remain.

3.3 MEMBRANE ROOFING INSTALLATION, GENERAL

- A. Install roofing membrane according to roofing manufacturer's written instructions.
 1. Commence installation of roofing in presence of manufacturer's technical personnel.
- B. Coordinate installation of roofing so insulation and other components of roofing not permanently exposed are not subjected to precipitation or left uncovered at the end of the workday or when rain is forecast.
 1. Provide tie-offs at end of each day's work to cover exposed roofing sheets and insulation with a course of coated felt set in roofing cement with joints and edges sealed.
 2. Complete terminations and base flashings and provide temporary seals to prevent water from entering completed sections of roofing.
 3. Remove and discard temporary seals before beginning work on adjoining roofing.
- C. Substrate-Joint Penetrations: Prevent fluid-applied materials and adhesives from penetrating substrate joints, entering building, or damaging built-up roofing components or adjacent building construction.

3.4 BASE SHEET INSTALLATION

- A. Install lapped base-sheet course, extending sheet over and terminating beyond cants. Attach base sheet as follows:
 1. Adhere to substrate in cold-applied adhesive.

3.5 INSULATION INSTALLATION

- A. Comply with roofing manufacturer's written instructions for installing roof insulation.

- B. Coordinate installing membrane roofing system components, so insulation is not exposed to precipitation or left exposed at the end of the workday.
- C. Tapered Insulation and Crickets: Install tapered insulation under area of roofing to conform to slopes indicated.
 - 1. Where saddles or crickets are indicated or required to provide positive slope to drain, make slope of crickets minimum of two times the roof slope, not less than 1/4 inch in 12 inches (1:48).
- D. Install insulation with long joints of insulation in a continuous straight line with end joints staggered between rows, abutting edges and ends between boards. Fill gaps exceeding 1/4 inch (6 mm) with insulation.
 - 1. Cut and fit insulation within 1/4 inch (6 mm) of nailers, projections, and penetrations.
- E. Install insulation under area of roofing to achieve required thickness. Where overall insulation thickness is 2.7 inches (70 mm) or greater, install two or more layers with joints of each succeeding layer staggered from joints of previous layer a minimum of 6 inches (150 mm) in each direction.
 - 1. Flat Insulation System on Sloped Roof Deck: Install insulation at minimum thickness as follows:
 - a. Minimum total thickness of Continuous Insulation: 4.4 inches.
 - 1) Minimum thickness of base layer: 2.2 inches.
 - 2) Minimum thickness of each subsequent layer: 2.2: inches.
 - b. Minimum Continuous Insulation R-value: Not less than 25.
 - 2. Insulation Drain Sumps: Tapered insulation sumps, not less than 2 by 2 ft (600 by 600 mm), sloped to roof drain; sump to maximum depth of not more than 1 inch (25 mm) less than the Project-stipulated continuous insulation thickness based upon code requirements.
- F. Trim surface of insulation where necessary at roof drains so completed surface is flush and does not restrict flow of water.
- G. Install tapered edge strips at perimeter edges of roof that do not terminate at vertical surfaces.
- H. Adhered Insulation: Install each layer of insulation and adhere to substrate as follows:
 - 1. Set each layer of insulation in ribbons of bead-applied insulation adhesive, firmly pressing and maintaining insulation in place.
- I. Install cover boards over insulation with long joints in continuous straight lines with end joints staggered between rows. Offset joints of insulation below a minimum of 6 inches (150 mm) in each direction. Loosely butt cover boards together.

1. Set cover board in ribbons of bead-applied insulation adhesive, firmly pressing and maintaining cover in place.

3.6 BASE-PLY SHEET INSTALLATION

- A. Install base sheet starting at low point of roofing. Align base sheet without stretching. Shingle side laps of base a minimum of 4 inches (100 mm). Shingle in direction to shed water. Extend base sheets over edges and terminate above cants.
 1. Embed base sheet in cold-applied membrane adhesive applied at rate required by roofing manufacturer.
- B. Extend base flashing up walls or parapets a minimum of 8 inches (200 mm) above roofing and 6 inches (150 mm) onto field of roofing.
- C. Mechanically fasten top of base flashing securely at terminations and perimeter of roofing.
 1. Seal top termination of base flashing with a metal termination bar.
- D. Install stripping according to roofing manufacturer's written instructions where metal flanges and edgings are set on roofing.
 1. Flashing Sheet Stripping: Install flashing sheet stripping in specified cold adhesive and extend onto roofing membrane.
- E. Roof Drains: Install base-ply sheet in cold adhesive around drain bowl. Base sheet must be installed so that it will be under compression from the clamping ring. Install base coat, fabric reinforcement, and top coat over base sheet. Install drain clamping ring and strainer.

3.7 FLUID-APPLIED FLASHING APPLICATION

- A. Fluid-Applied Flashing and Detail Base Coat Application: Complete base coat and fabric reinforcement at parapets, curbs, penetrations, and drains prior to application of field of fluid-applied membrane. Apply base coat in accordance with manufacturer's written instructions.
 1. Extend coating minimum of 8 inches (200 mm) up vertical surfaces and 4 inches onto horizontal surfaces.
 2. Back roll to achieve minimum coating thickness indicated on Part 2 product listing, unless greater thickness is recommended by manufacturer; verify thickness of base coat as work progresses.
 3. Reinforcing Fabric: Embed fabric reinforcement into wet base coat. Lap adjacent flashing pieces of fabric minimum 3 inches (75 mm) along edges and 6 inches (150 mm) at end laps.
 - a. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.

4. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
5. Roof Drains: Set 30 by 30 inch (760 by 760 mm) square metal flashing in bed of compatible mastic/adhesive sealer on roofing base-ply sheet. Cover metal flashing with stripping ply and extend a minimum of 6 inches (150 mm) beyond edge of metal flashing. Allow to cure.
 - a. Apply base coat and immediately install target piece of fabric reinforcement into wet base coat, extend into drain bowl and roll to fully embed and saturate fabric. Apply top coat after base coat has cured.
 - b. Following application and curing of fluid-applied roofing membrane, reinstall clamping ring and strainer. Replace broken drain ring clamping bolts.
6. Allow base coat to cure prior to application of top coat.

3.8 FLUID-APPLIED MEMBRANE APPLICATION

- A. Base Coat: Apply base coat to field of membrane in accordance with manufacturer's written instructions.
 1. Apply base coat on prepared and primed surfaces and spread coating evenly.
 2. Back roll to achieve minimum coating thickness indicated on Part 2 product listing, unless greater thickness is recommended by manufacturer; verify thickness of base coat as work progresses.
 3. Reinforcing Fabric: Embed fabric reinforcement into wet base coat. Lap adjacent flashing pieces of fabric minimum 3 inches (75 mm) along edges and 6 inches (150 mm) at end laps.
 - a. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
 4. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
 5. Allow base coat to cure prior to application of top coat.
- B. Top Coat: Apply top coat to field of membrane and flashings uniformly in a complete, continuous installation.
 1. Prime base coat prior to application of top coat if top coat is not applied within 72 hours of the base coat application, using manufacturer's recommended primer.
 2. Apply top coat extending coating up vertical surfaces and out onto horizontal surfaces. Install top coat over field base coat and spread coating evenly.

3. Back roll to achieve minimum coating thickness indicated on Part 2 product listing, unless greater thickness is recommended by manufacturer; verify thickness of base coat as work progresses.
4. Avoid foot traffic on new fluid-applied membrane for a minimum of 24 hours.

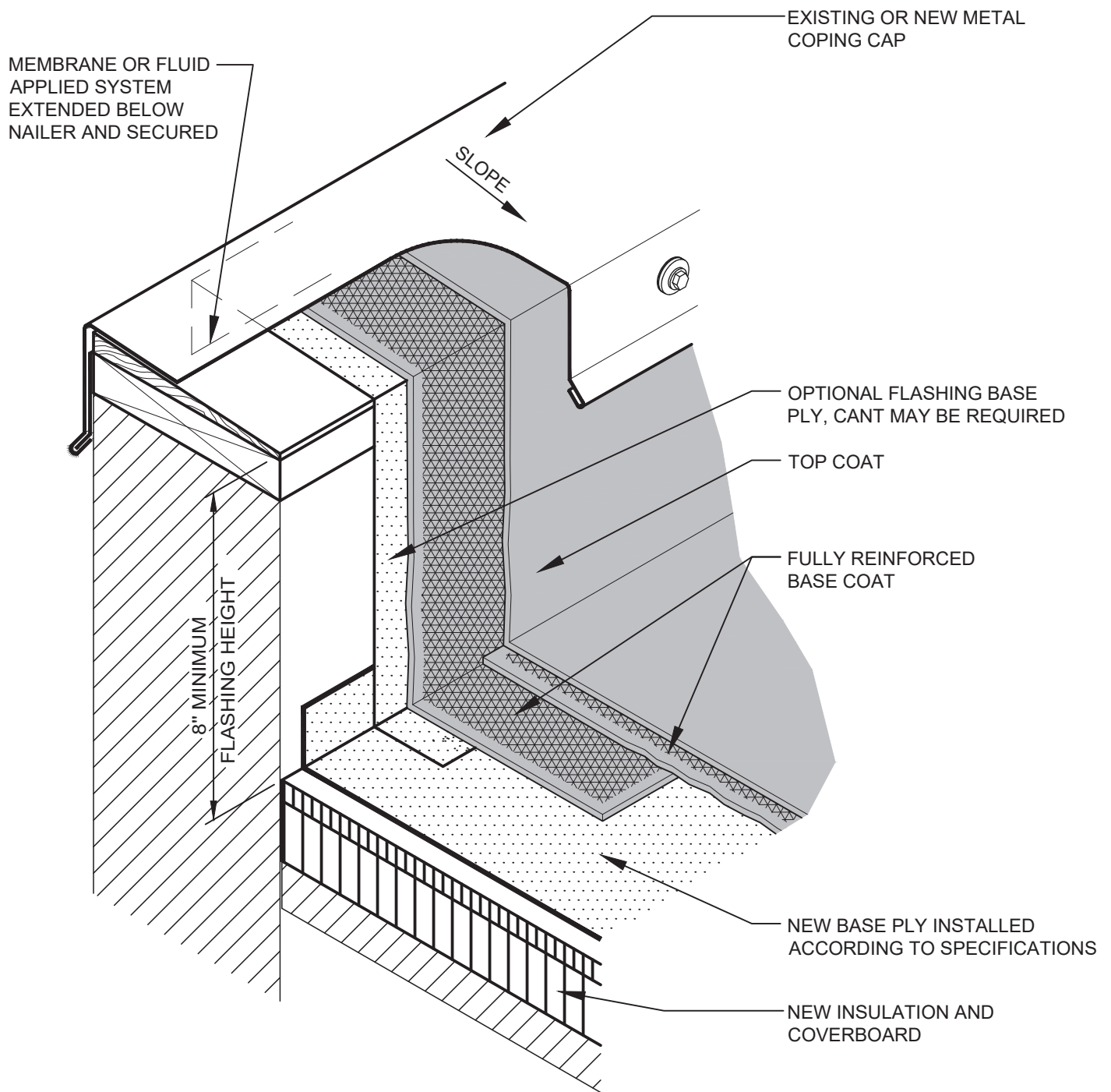
3.9 FIELD QUALITY CONTROL

- A. Roofing Inspector: Owner will engage a qualified roofing inspector to perform roof tests and inspections and to prepare test reports.
- B. Roof Inspection: Contractor shall engage roofing system manufacturer's technical personnel to inspect roofing installation, and submit report to the Owner. Notify Owner 48 hours in advance of dates and times of inspections. Inspect work as follows:
 1. Upon completion of preparation of first component of work, prior to application of re-coating materials.
 2. Following application of re-coating to flashings and application of base coat to field of roof.
 3. Upon completion of re-coating but prior to re-installation of other roofing components.
- C. Repair fluid-applied membrane where test inspections indicate that they do not comply with specified requirements.
- D. Arrange for additional inspections, at Contractor's expense, to verify compliance of replaced or additional work with specified requirements.

3.10 PROTECTING AND CLEANING

- A. Protect roofing system from damage and wear during remainder of construction period.
- B. Correct deficiencies in or remove coating that does not comply with requirements, repair substrates, and reapply coating.
- C. Clean overspray and spillage from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

END OF SECTION 075600.13



NOTES

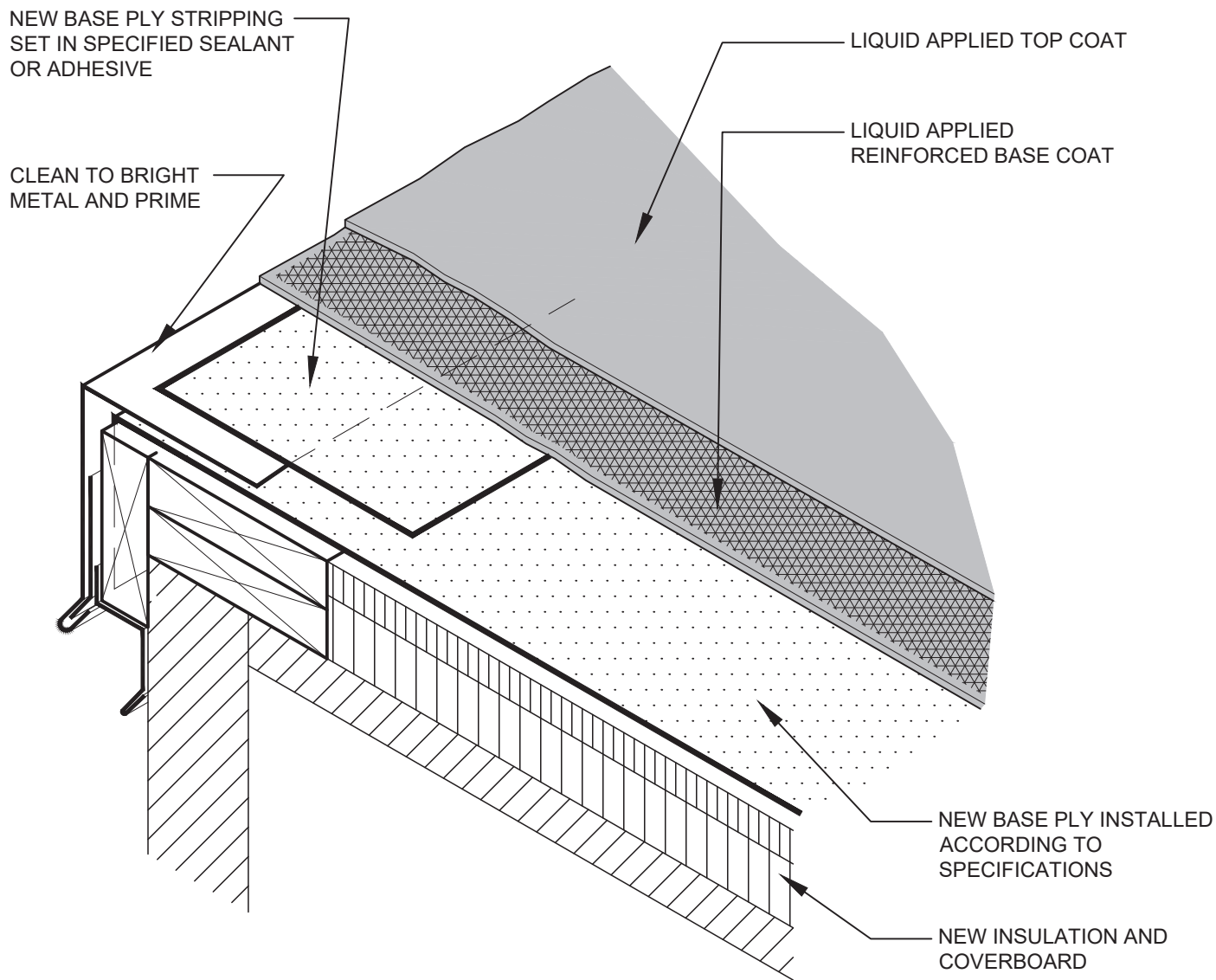
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

BASE FLASHING AT PARAPET WALL WITH METAL COPING LIQUID APPLIED PLUS SYSTEM

LA-P-1

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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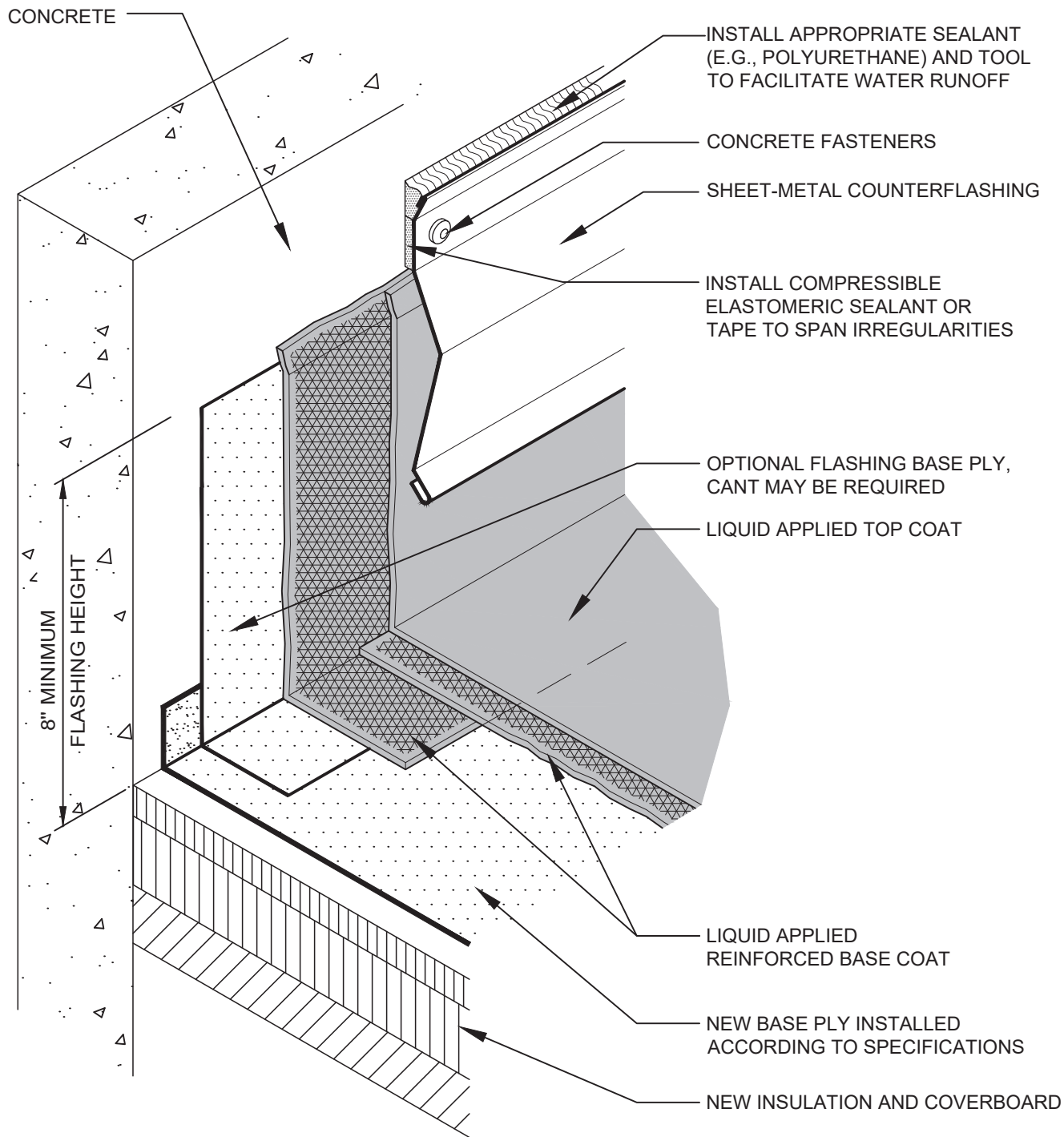
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**DRAINING PERIMETER EDGE METAL
LIQUID APPLIED PLUS SYSTEM**

LA-P-4

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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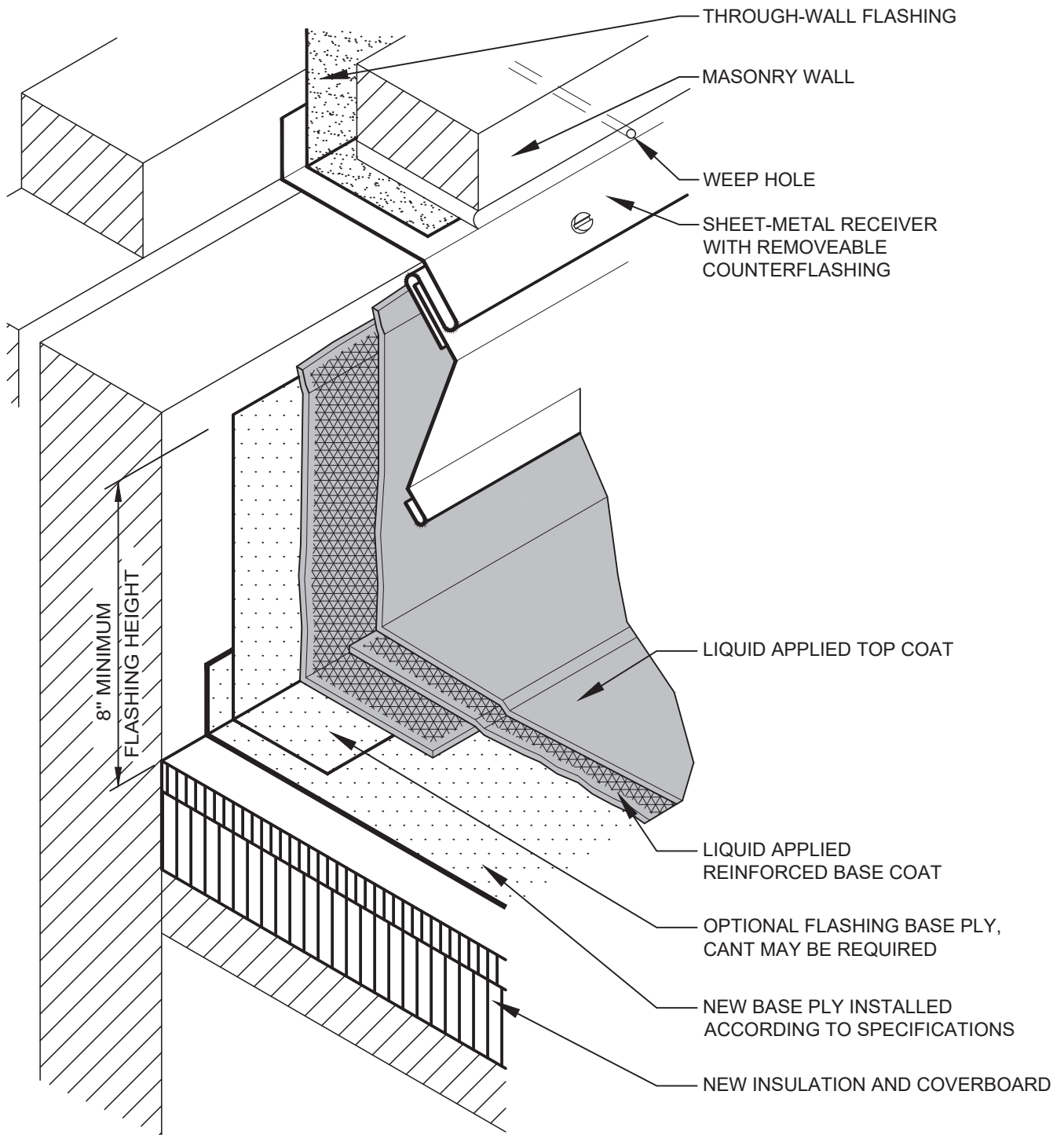
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

BASE FLASHING WITH SURFACE-MOUNTED COUNTERFLASHING AT CONCRETE WALL LIQUID APPLIED PLUS SYSTEM

LA-P-5

N.T.S.





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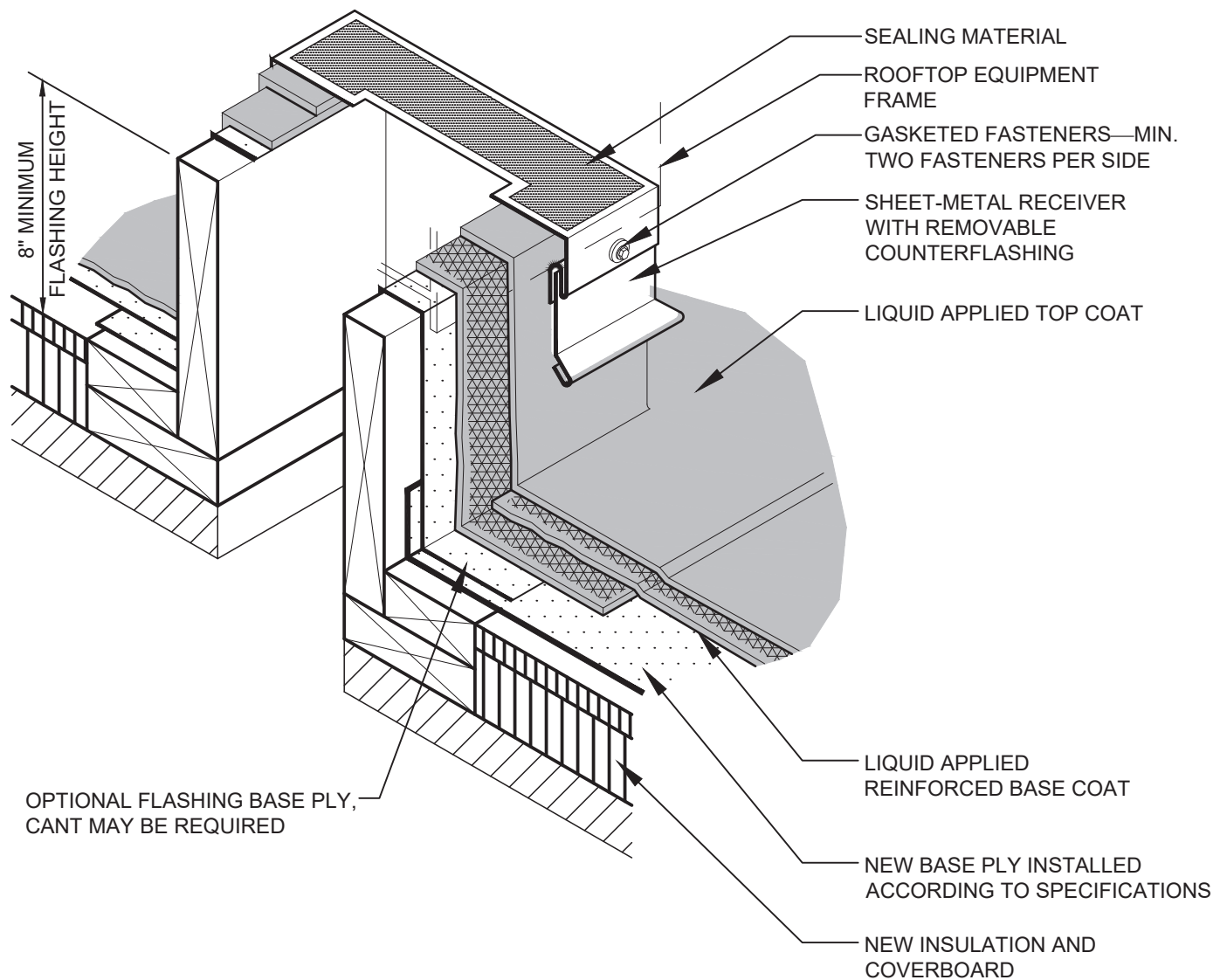
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BASE FLASHING WITH TWO-PIECE SHEET-METAL COUNTERFLASHING LIQUID APPLIED PLUS SYSTEM

LA-P-6

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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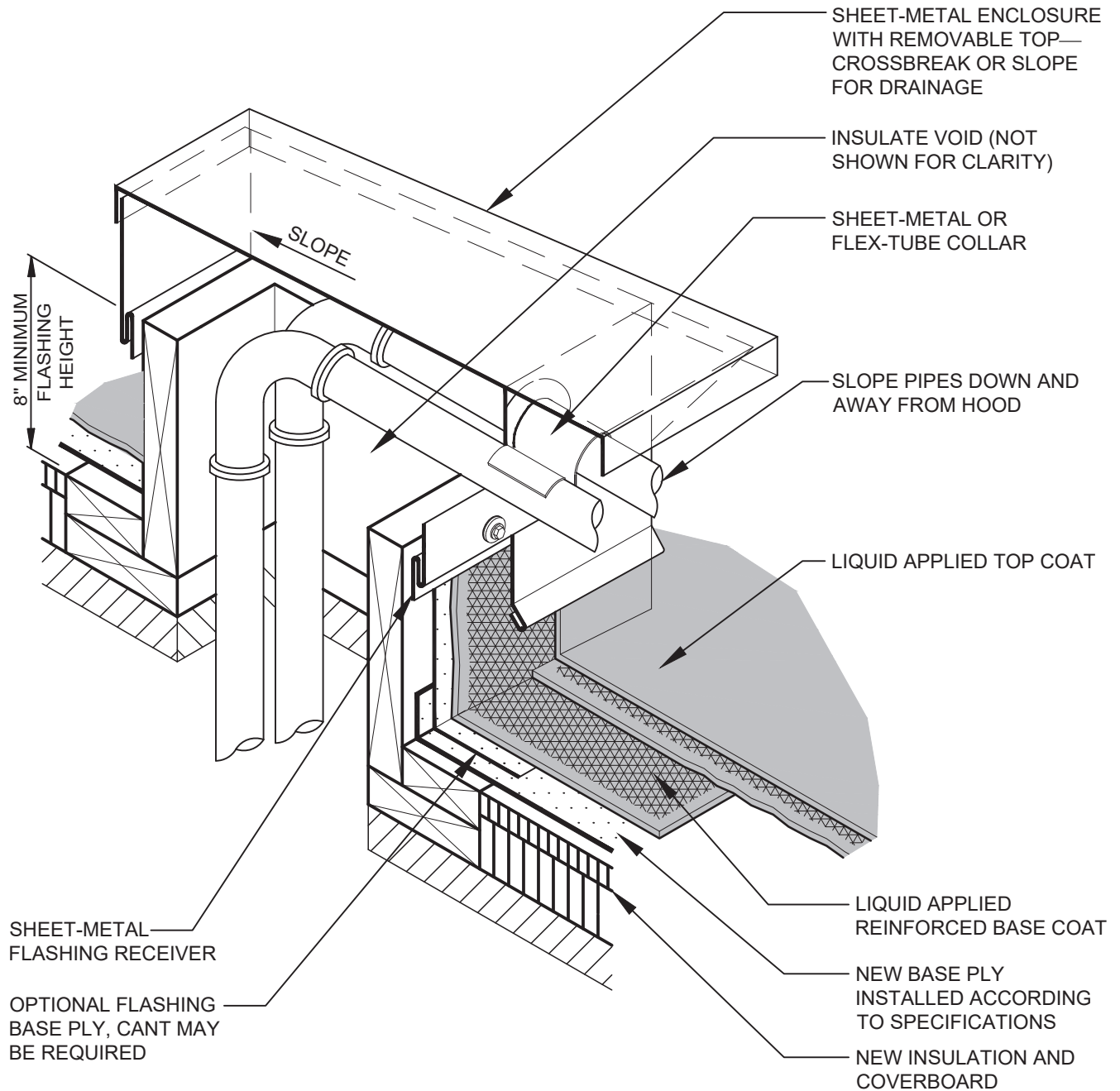
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

**BASE FLASHING AT WOOD CURB
LIQUID APPLIED PLUS SYSTEM**

LA-P-13

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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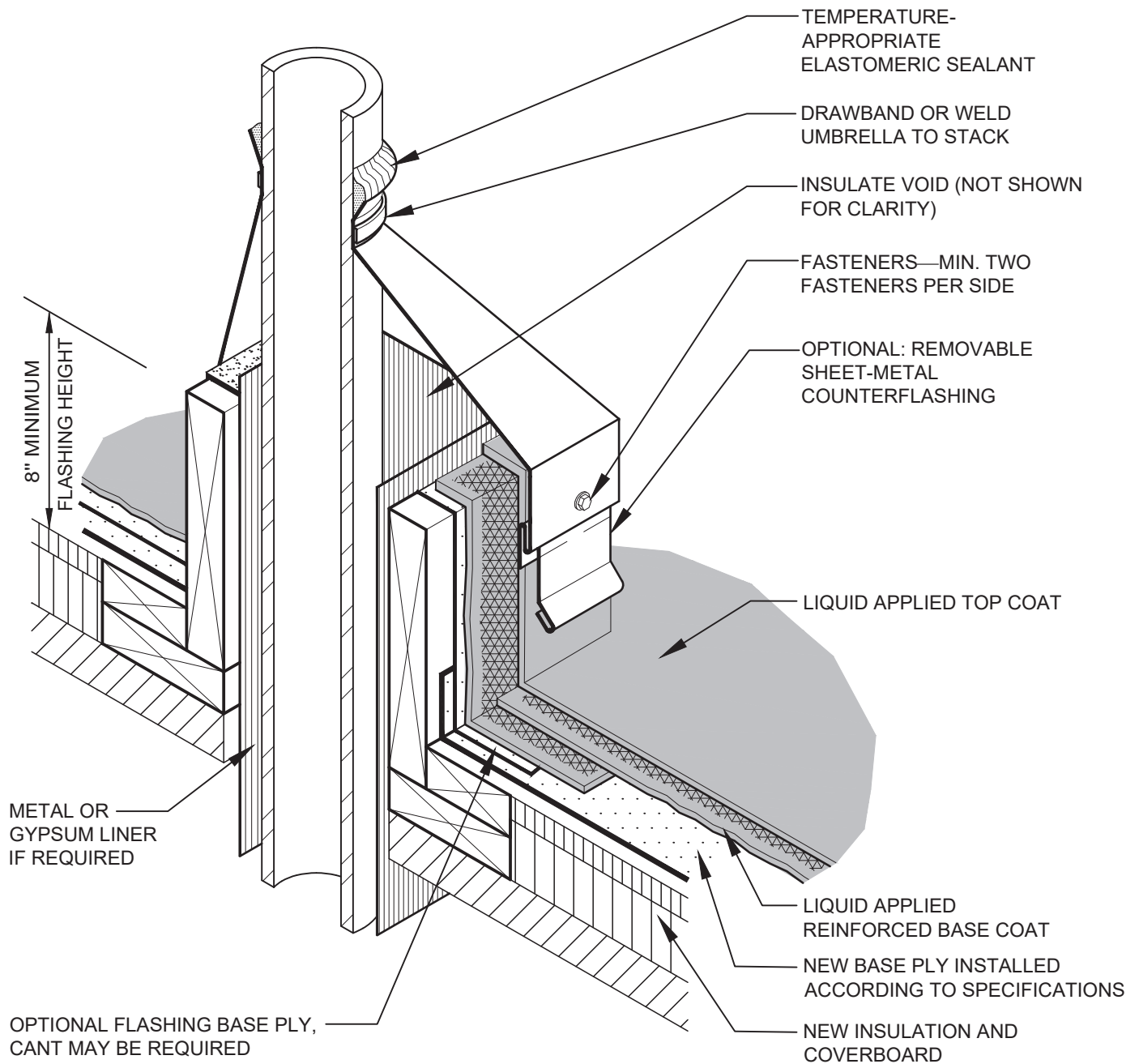
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. WHERE THE SHEET-METAL ENCLOSURE OVERLAPS THE BASE FLASHING AT LEAST 3 INCHES, THE REMOVABLE SHEET-METAL COUNTER FLASHING IS NOT REQUIRED.

BASE FLASHING AT SHEET-METAL ENCLOSURE FOR PIPING THROUGH ROOF DECK LIQUID APPLIED PLUS SYSTEM

LA-P-15

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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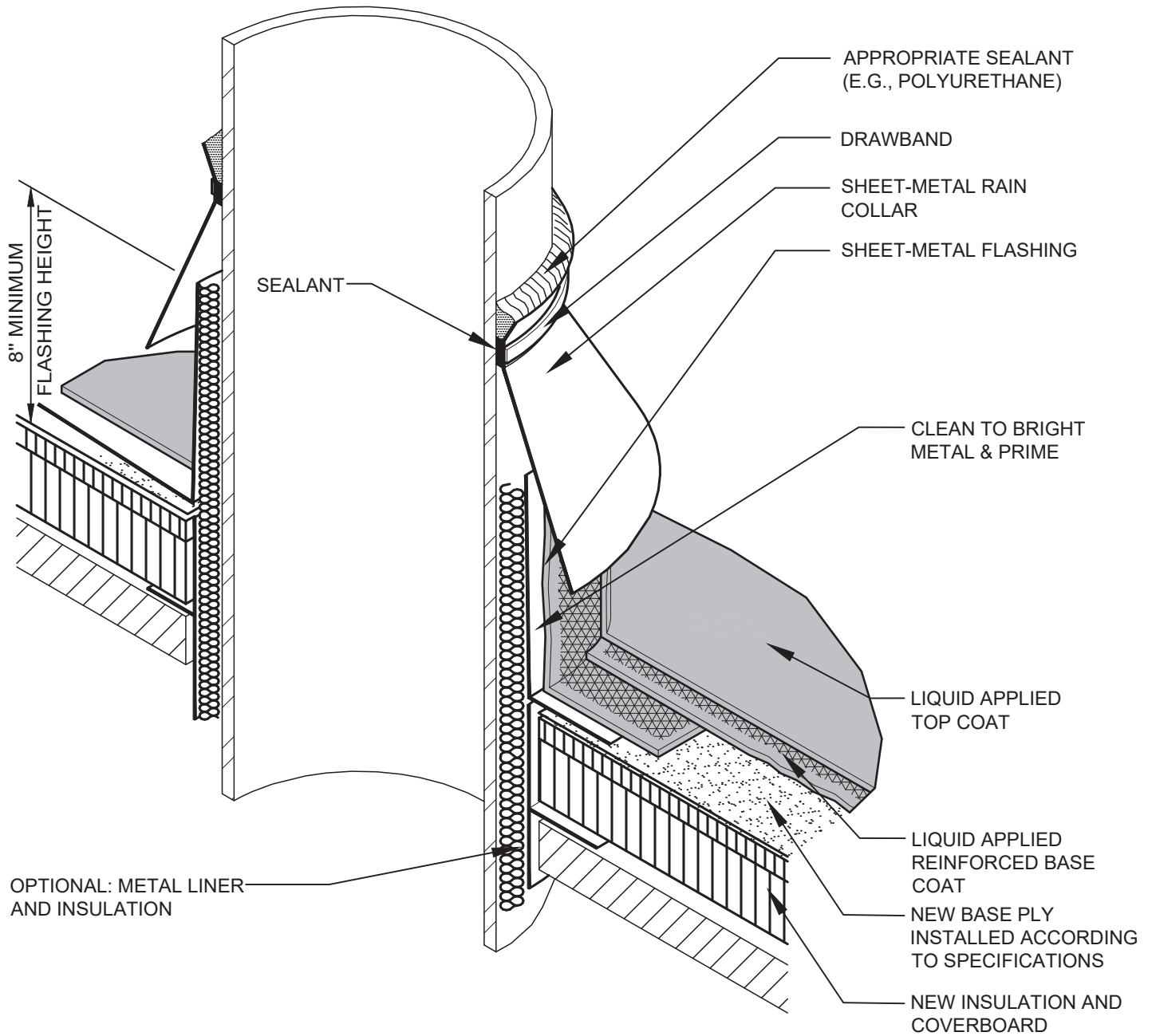
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2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

**BASE FLASHING AT STACK
VENT WITH CURB [HOT OR COLD]
LIQUID APPLIED PLUS SYSTEM**

LA-P-17

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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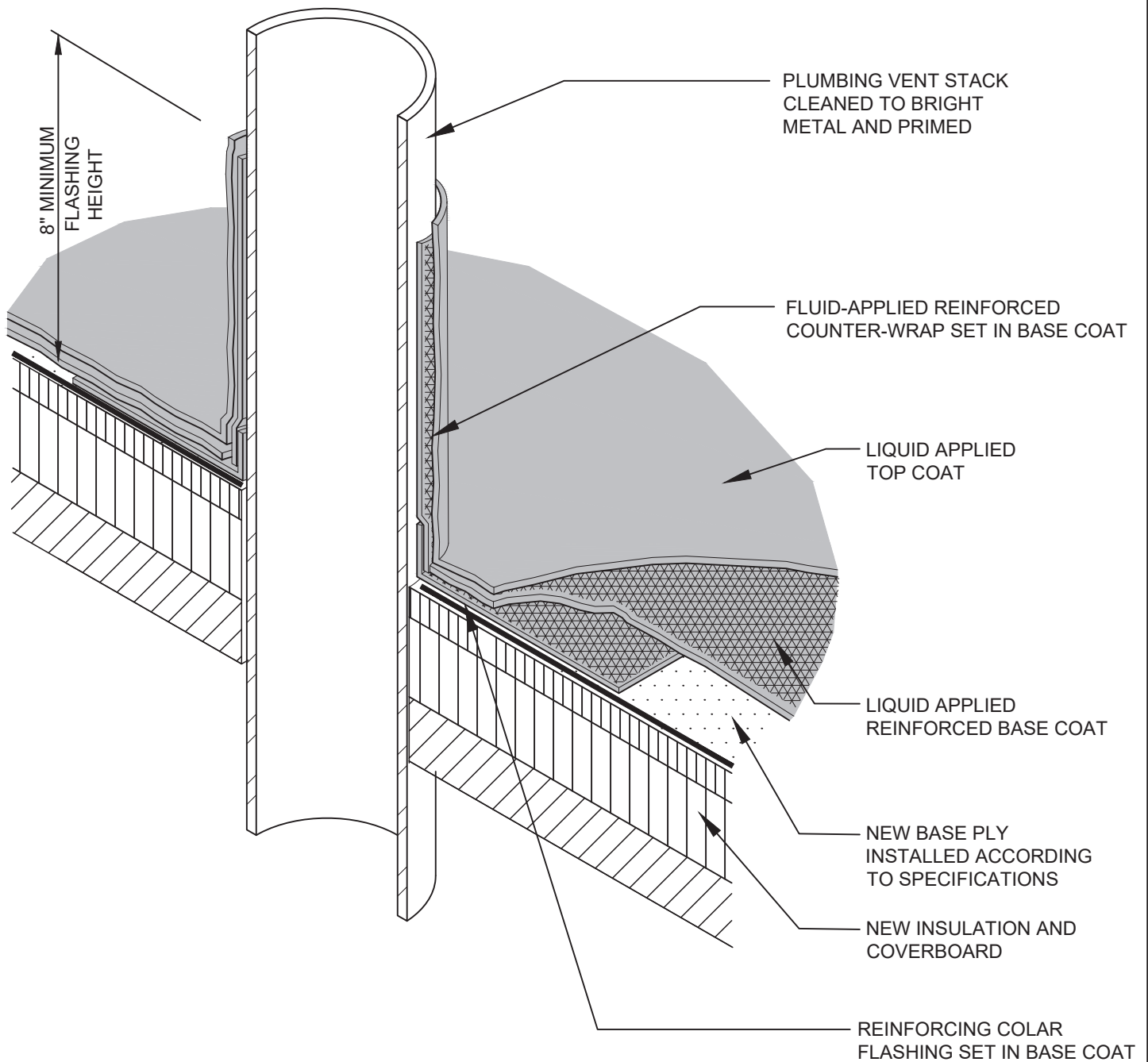
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SHEET-METAL STACK VENT [HOT OR COLD]
LIQUID APPLIED PLUS SYSTEM

LA-P-18

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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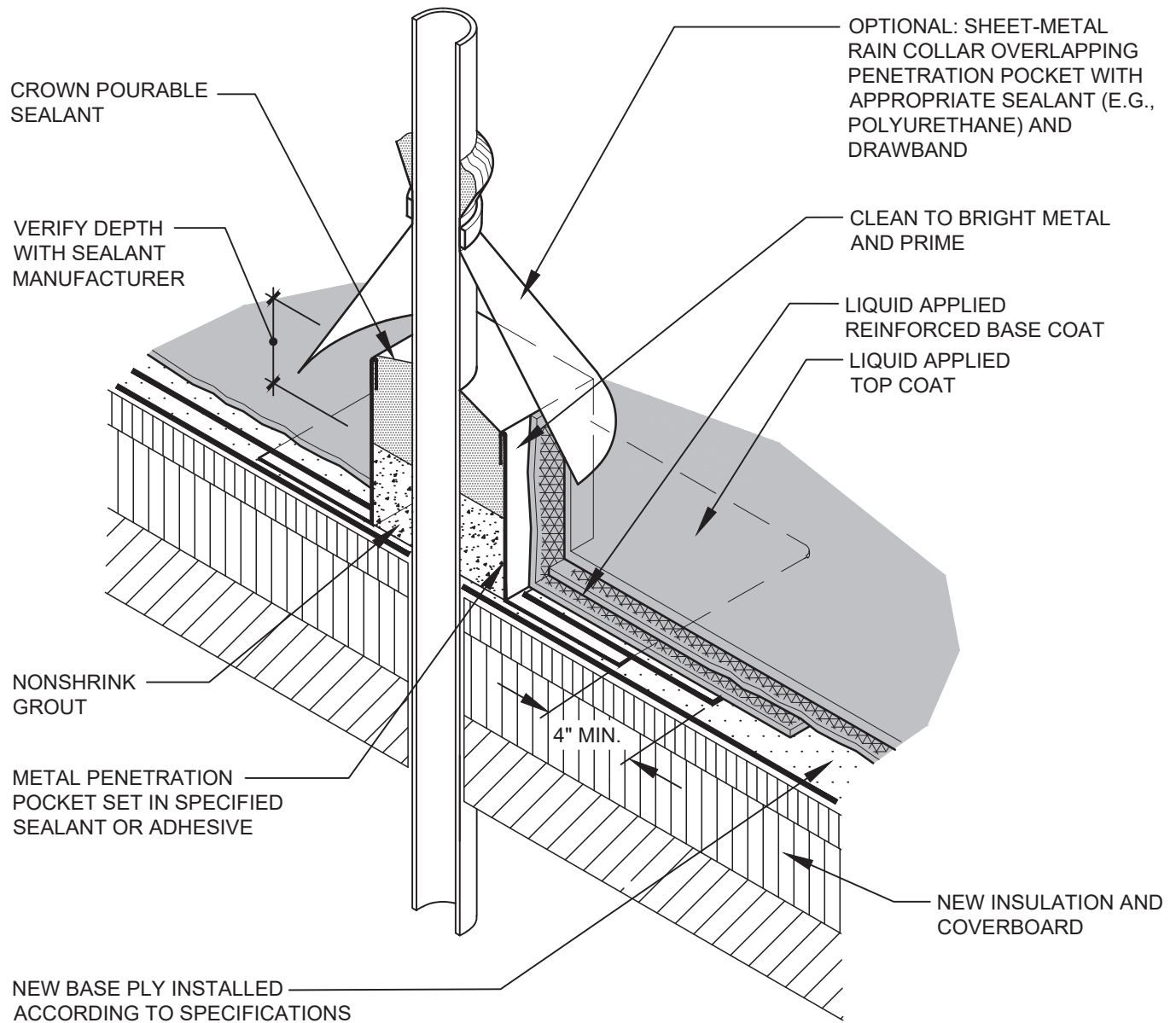
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

**PLUMBING VENT OR PIPE PENETRATION
LIQUID APPLIED PLUS SYSTEM**

LA-P-19

N.T.S.





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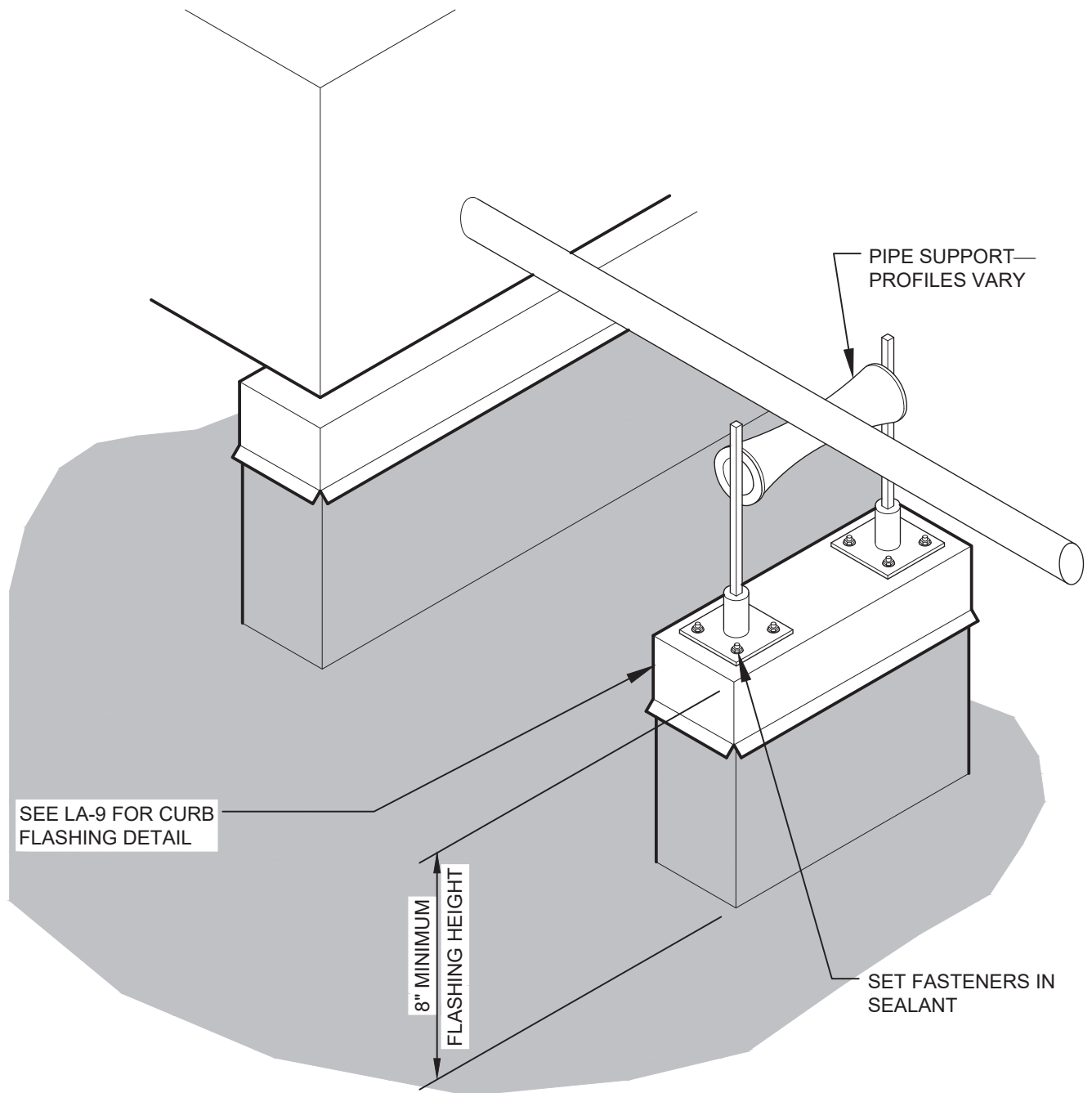
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

MEMBRANE-COATED METAL PENETRATION POCKET — SINGLE PENETRATION LIQUID APPLIED PLUS SYETM

LA-P-20

N.T.S.





NOTES

1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

PIPE SUPPORT CURB
LIQUID APPLIED PLUS SYSTEM

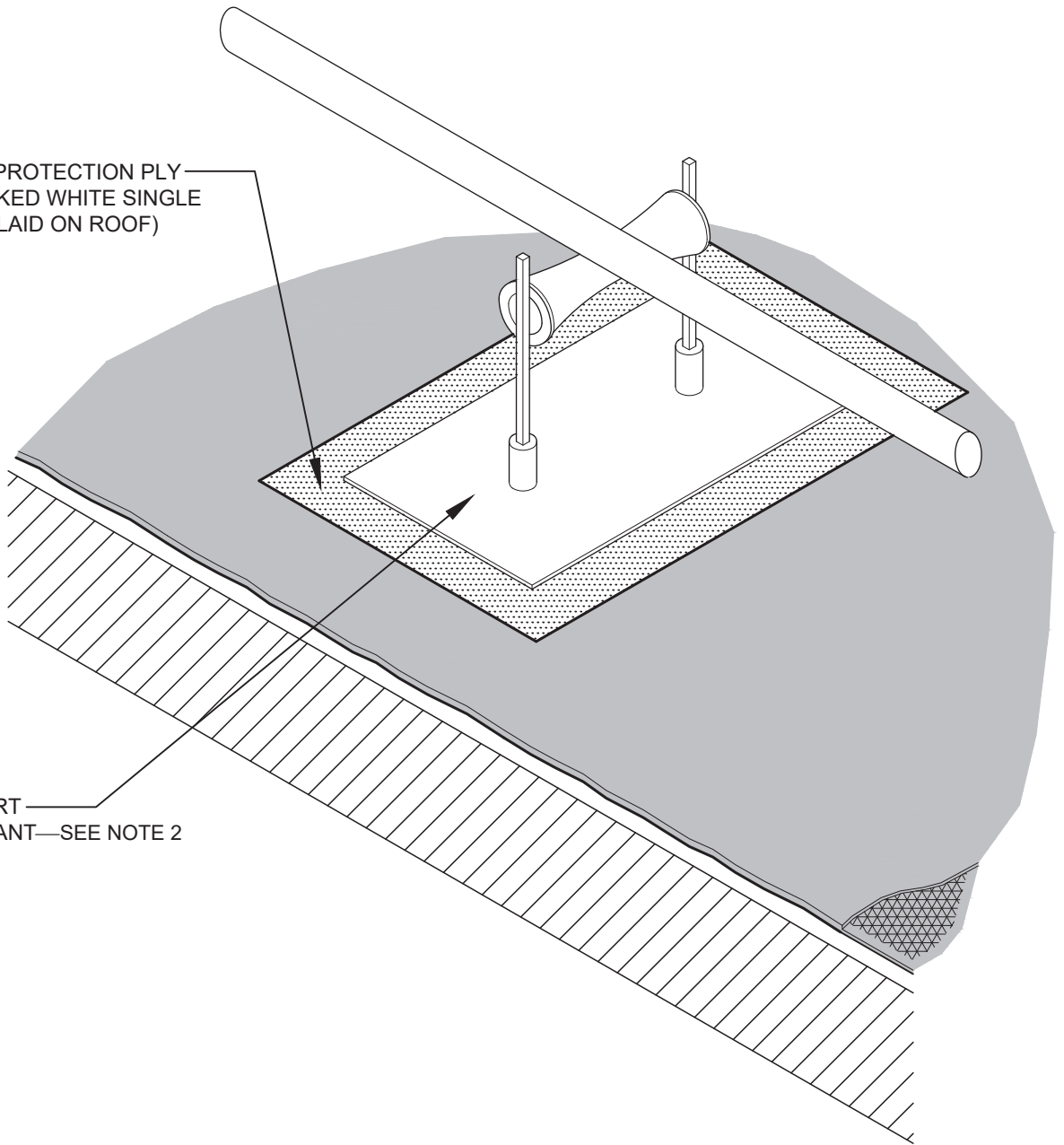
LA-P-21

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE

MEMBRANE PROTECTION PLY
FLEECE BACKED WHITE SINGLE
PLY (LOOSE LAID ON ROOF)

PIPE SUPPORT
SET IN SEALANT—SEE NOTE 2



NOTES

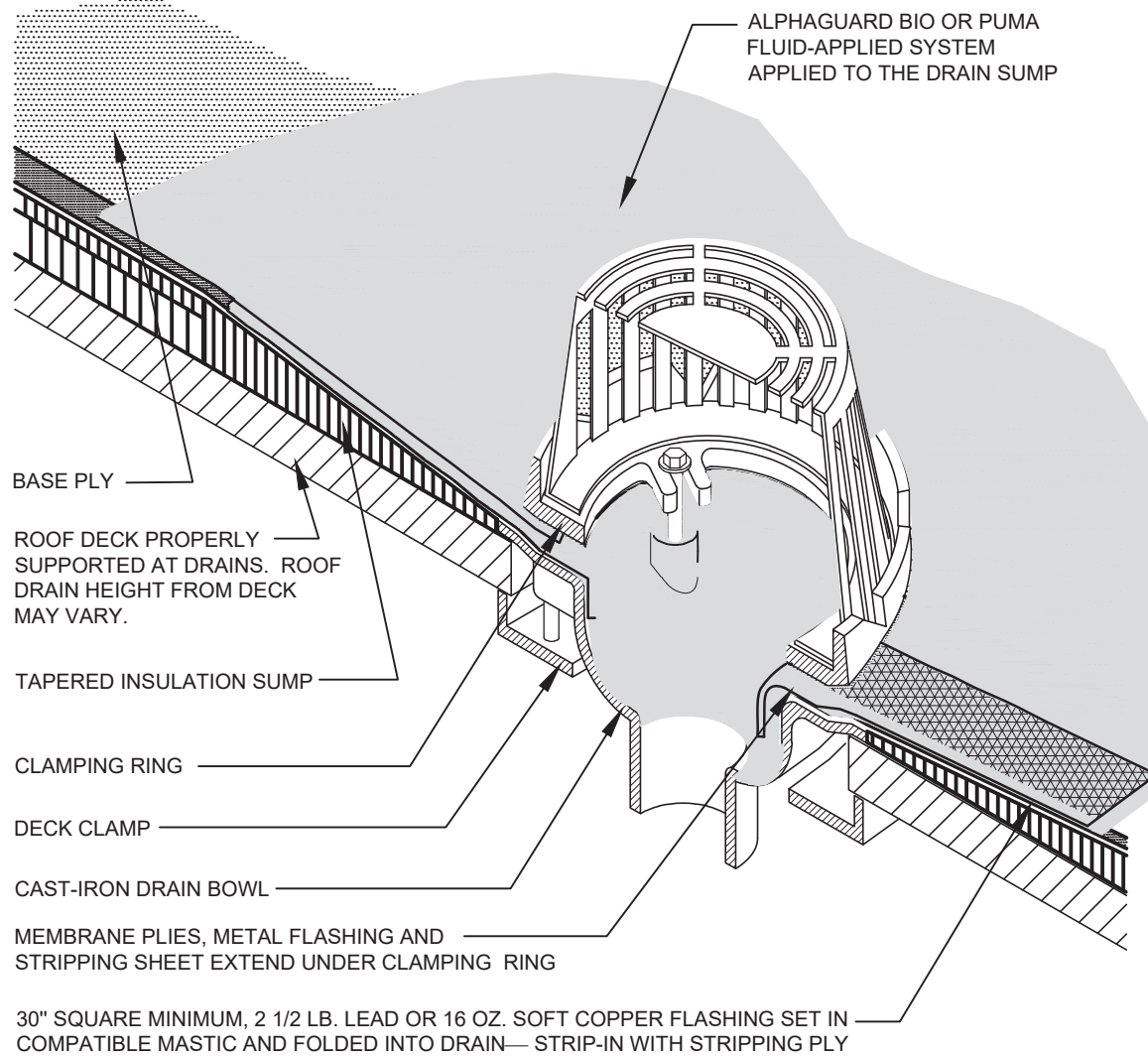
1. THIS DETAIL IS DESIGNED TO ELIMINATE ROOF DAMAGE DUE TO EXPANSION AND CONTRACTION OF PIPES.
2. PIPE SUPPORT PROFILES VARY. REFER TO THE MANUFACTURER FOR LOAD CAPACITY AND RECOMMENDED SPACING OF SUPPORTS.
3. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
4. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

**PIPE SUPPORT
LIQUID APPLIED PLUS SYSTEM**

LA-P-21A

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



NOTES

1. PRIME ALL METAL SURFACES WITH APPROVED PRIMER.
2. INSTALL FLASHING SHEET IN APPROVED MASTIC AND STRIP-IN WITH APPROVED ADHESIVE.
3. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
4. REMOVE EXISTING FLASHINGS PRIOR TO INSTALLATION OF NEW FLUID APPLIED SYSTEMS.

ROOF DRAIN
 LIQUID-APPLIED PLUS SYSTEM
 DWG NO. 24

N.T.S.



SECTION 070150.73 - REHABILITATION OF MODIFIED BITUMINOUS MEMBRANE ROOFING

PART 1 - GENERAL

1.1 SUMMARY

A. This Section includes the following:

1. Roof re-coating preparation.
2. Application of fluid-applied roof membrane and flashings over existing modified bituminous membrane roofing.

1.2 ROOFING CONFERENCES

A. Roofing Rehabilitation Preinstallation Conference: Conduct conference at Project site to review methods and procedures related to roofing system.

1. Meet with Owner; roofing re-coating materials manufacturer's representative; roofing re-coating Installer including project manager and foreman; and installers whose work interfaces with or affects re-coating including installers of roof accessories and roof-mounted equipment requiring removal and replacement as part of the Work.
2. Review methods and procedures related to re-coating preparation, including membrane roofing system manufacturer's written instructions.
3. Procedures for salvaging and recycling of demolition and construction waste
4. Review temporary protection requirements for existing roofing system that is to remain, during and after installation.
5. Review roof drainage during each stage of re-coating and review roof drain plugging and plug removal procedures.
6. Review and finalize construction schedule, and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
7. Review base flashings, special roofing details, drainage, penetrations, equipment curbs, and condition of other construction that will affect re-coating.
8. Review HVAC shutdown and sealing of air intakes.
9. Review shutdown of fire-suppression, -protection, and -alarm and -detection systems.
10. Review procedures for asbestos removal or unexpected discovery of asbestos-containing materials.

11. Review governing regulations and requirements for insurance and certificates if applicable.
12. Review existing conditions that may require notification of Owner before proceeding.

1.3 MATERIALS OWNERSHIP

- A. Demolished materials shall become Contractor's property and shall be removed from Project site.

1.4 DEFINITIONS

- A. Roofing Terminology: Refer to ASTM D1079 "Standard Terminology Relating to Roofing and Waterproofing" and glossary in NRCA's "The NRCA Roofing Manual: Membrane Roof Systems" for definition of terms related to roofing work in this Section.
- B. Roofing Coating Preparation: Existing roofing that is to remain and be prepared to accept restorative coating application.
- C. Patching: Removal of a portion of existing membrane roofing system from deck or removal of selected components and accessories from existing membrane roofing system and replacement with compatible similar materials.
- D. Remove: Detach items from existing construction and legally dispose of them off-site unless indicated to be removed and reinstalled.
- E. Existing to Remain: Existing items of construction that are not indicated to be removed.
- F. Construction Waste: Building and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.
- G. Demolition Waste: Building and site improvement materials resulting from re-roofing preparation, demolition, or selective demolition operations.
- H. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.
- I. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.
- J. Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.
- K. Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.

1.5 ACTION SUBMITTALS

- A. Product Data: For each type of product specified.

B. Sustainable Design Submittals:

1. Product Test Reports: For roof coating, indicating that coated roof will comply with solar reflectance index requirement.
2. Indicate CRRC Compliance.
3. Indicate Food, Conservation, and Energy Act of 2008 Bio-based material requirement compliance.
 - a. Indicate type of bio-based material in product.
 - b. Indicate the percentage of bio-based content per unit of product.
 - c. Indicate relative dollar value of bio-based content product to total dollar value of product included in project.

1.6 INFORMATIONAL SUBMITTALS

A. Qualification Data: For Installer, Manufacturer, and Roofing Inspector.

1. Letter written for this Project indicating manufacturer approval of Installer to apply specified products and provide specified warranty.

B. Contractor's Product Certificate: Submit notarized certificate, indicating products intended for Work of this Section, including product names and numbers and manufacturers' names, with statement indicating that products to be provided meet the requirements of the Contract Documents.

1. Provide manufacturer's UL listing certificate for roofing system.

C. Product Test Reports: If requested, based on evaluation of comprehensive tests performed by manufacturer and witnessed by a qualified testing agency, for components of roofing rehabilitation system.

D. Proposed Protection Measures: Submit report, including Drawings, that indicates the measures proposed for protecting individuals and property, for environmental protection, and for dust control. Indicate proposed locations and construction of barriers.

E. Warranties: Unexecuted sample copies of special warranties.

F. Existing Conditions Photographs: Show existing conditions of adjoining construction and site improvements, including exterior and interior finish surfaces, which might be misconstrued as having been damaged by re-coating operations. Submit before Work begins.

G. Inspection Reports: Reports of Roofing Inspector. Include weather conditions, description of work performed, tests performed, defective work observed, and corrective actions required and carried out.

1. Submit report within 48 hours after inspection.

1.7 CLOSEOUT SUBMITTALS

- A. Maintenance Data: To include in maintenance manuals.
- B. Warranties: Executed copies of approved warranty forms.

1.8 QUALITY ASSURANCE

- A. Installer Qualifications: An employer of workers trained and certified by manufacturer, including a full-time on-site supervisor with a minimum of three years' experience installing products comparable to those specified, able to communicate verbally with Contractor, and employees, and the following:
 - 1. Qualified by the manufacturer to install manufacturer's product and furnish warranty of type specified.
- B. Manufacturer Qualifications: Primary product manufacturer that is UL listed for roofing system identical to that specified for this Project with minimum five years' experience in manufacture of comparable products in successful use in similar applications, and able to furnish warranty with provisions matching specified requirements.
 - 1. Approval of Other Manufacturers and Comparable Products: Submit the following in accordance with project substitution requirements, within time allowed for substitution review:
 - a. Product data, including certified independent test data indicating compliance with requirements.
 - b. Samples of each component.
 - c. Sample submittal from similar project.
 - d. Project references: Minimum of five installations of specified products with Owner and contact information.
 - e. Sample warranty.
- C. Roofing Inspector Qualifications: A technical representative of manufacturer not engaged in the sale of products and experienced in the installation and maintenance of the specified roofing system, qualified to perform roofing observation and inspection specified in Field Quality Control Article, to determine Installer's compliance with the requirements of this Project, and approved by the manufacturer to issue warranty certification. The Roofing Inspector shall be one of the following:
 - 1. An authorized full-time technical employee of the manufacturer.

1.9 FIELD CONDITIONS

- A. Weather Limitations: Proceed with rehabilitation work only when existing and forecasted weather conditions permit Work to proceed without water entering into existing roofing system or building.
 - 1. Store all materials prior to application at temperatures recommended by manufacturer.
 - 2. Apply coatings within range of ambient and substrate temperatures recommended by manufacturer.
 - 3. Do not apply roofing in snow, rain, fog, or mist.
- B. Protect building to be rehabilitated, adjacent buildings, walkways, site improvements, exterior plantings, and landscaping from damage or soiling from rehabilitation operations.
- C. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities.
- D. Daily Protection: Coordinate installation of roofing so insulation and other components of roofing system not permanently exposed are not subjected to precipitation or left uncovered at the end of the workday or when rain is forecast.
- E. Owner will occupy portions of building immediately below re-coating area. Conduct re-coating so Owner's operations will not be disrupted. Provide Owner with not less than 72 hours' notice of activities that may affect Owner's operations.

1.10 WARRANTY

- A. Manufacturer's Warranty: Roof System Manufacturer's standard form in which Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within warranty period, as follows.
 - 1. Form of Warranty: Manufacturer's standard warranty form.
 - 2. Scope of Warranty: Work of this Section and including sheet metal details and termination details installed by the roof system Installer and approved by the Roof System Manufacturer.
 - 3. Warranty Period: 20 years from date of completion.
- B. Manufacturer Inspection Services: By manufacturer's technical representative, to report maintenance responsibilities to Owner necessary for preservation of Owner's warranty rights. The cost of manufacturer's inspections is included in the Contract Sum.
 - 1. Inspections to occur in following years: 2, 5, 10, and 15 following completion.
- C. Installer Warranty: Installer's warranty signed by Installer, as follows.
 - 1. Form of Warranty: Form acceptable to Roofing Manufacturer and Owner.

2. Scope of Warranty: Work of this Section.
3. Warranty Period: 2 years from date of completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Basis of Design: The roof system specified in this Section is based upon products of Tremco, Inc., Beachwood, OH, (800) 562-2728, www.tremcoroofing.com that are named in other Part 2 articles. Provide specified products.
 1. Manufacturers of comparable products: Approved by Architect prior to bid.
- B. Source Limitations: Obtain components for roofing system from same manufacturer as membrane roofing or manufacturer approved by membrane roofing manufacturer.

2.2 PERFORMANCE REQUIREMENTS

- A. General Performance: Rehabilitated roofing shall withstand exposure to weather without failure or leaks due to defective manufacture or installation.
 1. Accelerated Weathering: Roofing system shall withstand 5000 hours of exposure when tested according to ASTM G152, ASTM G154, or ASTM G155.
- B. Material Compatibility: Provide roofing materials that are compatible with one another under conditions of service and application required, as demonstrated by roofing manufacturer based on testing and field experience.
- C. Exterior Fire-Test Exposure: Roofing system exterior fire-test exposure performance following application of rehabilitation coating shall be not be less than that of the pre-rehabilitated roof performance when tested in accordance with ASTM E108, based upon manufacturer's tests of identical applications.
- D. Energy Performance: Provide roof coating with initial solar reflectance index not less than 78 when calculated according to ASTM E1980, based upon testing of identical products by a qualified testing agency.
- E. Three-year, aged solar reflectance index of not less than 64 when calculated according to ASTM E1980.
- F. Bio-Based Content: Provide roofing rehabilitation coating materials meeting requirements of USDA Bio-based Affirmative Procurement Program, with not less than 20 percent bio-based content.

2.3 MATERIALS

- A. General: Re-coating materials recommended by roofing system manufacturer for intended use and compatible with components of existing membrane roofing system.

- B. Infill Materials: Where required to replace test cores and to patch existing roofing, use infill materials matching existing membrane roofing system materials, unless otherwise indicated.
- C. Temporary Roof Drainage: Design and selection of materials for temporary roof drainage are responsibilities of the Contractor.

2.4 FLUID-APPLIED ROOFING MEMBRANE

- A. Polyurethane Elastomeric Fluid-Applied System: Two-coat fluid-applied roofing membrane formulated for application over prepared existing roofing substrate.
 - 1. Polyurethane Roof Coating System Base Coat: Bio-based, low-odor low-VOC two-part, for use with a compatible top coat.
 - a. Basis of design product: Tremco, AlphaGuard BIO Base Coat.
 - b. Combustion Characteristics, UL 790: Maintains combustion characteristics of existing roof system.
 - c. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 1 g/L.
 - d. Accelerated Weathering, 5000 hours, ASTM G154: Pass.
 - e. Hardness, Shore A, minimum, ASTM D2240: 80.
 - f. Solids, by volume, ASTM D2697: 100 percent.
 - g. Bio-Based Content, Minimum: 70 percent.
 - h. Minimum Thickness, Base Coat reinforced over Smooth BUR, MB, Concrete, Single-Ply: 48 mils (1.22 mm) wet.
 - 2. Polyurethane roof coating system top coat, bio-based low-odor low-VOC two-part, for application over compatible base coat.
 - a. Basis of design product: Tremco, AlphaGuard BIO Top Coat.
 - b. Combustion Characteristics, UL790: Maintains combustion characteristics of existing roof system.
 - c. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 6 g/L.
 - d. Solar Reflectance Index (SRI), ASTM E1980: For white, not less than 103.
 - e. Accelerated Weathering, 5000 hours, ASTM G 154: Pass.
 - f. Hardness, Shore A, minimum, ASTM D2240: 81.
 - g. Solids, by volume, ASTM D2697: 100 percent.

- h. Bio-Based Content, Minimum: 60 percent.
 - i. Minimum Thickness, reinforced system: 32 mils (0.81 mm) wet.
 - j. Color: White.
- B. Primers:
- 1. Primer for Intercoat and Substrate Adhesion: Single-part, quick-drying primer to promote adhesion of urethane products to previous urethane coats and to other approved surfaces.
 - a. Basis of design product: Tremco, Geogard Primer.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 100 g/L.
 - c. Coverage Rate, 400 sq. ft/ gal. (10 m²/ L): 4 mils (0.10 mm) wet.
- C. Fluid-Applied Membrane Reinforcing Fabric:
- 1. Polyester Reinforcing and Protection Fabric: 100 percent stitch-bonded mildew-resistant polyester fabric intended for reinforcement of compatible fluid-applied membranes and flashings and as a protection layer under pavers or stone aggregates.
 - a. Basis of design product: Tremco, Permafab.
 - b. Tensile Strength, Minimum, ASTM D1682: 50 lbf (23 kg) avg..
 - c. Elongation, Minimum, ASTM D1682: 60 percent.
 - d. Tear Strength, Minimum, ASTM D1117: 16 lbf (7.3 kg) avg..
 - e. Weight: 3 oz./sq. yd (102 g/sq. m).

2.5 AUXILIARY MATERIALS

- A. General: Auxiliary materials recommended by roofing system manufacturer for intended use and compatible with existing roofing system and fluid-applied roofing system.
- B. Joint Sealant: Elastomeric joint sealant compatible with applied coating, with movement capability appropriate for application.
 - 1. Joint Sealant, Polyurethane: ASTM C920, Type S, Grade NS, Class 50 single-component moisture curing sealant, formulated for compatibility and use in dynamic and static joints; paintable.
 - a. Basis of design product: Tremco, TremSEAL Pro.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 40 g/L.
 - c. Hardness, Shore A, ASTM C661: 40.

- d. Adhesion to Concrete, ASTM C794: 35 pli.
 - e. Tensile Strength, ASTM D412: 350 psi (2410 kPa).
 - f. Color: Closest match to substrate.
- C. Fasteners: Factory-coated steel fasteners and metal or plastic plates meeting corrosion-resistance provisions in FM 4470; designed for fastening roofing membrane components to substrate; tested by manufacturer for required pullout strength; and acceptable to roofing system manufacturer.
- D. Metal Flashing Sheet: Provide metal flashing sheet matching type, thickness, finish, and profile of existing metal flashing and trim.
- E. Miscellaneous Accessories: Provide miscellaneous accessories recommended by roofing system manufacturer.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine existing roofing substrates, with Installer present, for compliance with requirements and for other conditions affecting application and performance of roof coatings.
- 1. For the record, prepare written report, endorsed by Installer, listing conditions detrimental to performance.
 - 2. Verify compatibility of approved re-coating system with and suitability of substrates.
 - 3. Verify that substrates are visibly dry and free of moisture.
 - 4. Verify that roofing membrane surfaces have adequately aged to enable proper bond with re-coating system base coat.
 - 5. Verify that existing roofing membrane is free of blisters, splits, open laps, indications of shrinkage, and puncture damage or other indications of impending roof system failure.
 - 6. Commencing application of fluid-applied re-coating membrane indicates acceptance of surfaces and conditions.

3.2 PREPARATION

- A. Protect existing roofing system that is indicated not to be rehabilitated, and adjacent portions of building and building equipment.
- 1. Mask surfaces to be protected. Seal joints subject to infiltration by coating materials.
 - 2. Limit traffic and material storage to areas of existing roofing membrane that have been protected.

3. Maintain temporary protection and leave in place until replacement roofing has been completed.
- B. Pollution Control: Comply with environmental regulations of authorities having jurisdiction. Limit spread of dust and debris.
1. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
 2. Remove debris from building roof by chute, hoist, or other device that will convey debris to grade.
- C. Shut down air intake equipment in the vicinity of the Work in coordination with the Owner. Cover air intake louvers before proceeding with re-coating work that could affect indoor air quality or activate smoke detectors in the ductwork.
1. Verify that rooftop utilities and service piping affected by the Work have been shut off before commencing Work.
- D. Maintain roof drains in functioning condition to ensure roof drainage at end of each workday. Prevent debris from entering or blocking roof drains and conductors. Use roof-drain plugs specifically designed for this purpose. Remove roof-drain plugs at end of each workday, when no work is taking place, or when rain is forecast.
1. Do not permit water to enter into or under existing membrane roofing system components that are to remain.

3.3 ROOFING COATING PREPARATION

- A. Removal of Wet Insulation: Remove portions of roofing membrane with underlying wet insulation. Remove wet insulation, fill in tear-off areas to match existing insulation and membrane, and prepare patched membrane for roof coating application specified below.
- B. Repair of Ponding Areas: Repair areas indicated as ponding areas or areas of inadequate drainage by removing roof membrane, adding additional insulation as required to provide minimum slopes to drain required by roofing rehabilitation coating manufacturer, and replace membrane with material matching existing. Submit photographic report indicating compliance.
- C. Membrane Surface Preparation:
1. Remove loose granular aggregate from granular aggregate-surfaced built-up bituminous roofing with a power broom.
 2. Remove walkway pads from roofing membrane.
 3. Remove blisters, ridges, buckles, roofing membrane fastener buttons projecting above the membrane, and other substrate irregularities from existing roofing membrane that would inhibit application of uniform, waterproof coating.
 4. Broom clean existing substrate.

5. Substrate Cleaning: Clean substrate of contaminants such as dirt, debris, oil, and grease that can affect adhesion of coating by power washing at maximum 2,000 psi. (13,800 kPa).
 - a. Dispose of waste water in accordance with requirements of authorities having jurisdiction.
 6. Verify that existing substrate is dry before proceeding with application of coating. Spot check substrates with an electrical capacitance moisture-detection meter.
 7. Verify adhesion of new products.
- D. Existing Flashing and Detail Preparation: Repair flashings, gravel stops, copings, and other roof-related sheet metal and trim elements. Reseal joints, replace loose or missing fasteners, and replace components where required to leave in a watertight condition.
1. Do not damage metal counterflashings that are to remain. Replace metal counterflashings damaged during removal with counterflashings of same metal, weight or thickness, and finish.
 2. Roof Drains: Remove drain strainer and clamping ring. Grind metal surfaces down to clean, bare, metal.
- E. Surface Priming: Prime surfaces to receive fluid-applied coating using coating manufacturer's recommended product for surface material. Apply at application rate recommended by manufacturer.
1. Ensure primer does not puddle and substrate has complete coverage.
 2. Allow to cure completely prior to application of coating.
- 3.4 FLUID-APPLIED FLASHING APPLICATION
- A. Fluid-Applied Flashing and Detail Base Coat Application: Complete base coat and fabric reinforcement at parapets, curbs, penetrations, and drains prior to application of field of fluid-applied membrane. Apply base coat in accordance with manufacturer's written instructions.
1. Apply base coat on prepared and primed surfaces and spread coating evenly. Extend coating minimum of 8 inches (200 mm) up vertical surfaces and 4 inches (100 mm) onto horizontal surfaces.
 2. Back roll to achieve not less than minimum coating thickness indicated in Part 2 product listing, unless greater thickness is recommended by manufacturer. Verify thickness as work progresses.
 3. Fabric Reinforcement: Embed fabric reinforcement into wet base coat. Lap adjacent flashing pieces of fabric minimum 3 inches (75 mm) along edges and 6 inches (150 mm) at end laps.

- a. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
4. Roof Drains: Install base coat onto surrounding membrane surface and metal drain bowl flange. Install target piece of fabric reinforcement immediately into wet base coat and roll to fully embed and saturate fabric. Reinstall clamping ring and strainer following application of top coat. Replace broken drain ring clamping bolts.
5. Allow base coat to cure prior to application of top coat.

3.5 FLUID-APPLIED MEMBRANE APPLICATION

- A. Fluid-Applied Membrane Base Coat: Apply base coat to field of membrane in accordance with manufacturer's written instructions.
 1. Apply base coat on prepared and primed surfaces and spread coating evenly.
 2. Back roll to achieve not less than minimum coating thickness indicated in Part 2 product listing, unless greater thickness is recommended by manufacturer. Verify thickness as work progresses.
 3. Fabric Reinforcement: Embed fabric reinforcement into wet base coat. Lap adjacent flashing pieces of fabric minimum 3 inches (75 mm) along edges and 6 inches (150 mm) at end laps.
 - a. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
 - b. Following curing of base coat and prior to application of top coat, sand raised or exposed edges of fabric reinforcement.
- B. Top Coat Application: Apply top coat to field of membrane and flashings uniformly in a complete, continuous installation.
 1. Allow base coat to cure prior to application of top coat.
 2. Following curing of base coat and prior to application of top coat, sand raised or exposed edges of fabric reinforcement.
 3. Prime base coat prior to application of top coat if top coat is not applied within 72 hours of the base coat application, using manufacturer's recommended primer.
 4. Apply top coat extending coating up vertical surfaces and out onto horizontal surfaces. Install top coat over field base coat and spread coating evenly.
 5. Back roll to achieve not less than minimum coating thickness indicated in Part 2 product listing, unless greater thickness is recommended by manufacturer. Verify thickness as work progresses.
 6. Avoid foot traffic on new fluid-applied membrane for a minimum of 24 hours.

3.6 FIELD QUALITY CONTROL

- A. Roofing Inspector: Owner will engage a qualified roofing inspector to perform roof tests and inspections and to prepare test reports.
- B. Roof Inspection: Engage roofing system manufacturer's technical personnel to inspect roofing installation, and submit report. Notify Owner 48 hours in advance of dates and times of inspections. Inspect work as follows:
 - 1. Upon completion of preparation of roof coating substrate, prior to application of coating materials.
 - 2. Following application of coating to flashings and application of base coat to field of roof.
 - 3. Upon completion of coating but prior to re-installation of other roofing components.
- C. Repair fluid-applied membrane where test inspections indicate that they do not comply with specified requirements.
- D. Arrange for additional inspections, at Contractor's expense, to verify compliance of replaced or additional work with specified requirements.

3.7 DISPOSAL

- A. Collect demolished materials and place in containers. Promptly dispose of demolished materials. Do not allow demolished materials to accumulate on-site.
 - 1. Storage or sale of demolished items or materials on-site is not permitted.
- B. Transport and legally dispose of demolished materials off Owner's property.

3.8 PROTECTING AND CLEANING

- A. Protect roofing system from damage and wear during remainder of construction period.
- B. Correct deficiencies in or remove coating that does not comply with requirements, repair substrates, and reapply coating.
- C. Clean overspray and spillage from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

END OF SECTION 070150.73

SHEET-METAL EXPANSION JOINT
COVER WITH T-TYPE CLEAT

FLEXIBLE WEATHERPROOF
MEMBRANE CLOSURE

FLEXIBLE LINER TO SERVE AS
INSULATION RETAINER
(ATTACHED TO TOP OF CURB)

TOP OF CURB TO
DRAIN TO ONE SIDE

8" MINIMUM
FLASHING HEIGHT
ON LOW SIDE

COMPRESSIBLE
INSULATION

2 x 6 MIN. WOOD NAILER
ATTACHED TO SUBSTRATE—
OVERALL THICKNESS TO
MATCH INSULATION

PREMANUFACTURED
EXPANSION JOINT
COVER

OPTION

SLOPE

LIQUID APPLIED TOP COAT

LIQUID APPLIED
REINFORCED BASED COAT

EXISTING ROOF MEMBRANE
AND FLASHINGS

EXISTING INSULATION

NOTES

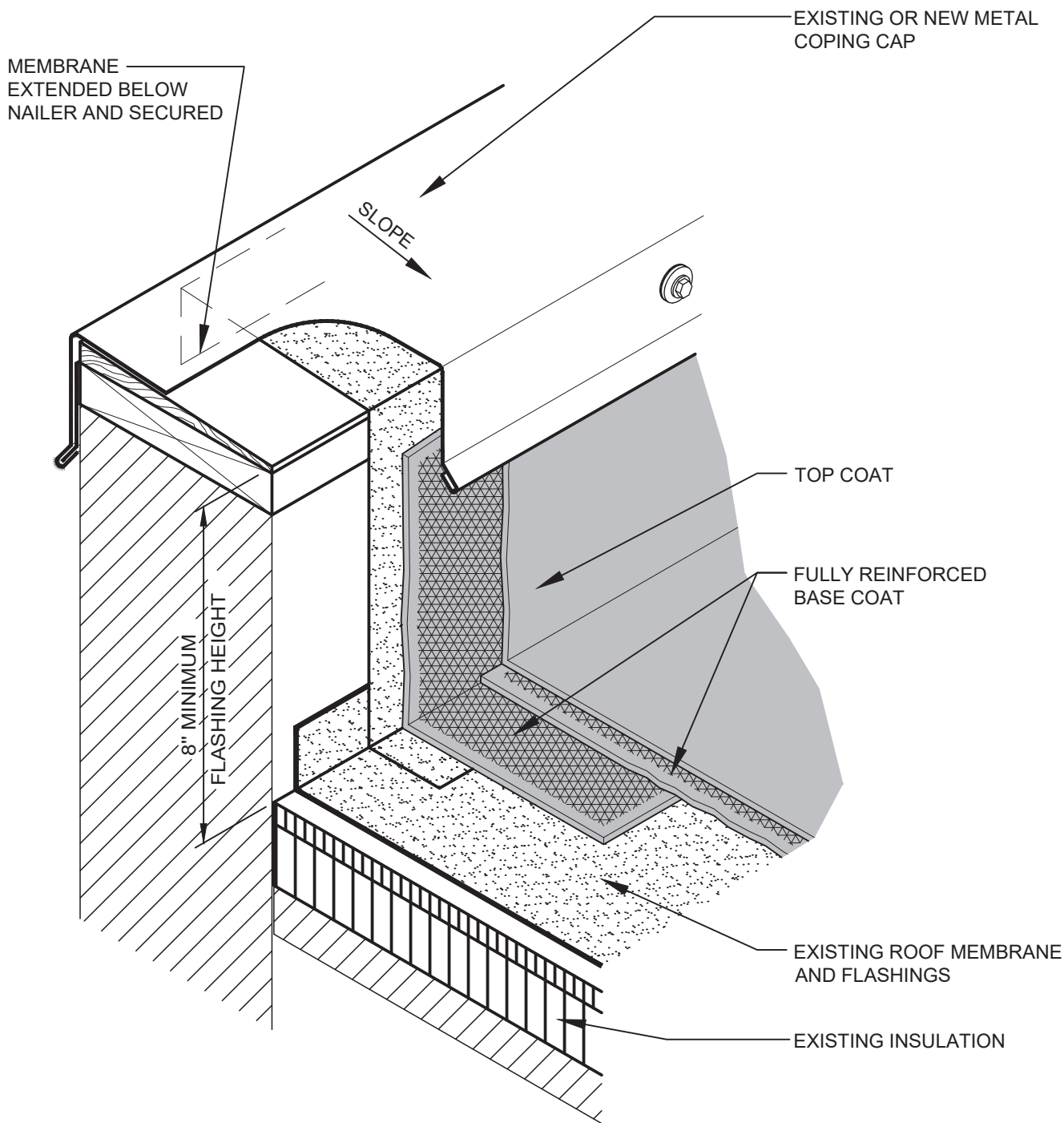
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. FLASHING REQUIREMENTS ARE TYPICAL FOR BOTH SIDES OF THE EXPANSION JOINT.

BASE FLASHING AT EXPANSION JOINT WITH METAL COVER FULLY REINFORCED RESTORATION

LA-FR-8

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



NOTES

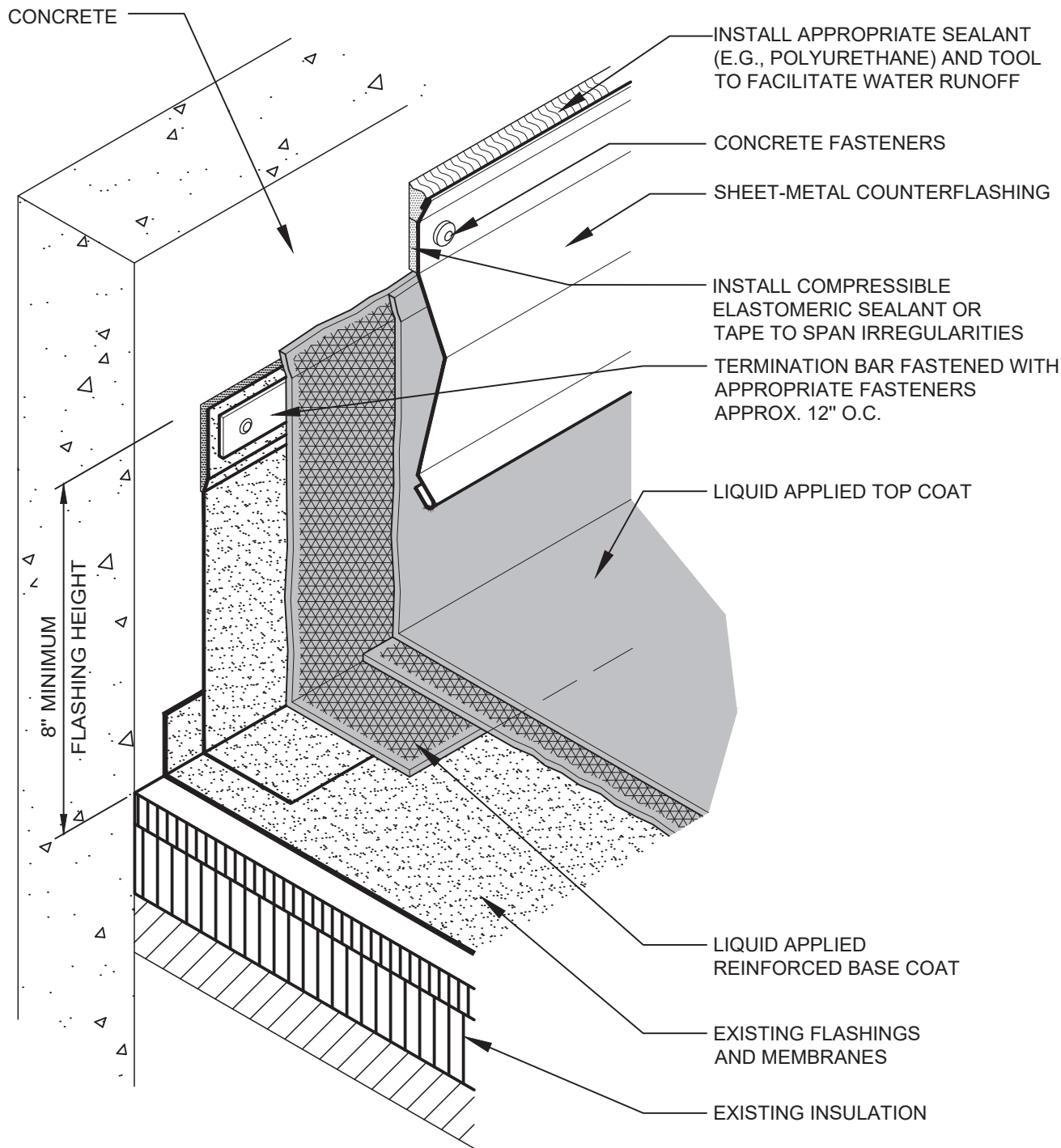
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

**BASE FLASHING AT PARAPET WALL
WITH METAL COPING
FULLY REINFORCED RESTORATION**

LA-FR-1

N.T.S.





NOTES

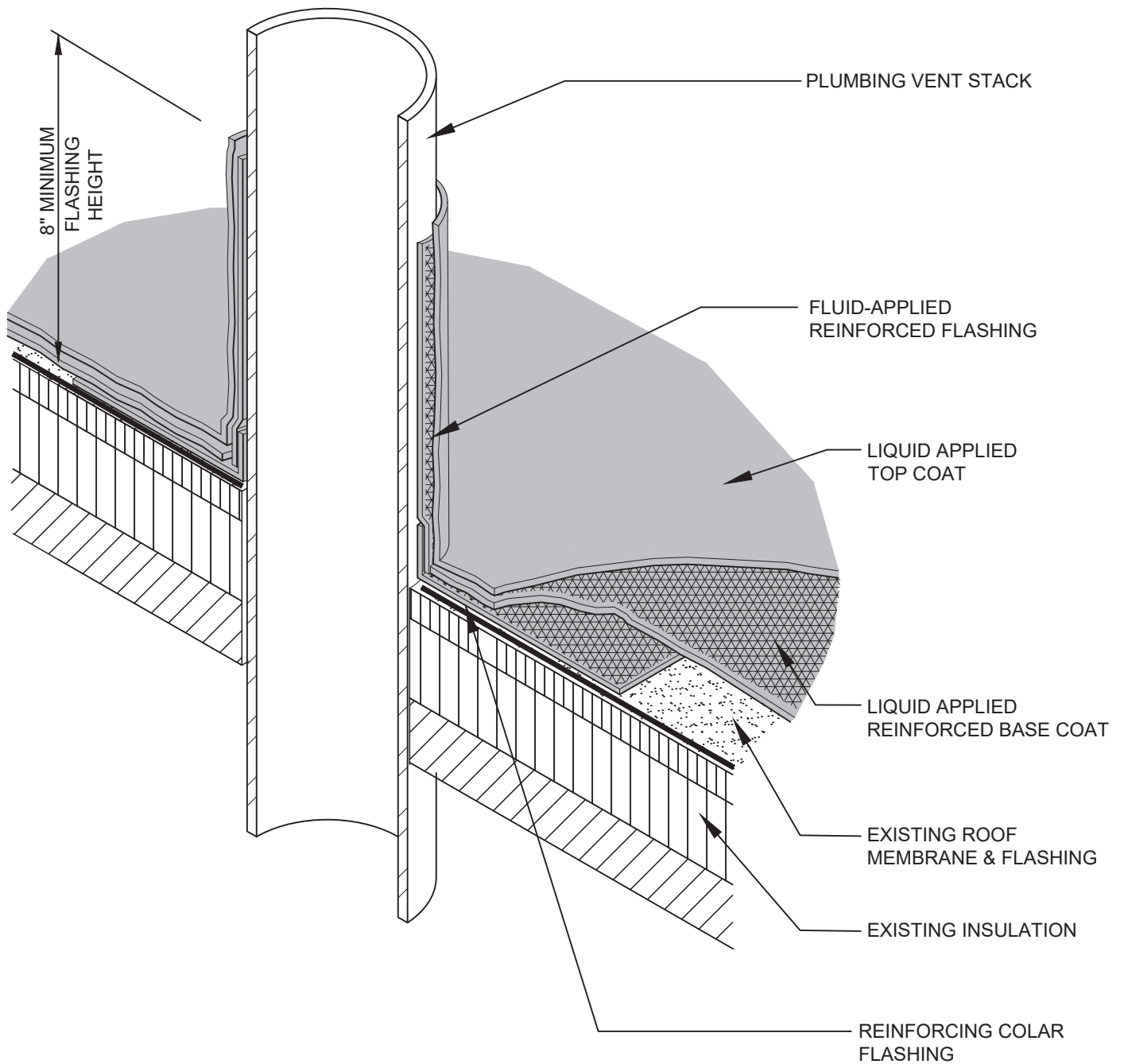
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

BASE FLASHING WITH SURFACE-MOUNTED COUNTERFLASHING AT CONCRETE WALL FULLY REINFORCED RESTORATION

LA-FR-5

N.T.S.





NOTES

1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.

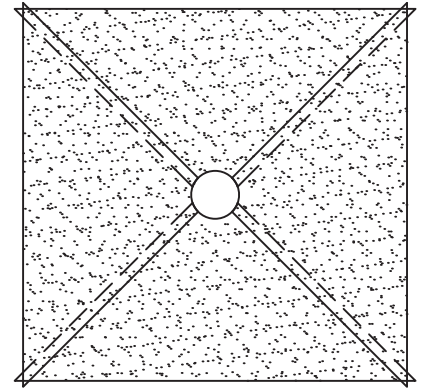
**PLUMBING VENT OR PIPE PENETRATION
FULLY REINFORCED RESTORATION**

LA-FR-19

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE

DRAIN STRAINER



CUT REINFORCEMENT INTO TRIANGLES AND OVERLAP INTO BOWL.

CLAMPING RING

TRIM EXISTING FLASHINGS TO WHERE BOWL TURNS DOWN. ENSURE NEW FLASHINGS FULLY ENCAPSULATES OLD FLASHINGS.

DECK CLAMP

EXTEND LIQUID APPLIED SYSTEM INTO DRAIN

CAST-IRON DRAIN BOWL

CLEAN TO BRIGHT METAL AND PRIME

LIQUID APPLIED REINFORCED BASE COAT

EXISTING INSULATION SUMP

EXISTING ROOF MEMBRANE

NOTES

1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. REMOVE EXISTING FLASHINGS PRIOR TO INSTALLATION OF NEW FLUID APPLIED SYSTEMS.

ROOF DRAIN FULLY REINFORCED RESTORATION

LA-FR-24

N.T.S.

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ROOFING & BUILDING MAINTENANCE

SECTION 070150.72 - REHABILITATION OF BUILT-UP ROOFING

PART 1 - GENERAL

1.1 SUMMARY

A. This Section includes the following:

1. Roof re-coating preparation.
2. Application of reinforced fluid-applied roof membrane and flashings over existing gravel-surfaced built-up asphalt roofing.

1.2 MATERIALS OWNERSHIP

A. Demolished materials shall become Contractor's property and shall be removed from Project site.

1.3 DEFINITIONS

- A. Roofing Terminology: Refer to ASTM D1079 "Standard Terminology Relating to Roofing and Waterproofing" and glossary in NRCA's "The NRCA Roofing Manual: Membrane Roof Systems" for definition of terms related to roofing work in this Section.
- B. Roofing Re-Coating Preparation: Existing roofing that is to remain and be prepared to accept restorative coating application.
- C. Patching: Removal of a portion of existing membrane roofing system from deck or removal of selected components and accessories from existing membrane roofing system and replacement with similar materials.
- D. Remove: Detach items from existing construction and legally dispose of them off-site unless indicated to be removed and reinstalled.
- E. Existing to Remain: Existing items of construction that are not indicated to be removed.
- F. Construction Waste: Building and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.
- G. Demolition Waste: Building and site improvement materials resulting from re-roofing preparation, demolition or selective demolition operations.
- H. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.

1.4 ROOFING CONFERENCES

- A. Roofing Rehabilitation Preinstallation Conference: Conduct conference at Project site. Review methods and procedures related to roofing system.
1. Meet with Owner; roofing re-coating materials manufacturer's representative; roofing re-coating Installer including project manager and foreman; and installers whose work interfaces with or affects re-coating including installers of roof accessories and roof-mounted equipment requiring removal and replacement as part of the Work.
 2. Review methods and procedures related to re-coating preparation, including rehabilitation roofing system manufacturer's written instructions.
 3. Review drawings and specifications.
 4. Procedures for salvaging and recycling of demolition and construction waste.
 5. Review temporary protection requirements for existing roofing system that is to remain, during and after installation.
 6. Review roof drainage during each stage of re-coating and review roof drain plugging and plug removal procedures.
 7. Review and finalize construction schedule, and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
 8. Review base flashings, special roofing details, drainage, penetrations, equipment curbs, and condition of other construction that will affect re-coating.
 9. Review HVAC shutdown and sealing of air intakes.
 10. Review shutdown of fire-suppression, -protection, and -alarm and -detection systems.
 11. Review governing regulations and requirements for insurance and certificates if applicable.
 12. Review procedures for asbestos removal or unexpected discovery of asbestos-containing materials.
 13. Review existing conditions that may require notification of Owner before proceeding.

1.5 ACTION SUBMITTALS

- A. Product Data: For each type of product specified.
- B. Sustainable Design Submittals:
1. Product Test Reports: For roof coating, indicating that coated roof will comply with solar reflectance index requirement.

2. Indicate Food, Conservation, and Energy Act of 2008 Bio-based material requirement compliance.
 - a. Indicate type of bio-based material in product.
 - b. Indicate the percentage of bio-based content per unit of product.
 - c. Indicate relative dollar value of bio-based content product to total dollar value of product included in project.

1.6 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For Installer, Manufacturer, and Roofing Inspector.
 1. Letter written for this Project indicating manufacturer approval of Installer to apply specified products and provide specified warranty.
- B. Proposed Protection Measures: Submit report, including Drawings, that indicates the measures proposed for protecting individuals and property, for environmental protection, and for dust control. Indicate proposed locations and construction of barriers.
- C. Product Test Reports: Upon request, submit reports based on evaluation of comprehensive tests performed by manufacturer and witnessed by a qualified testing agency, for components of roofing rehabilitation system.
- D. Contractor's Product Certificate: Submit notarized certificate, indicating products intended for Work of this Section, including product names and numbers and manufacturers' names, with statement indicating that products to be provided meet the requirements of the Contract Documents.
 1. Provide manufacturer's UL listing certificate for roofing system.
- E. Warranties: Unexecuted sample copies of special warranties.
- F. Existing Conditions Photographs: Show existing conditions of adjoining construction and site improvements, including exterior finish surfaces adjacent to the Work, which might be misconstrued as having been damaged by re-coating operations. Submit before Work begins.
- G. Inspection Reports: Reports of Roofing Inspector. Include weather conditions, description of work performed, tests performed, defective work observed, and corrective actions required and carried out.
 1. Submit report within 48 hours after inspection.

1.7 CLOSEOUT SUBMITTALS

- A. Maintenance Data: To include in maintenance manuals.
- B. Warranties: Executed copies of approved warranty forms.

1.8 QUALITY ASSURANCE

- A. Installer Qualifications: An employer of workers trained by manufacturer, including a full-time on-site supervisor with a minimum of three years' experience installing products comparable to those specified, able to communicate verbally with Contractor, Architect, and employees, and the following:
1. Installer qualified by the manufacturer to install manufacturer's products and furnish warranty of type specified.
- B. Manufacturer Qualifications: Primary product manufacturer, that is UL listed for roofing system identical to that used for this Project, with minimum five years' experience in manufacture of comparable products in successful use in similar applications, and able to furnish warranty with provisions matching specified requirements.
1. Approval of Other Manufacturers and Comparable Products: Submit the following in accordance with project substitution requirements, within time allowed for substitution review:
 - a. Product data, including certified independent test data indicating compliance with requirements.
 - b. Samples of each component.
 - c. Sample submittal from similar project.
 - d. Project references: Minimum of five installations of specified products with Owner and contact information.
 - e. Sample warranty.
- C. Roofing Inspector Qualifications: A technical representative of manufacturer not engaged in the sale of products and experienced in the installation and maintenance of the specified roofing system, qualified to perform roofing observation and inspection specified in Field Quality Control Article, to determine Installer's compliance with the requirements of this Project, and approved by the manufacturer to issue warranty certification. The Roofing Inspector shall be one of the following:
1. An authorized full-time technical employee of the manufacturer.
- D. Manufacturer's Installation Instructions: Obtain and maintain on-site access to manufacturer's written recommendations and instructions for installation of products.

1.9 PROJECT / FIELD CONDITIONS

- A. Weather Limitations: Proceed with rehabilitation work only when existing and forecasted weather conditions permit Work to proceed without water entering into existing roofing system or building.
1. Store all materials prior to application at temperatures recommended by manufacturer.

2. Apply coatings within range of ambient and substrate temperatures recommended by manufacturer.
 3. Do not apply roofing in snow, rain, fog, or mist.
- B. Protect building to be rehabilitated, adjacent buildings, walkways, site improvements, exterior plantings, and landscaping from damage or soiling from rehabilitation operations.
 - C. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities.
 - D. Daily Protection: Coordinate installation of roofing so insulation and other components of roofing system not permanently exposed are not subjected to precipitation or left uncovered at the end of the workday or when rain is forecast.
 - E. Owner will occupy portions of building immediately below re-coating area. Conduct re-coating so Owner's operations will not be disrupted. Provide Owner with not less than 72 hours' notice of activities that may affect Owner's operations.

1.10 WARRANTY

- A. Manufacturer's Warranty: Roof System Manufacturer's standard form in which Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within warranty period, as follows.
 1. Form of Warranty: Manufacturer's standard warranty form.
 2. Scope of Warranty: Work of this Section and including sheet metal details and termination details installed by the roof system Installer and approved by the Roof System Manufacturer.
 3. Warranty Period: 20 years from date of completion.
- B. Manufacturer Inspection Services: By manufacturer's technical representative, to report maintenance responsibilities to Owner necessary for preservation of Owner's warranty rights. The cost of manufacturer's inspections is included in the Contract Sum.
 1. Inspections to occur in following years: 2, 5, 10, and 15 following completion.
- C. Installer Warranty: Installer's warranty signed by Installer, as follows.
 1. Form of Warranty: Form acceptable to Roofing Manufacturer and Owner.
 2. Scope of Warranty: Work of this Section.
 3. Warranty Period: 2 years from date of completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Basis of Design: The roof system specified in this Section is based upon products of Tremco, Inc., Beachwood, OH, (800) 562-2728, www.tremcoroofing.com that are named in other Part 2 articles. Provide specified products.
 - 1. Manufacturers of comparable products: Approved by Architect prior to bid.
- B. Source Limitations: Obtain components for roofing system from same manufacturer as membrane roofing or manufacturer approved by membrane roofing manufacturer.

2.2 PERFORMANCE REQUIREMENTS

- A. General Performance: Rehabilitated roofing shall withstand exposure to weather without failure or leaks due to defective manufacture or installation.
 - 1. Accelerated Weathering: Roofing system shall withstand 2000 hours of exposure when tested according to ASTM G152, ASTM G154, or ASTM G155.
- B. Material Compatibility: Provide roofing materials that are compatible with one another under conditions of service and application required, as demonstrated by roofing manufacturer based on testing and field experience.
- C. Exterior Fire-Test Exposure: Roofing system exterior fire-test exposure performance following application of rehabilitation coating shall be not be less than that of the prerehabilitated roof performance when tested in accordance with ASTM E108, based upon manufacturer's tests of identical applications.
- D. Energy Performance: Provide rehabilitated roofing with an initial Solar Reflectance Index of not less than 78 when calculated according to ASTM E1980, based on testing identical products by a qualified testing agency.
- E. Bio-Based Content: Provide roofing rehabilitation coating materials meeting requirements of USDA Bio-based Affirmative Procurement Program, with not less than 20 percent bio-based content.

2.3 MATERIALS

- A. General: Rehabilitative materials recommended by roofing system coating manufacturer for intended use and compatible with components of existing membrane roofing system.
- B. Infill Materials: Where required to replace test cores and to patch existing roofing, use infill materials matching existing membrane roofing system materials, unless otherwise indicated.
 - 1. SBS-modified asphalt coated composite polyester / fiberglass/fiberglass mat reinforced high tensile strength base sheet, ASTM D4601 Type II.
 - a. Basis of design product: Tremco, BURmastic Composite Ply HT.

- b. Tensile Strength at 77 deg. F (25 deg. C), minimum, ASTM D5147: Machine direction, 165 lbf/in (725 N); Cross machine direction, 150 lbf/in (660 N).
 - c. Tear Strength at 77 deg. F (25 deg. C), minimum, ASTM D5147: Machine direction, 260 lbf (1150 N); Cross machine direction, 230 lbf (1120 N).
 - d. Thickness, minimum, ASTM D5147: 0.060 inch (1.5 mm).
2. Cold-applied bio-based low odor urethane roofing adhesive, two-part, USDA BioPreferred, formulated for compatibility and use with specified roofing membranes and flashings.
- a. Basis of design product: Tremco, POWERply Endure BIO Adhesive TF.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3690: 0 g/L.
 - c. Low Temperature Flexibility, ASTM D2240: Pass at -30 deg F (-34 deg C).
 - d. Solids, by Volume, ASTM D2697: 100 percent.
 - e. Biobase Content, Minimum, ASTM D6866: 70 percent.
- C. Temporary Roof Drainage: Design and selection of materials for temporary roof drainage are responsibilities of the Contractor.

2.4 FLUID-APPLIED LEVELING COAT

- A. Polyurethane Elastomeric Fluid-Applied leveling coat formulated to be applied over gravel surfaced BUR roof systems
1. Fluid-applied roof leveling product consisting of low odor, polyurethane base coat with recycled content for roof coating over existing gravel.
 - a. Basis of design product: Tremco, AlphaGrade.
 - b. Solids, by volume, ASTM D 2697: 100 percent
 - c. Thickness: 256 mils (6.5 mm) applied at rate of 16 gal.s/100 sq. ft. (6.5 L/m²); level with top of aggregate.

2.5 FLUID-APPLIED ROOFING MEMBRANE

- A. Polyurethane Elastomeric Fluid-Applied System: Two-coat fluid-applied roofing membrane formulated for application over prepared existing roofing substrate.
1. Polyurethane Roof Coating System Base Coat: Bio-based, low-odor low-VOC two-part, for use with a compatible top coat.
 - a. Basis of design product: Tremco, AlphaGuard BIO Base Coat.

- b. Combustion Characteristics, UL 790: Maintains combustion characteristics of existing roof system.
 - c. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 1 g/L.
 - d. Accelerated Weathering, 5000 hours, ASTM G154: Pass.
 - e. Hardness, Shore A, minimum, ASTM D2240: 80.
 - f. Solids, by volume, ASTM D2697: 100 percent.
 - g. Bio-Based Content, Minimum: 70 percent.
 - h. Minimum Thickness, Base Coat non-reinforced over Smooth BUR, MB, Concrete, Single-Ply: 32 mils (0.81 mm) wet.
2. Polyurethane roof coating system top coat, bio-based low-odor low-VOC two-part, for application over compatible base coat.
- a. Basis of design product: Tremco, AlphaGuard BIO Top Coat.
 - b. Combustion Characteristics, UL790: Maintains combustion characteristics of existing roof system.
 - c. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 6 g/L.
 - d. Solar Reflectance Index (SRI), ASTM E1980: For white, not less than 103.
 - e. Accelerated Weathering, 5000 hours, ASTM G 154: Pass.
 - f. Hardness, Shore A, minimum, ASTM D2240: 81.
 - g. Solids, by volume, ASTM D2697: 100 percent.
 - h. Bio-Based Content, Minimum: 60 percent.
 - i. Minimum Thickness, non-reinforced system: 16 mils (0.40 mm) wet.
 - j. Minimum Thickness, non-reinforced system: 32 mils (0.81 mm)
 - k. Minimum Thickness, Slip-Resistant Coat: 24 mils (0.60 mm) wet.
 - l. Color: White.
- B. Primers:
- 1. Primer for Intercoat and Substrate Adhesion: Single-part, quick-drying primer to promote adhesion of urethane products to previous urethane coats and to other approved surfaces.
 - a. Basis of design product: Tremco, Geogard Primer.

- b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 100 g/L.
- c. Coverage Rate, 400 sq. ft/ gal. (10 m²/ L): 4 mils (0.10 mm) wet.

2.6 AUXILIARY MATERIALS

- A. General: Auxiliary materials recommended by roofing system manufacturer for intended use and compatible with existing roofing system and fluid-applied roofing system.
- B. Seam Sealer: Waterproof seam and patching material compatible with applied coating.
 - 1. Seam Sealer: Aromatic polyurethane sealer, single-component, high solids, moisture curing, formulated for compatibility and use with a variety of roofing and flashing substrates.
 - a. Basis of design product: Tremco, GEOGARD Seam Sealer.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 189 g/L.
 - c. Tensile Strength, ASTM D412: 270 psi (1860 kPa).
 - d. Tear Strength, ASTM D412: 35 pli (6.13 kNm).
 - e. Elongation, ASTM D412: 220 percent.
 - f. Color: Gray.
- C. Seam, Flashing and Detail Reinforcing Fabric:
 - 1. Polyester Reinforcing and Protection Fabric: 100 percent stitch-bonded mildew-resistant polyester fabric intended for reinforcement of compatible fluid-applied membranes and flashings and as a protection layer under pavers or stone aggregates.
 - a. Basis of design product: Tremco, Permafab.
 - b. Tensile Strength, Minimum, ASTM D1682: 50 lbf (23 kg) avg..
 - c. Elongation, Minimum, ASTM D1682: 60 percent.
 - d. Tear Strength, Minimum, ASTM D1117: 16 lbf (7.3 kg) avg..
 - e. Weight: 3 oz./sq. yd (102 g/sq. m).
- D. Joint Sealant: Elastomeric joint sealant compatible with applied coating, with movement capability appropriate for application.
 - 1. Joint Sealant, Polyurethane: ASTM C920, Type S, Grade NS, Class 50 single-component moisture curing sealant, formulated for compatibility and use in dynamic and static joints; paintable.

- a. Basis of design product: Tremco, TremSEAL Pro.
 - b. Volatile Organic Compounds (VOC), maximum, ASTM D3960: 40 g/L.
 - c. Hardness, Shore A, ASTM C661: 40.
 - d. Adhesion to Concrete, ASTM C794: 35 pli.
 - e. Tensile Strength, ASTM D412: 350 psi (2410 kPa).
 - f. Color: Closest match to substrate.
- E. Miscellaneous Accessories: Provide miscellaneous accessories recommended by roofing system manufacturer.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine existing roofing substrates, with Installer present, for compliance with requirements and for other conditions affecting application and performance of roof coatings.
1. For the record, prepare written report, endorsed by Installer, listing conditions detrimental to performance.
 2. Verify compatibility of approved re-coating system with and suitability of substrates.
 3. Verify that substrates are visibly dry and free of moisture.
 4. Verify that roofing membrane surfaces have adequately aged to enable proper bond with re-coating system base coat.
 5. Verify that existing roofing membrane is free of blisters, splits, open laps, indications of shrinkage, and puncture damage or other indications of impending roof system failure.
 6. Commencing application of fluid-applied re-coating membrane indicates acceptance of surfaces and conditions.

3.2 PREPARATION

- A. Protect existing roofing system that is indicated not to be rehabilitated, and adjacent portions of building and building equipment.
1. Mask surfaces to be protected. Seal joints subject to infiltration by coating materials.
 2. Limit traffic and material storage to areas of existing roofing membrane that have been protected.
 3. Maintain temporary protection and leave in place until replacement roofing has been completed.

- B. Pollution Control: Comply with environmental regulations of authorities having jurisdiction. Limit spread of dust and debris.
 - 1. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
 - 2. Remove debris from building roof by chute, hoist, or other device that will convey debris to grade.
- C. Shut down air intake equipment in the vicinity of the Work in coordination with the Owner. Cover air intake louvers before proceeding with re-coating work that could affect indoor air quality or activate smoke detectors in the ductwork.
 - 1. Verify that rooftop utilities and service piping affected by the Work have been shut off before commencing Work.
- D. Maintain roof drains in functioning condition to ensure roof drainage at end of each workday. Prevent debris from entering or blocking roof drains and conductors. Use roof-drain plugs specifically designed for this purpose. Remove roof-drain plugs at end of each workday, when no work is taking place, or when rain is forecast.
 - 1. Do not permit water to enter into or under existing membrane roofing system components that are to remain.

3.3 ROOFING COATING PREPARATION

- A. Removal of Wet Insulation: Remove portions of roofing membrane with underlying wet insulation. Remove wet insulation, fill in tear-off areas to match existing insulation and membrane, and prepare patched membrane for application of roof coating specified below.
 - 1. Over wet area infills, patch roofing with three plies of trilaminate reinforced roofing plies adhered in solvent-free cold adhesive at a rate of 2.0 gallons per 100 square feet per ply. Extend patch perimeters onto prepared (spudded) existing built-up roofing and seal with a three-course application of seam sealer and fabric.
- B. Membrane Surface Preparation:
 - 1. Remove gravel surfacing from roofing membrane by means of wet vacuum.
 - 2. Remove walkway pads, pavers and accessories from roofing membrane. Discard damaged pavers. Recycle pavers.
 - 3. Remove blisters, ridges, buckles, roofing membrane fastener buttons projecting above the membrane, and other substrate irregularities from existing roofing membrane that would inhibit application of uniform, waterproof coating.
 - 4. Broom clean existing substrate.

5. Substrate Cleaning: Clean substrate of contaminants such as dirt, debris, oil, and grease that can affect adhesion of coating by power washing at maximum 2,000 psi (13,800 kPa).
 - a. Dispose of waste water in accordance with requirements of authorities having jurisdiction.
 6. Verify that existing substrate is dry before proceeding with application of coating. Spot check substrates with an electrical capacitance moisture-detection meter.
 7. Verify adhesion of new products.
- C. Existing Flashing and Detail Preparation: Repair flashings, gravel stops, copings, and other roof-related sheet metal and trim elements. Reseal joints, replace loose or missing fasteners, and replace components where required to leave in a watertight condition.
1. Do not damage metal counterflashings that are to remain. Replace metal counterflashings damaged during removal with counterflashings of same metal, weight or thickness, and finish.
 2. Roof Drains: Remove drain strainer and clamping ring. Grind metal surfaces down to clean, bare, metal.
- D. Surface Priming: Prime surfaces to receive fluid-applied coating as recommended by manufacturer for each substrate material. Apply products at rate recommended by manufacturer.
1. Gravel surfaces do not require primer; metal and plastic surfaces must be primed.
 2. Ensure primer does not puddle and substrate has complete coverage.
 3. Allow to cure completely prior to application of coating.
- E. Membrane Repair: Repair membrane at locations with irregularities using seam sealer mastic and reinforcing fabric.
1. Where size of repair necessitates patching, use ply sheet and adhesive materials specified in this section.
- F. Membrane Seam Reinforcement: Reinforce membrane seams using seam sealer mastic and reinforcing fabric overlapping onto a field of existing membrane not less than width required by roof coating manufacturer.
- 3.4 FLUID-APPLIED FLASHING APPLICATION
- A. Prior to application of the leveling coat, remove embedded gravel and install fluid-applied flashings at drains, scuppers and facias. Apply fluid-applied flashings to curbs, walls and penetrations after leveling coat is applied. Ensure finished application is free of pin holes, voids or openings in the fabric reinforcement.

- B. Fluid-Applied Flashing and Detail Base Coat Application: Complete base coat and fabric reinforcement at parapets, curbs, penetrations, and drains prior to application of field of fluid-applied membrane. Apply base coat in accordance with manufacturer's written instructions.
1. Apply base coat on prepared and primed surfaces and spread coating evenly. Extend coating minimum of 8 inches (200 mm) up vertical surfaces and 4 inches (100 mm) onto horizontal surfaces.
 2. Back roll to achieve minimum coating thickness as follows, unless additional thickness is recommended by manufacturer; verify thickness of base coat as work progresses.
 3. Fabric Reinforcement: Embed fabric reinforcement into wet base coat. Lap adjacent flashing pieces of fabric minimum 3 inches (75 mm) along edges and 6 inches (150 mm) at end laps.
 - a. Roll surface of fabric reinforcing to completely embed and saturate fabric. Leave finished base coat with fabric free of pin holes, voids, or openings.
 4. Roof Drains: Install base coat onto surrounding membrane surface and metal drain bowl flange. Install target piece of fabric reinforcement immediately into wet base coat and roll to fully embed and saturate fabric. Reinstall clamping ring and strainer following application of top coat. Replace broken drain ring clamping bolts.
 5. Following curing of base coat, sand raised or exposed edges of fabric reinforcement prior to application of subsequent coatings.

3.5 FLUID-APPLIED LEVELING COAT APPLICATION

- A. Prior to application of the leveling coat, remove embedded gravel and install fluid-applied flashings at drains, scuppers and facias. Apply fluid-applied flashings to curbs, walls and penetrations after leveling coat is applied. Ensure finished application is free of pin holes, voids or openings in the fabric reinforcement.
- B. Apply leveling coat to field of roof in accordance with manufacturer's written instructions.
1. Apply to thickness indicated under Part 2 product listing unless greater thickness is recommended by manufacturer.
 2. Allow leveling coat to cure before applying fluid base coat.

3.6 FLUID-APPLIED MEMBRANE APPLICATION

- A. Prime leveling coat prior to application of base coat if base coat is not applied within 72 hours following the leveling coat application, using manufacturer's recommended primer.
- B. Fluid-Applied Membrane Base Coat Application: Apply base coat to field of membrane in accordance with manufacturer's written instructions.
1. Apply base coat on prepared and primed surfaces and spread coating evenly.

2. Back roll to achieve minimum coating thickness as follows, unless greater thickness is recommended by manufacturer; verify thickness of base coat as work progresses.
- C. Top Coat Application: Apply top coat to field of membrane and flashings uniformly in a complete, continuous installation.
1. Following curing of base coat and prior to application of top coat, sand raised or exposed edges of fabric reinforcement.
 2. Allow base coat to cure prior to application of top coat.
 3. Prime base coat prior to application of top coat if top coat is not applied within 72 hours of the base coat application, using manufacturer's recommended primer.
 4. Apply top coat extending coating up vertical surfaces and out onto horizontal surfaces. Install top coat over field base coat and spread coating evenly.
 5. Apply top coat and back roll to achieve not less than minimum coating thickness indicated in Part 2 product listing, unless greater thickness is recommended by manufacturer. Verify application thickness as work progresses.
 6. Avoid foot traffic on new fluid-applied membrane for a minimum of 24 hours.
- D. Joint Sealant: Apply joint sealant at terminations of coating application and in locations required for complete weathertight application.

3.7 FIELD QUALITY CONTROL

- A. Roofing Inspector: Owner will engage a qualified roofing inspector to perform roof tests and inspections and to prepare test reports.
- B. Roof Inspection: Engage roofing system manufacturer's technical personnel to inspect roofing installation, and submit report. Notify Owner 48 hours in advance of dates and times of inspections. Inspect work as follows:
1. Upon completion of preparation of roof coating substrate, prior to application of coating materials.
 2. Following application of coating to flashings and application of base coat to field of roof.
 3. Upon completion of coating but prior to re-installation of other roofing components.
- C. Repair fluid-applied membrane where inspections indicate that they do not comply with specified requirements.
- D. Arrange for additional inspections, at Contractor's expense, to verify compliance of replaced or additional work with specified requirements.

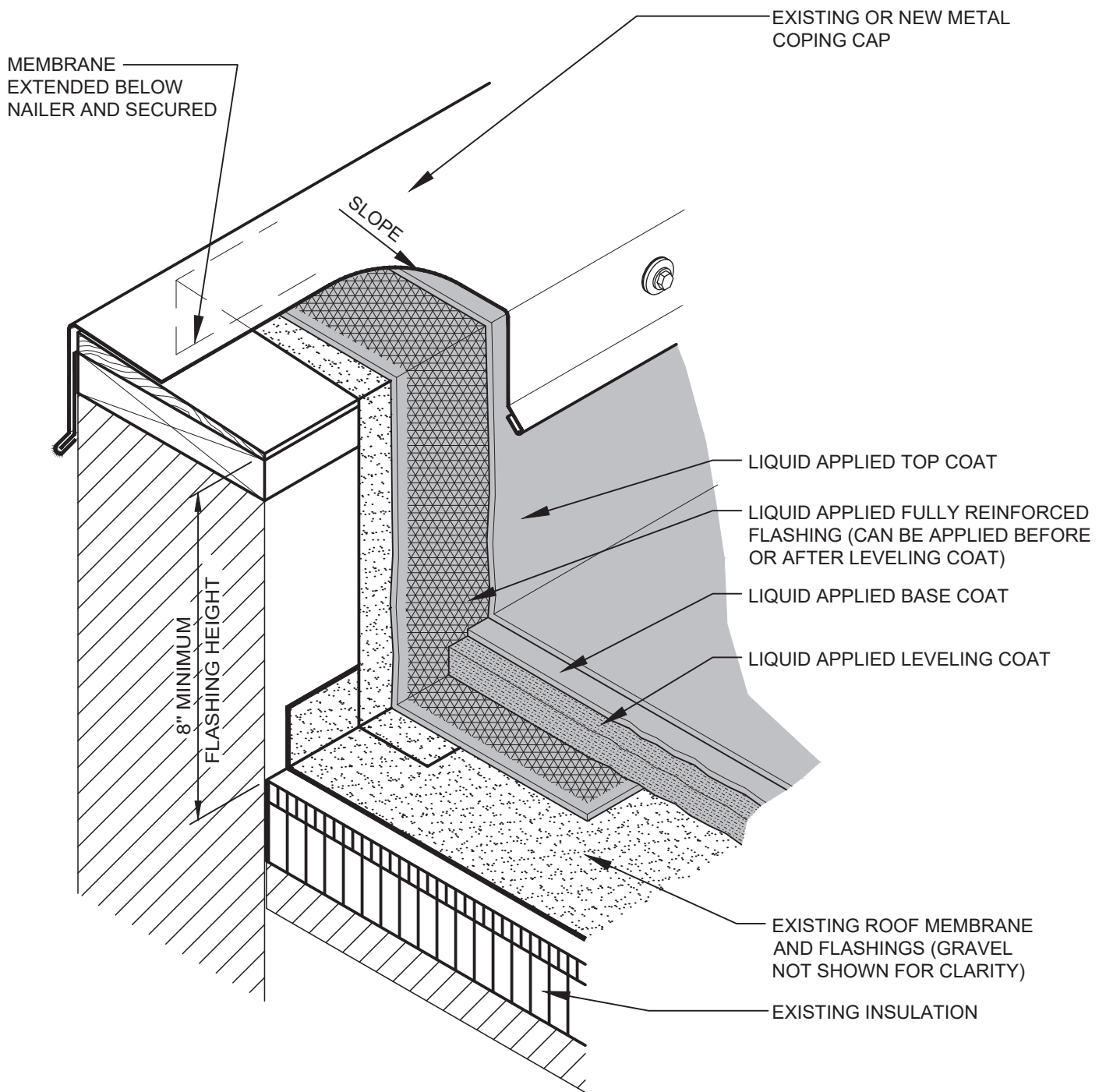
3.8 DISPOSAL

- A. Collect demolished materials and place in containers. Promptly dispose of demolished materials. Do not allow demolished materials to accumulate on-site.
 - 1. Storage or sale of demolished items or materials on-site is not permitted.
- B. Transport and legally dispose of demolished materials off Owner's property.

3.9 PROTECTING AND CLEANING

- A. Protect roofing system from damage and wear during remainder of construction period.
- B. Correct deficiencies in or remove coating that does not comply with requirements, repair substrates, and reapply coating.
- C. Clean overspray and spillage from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

END OF SECTION 070150.72



NOTES

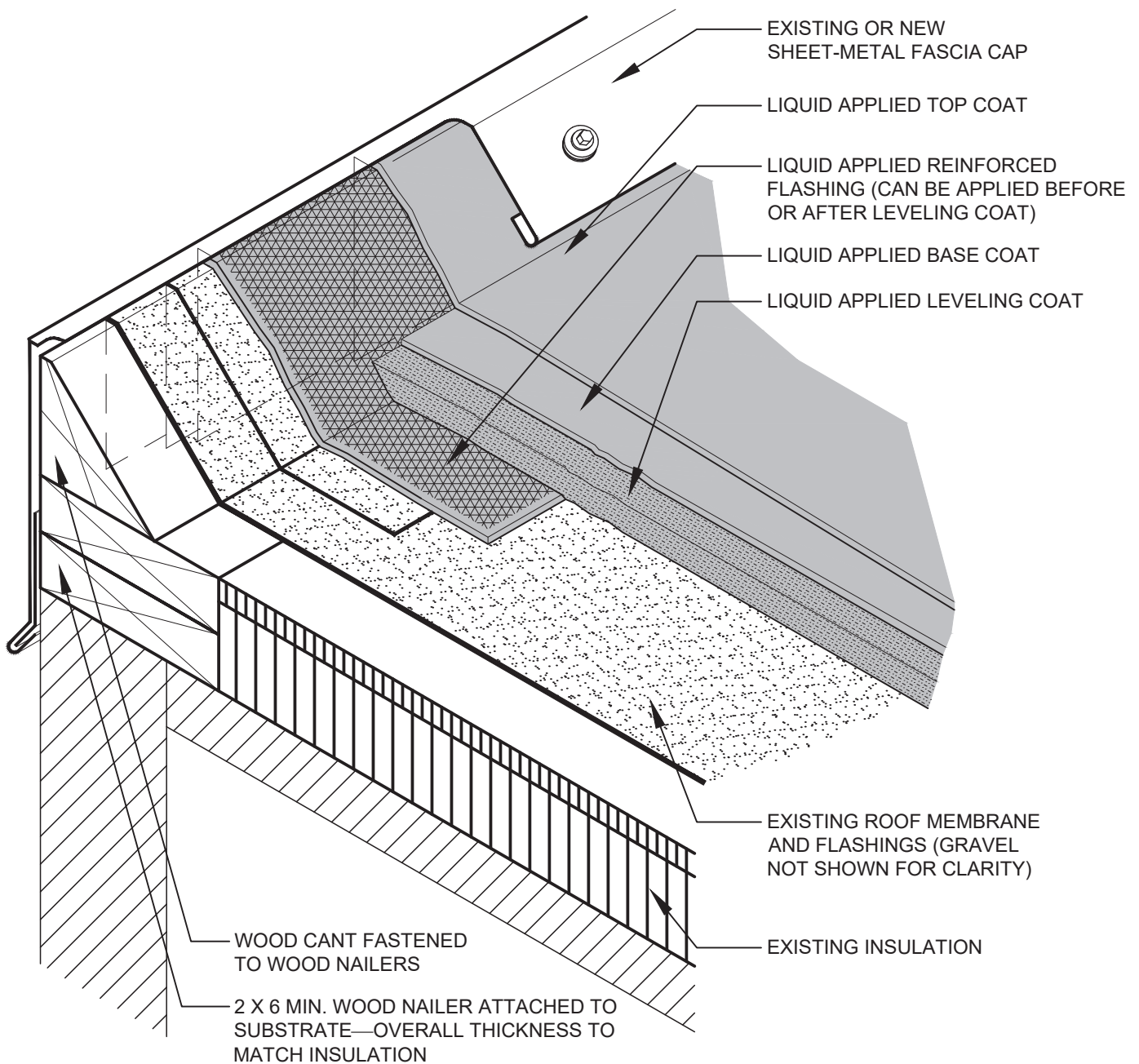
1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

**BASE FLASHING AT PARAPET WALL
WITH METAL COPING
GRAVEL BUR RESTORATION**

LA-GR-1

N.T.S.





NOTES

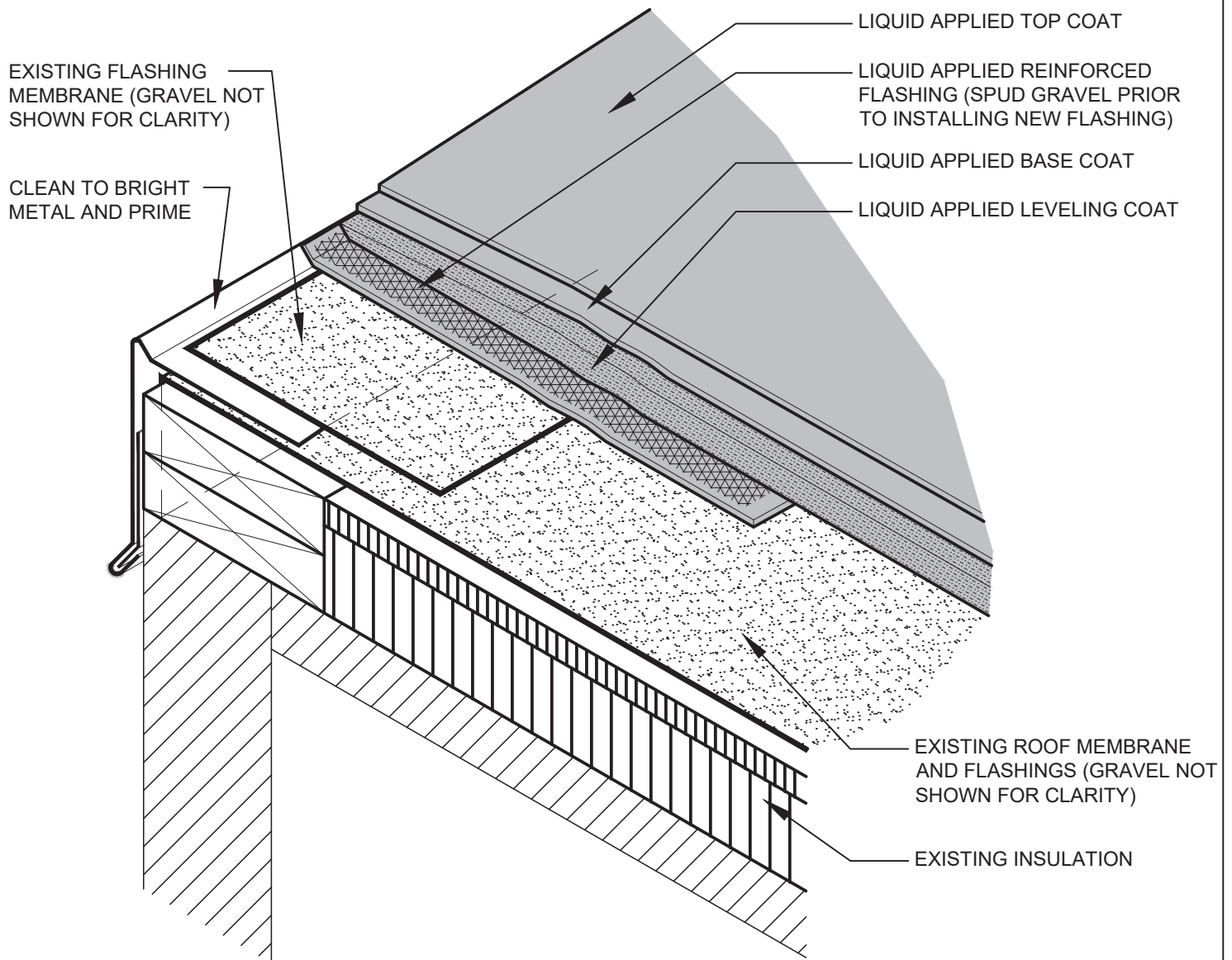
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

**RAISED PERIMETER EDGE
WITH METAL FLASHING
GRAVEL BUR RESTORATION**

LA-GR-2

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



NOTES

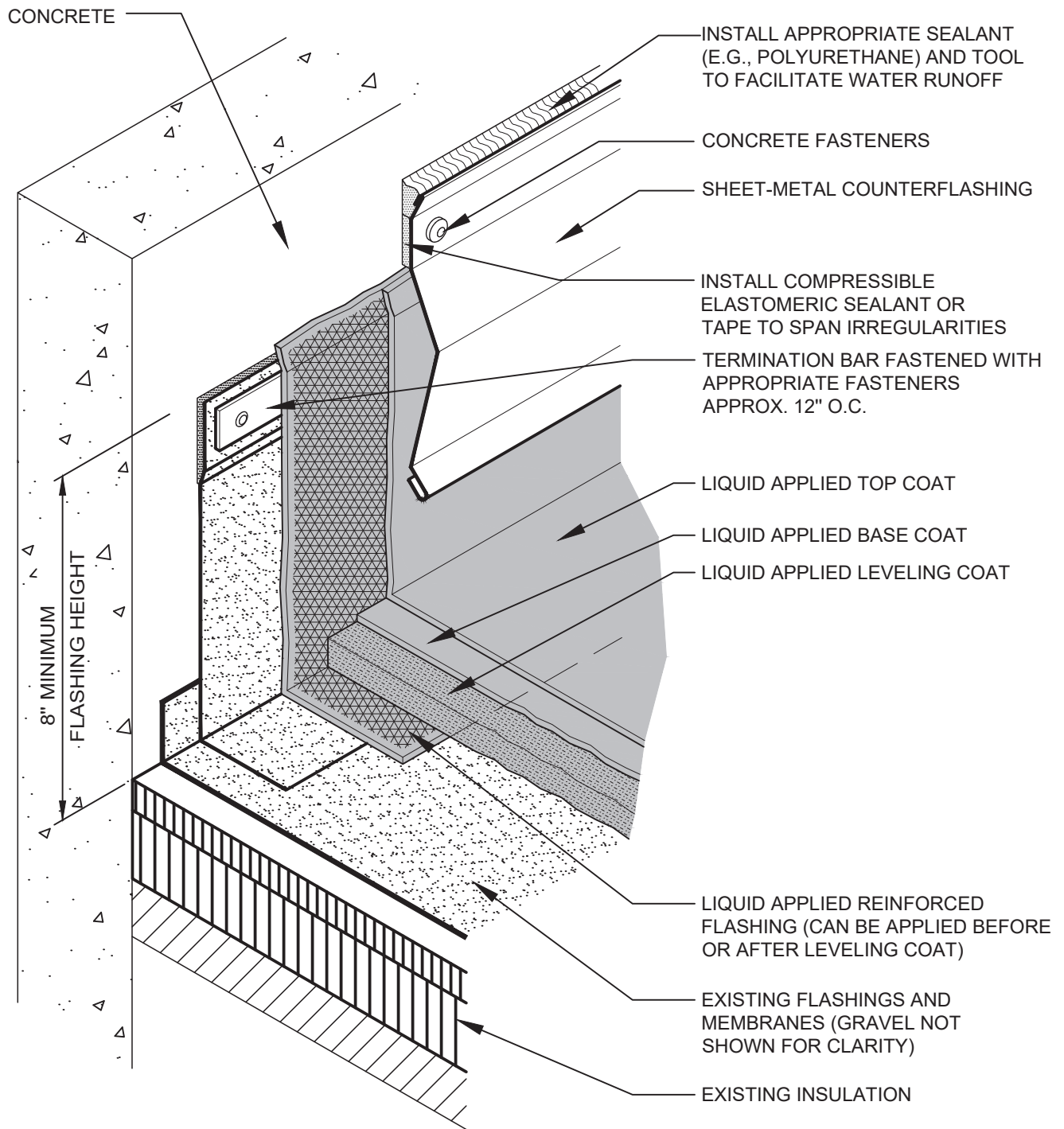
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

**EMBEDDED EDGE-METAL
FLASHING [GRAVEL STOP]
GRAVEL BUR RESTORATION**

LA-GR-3

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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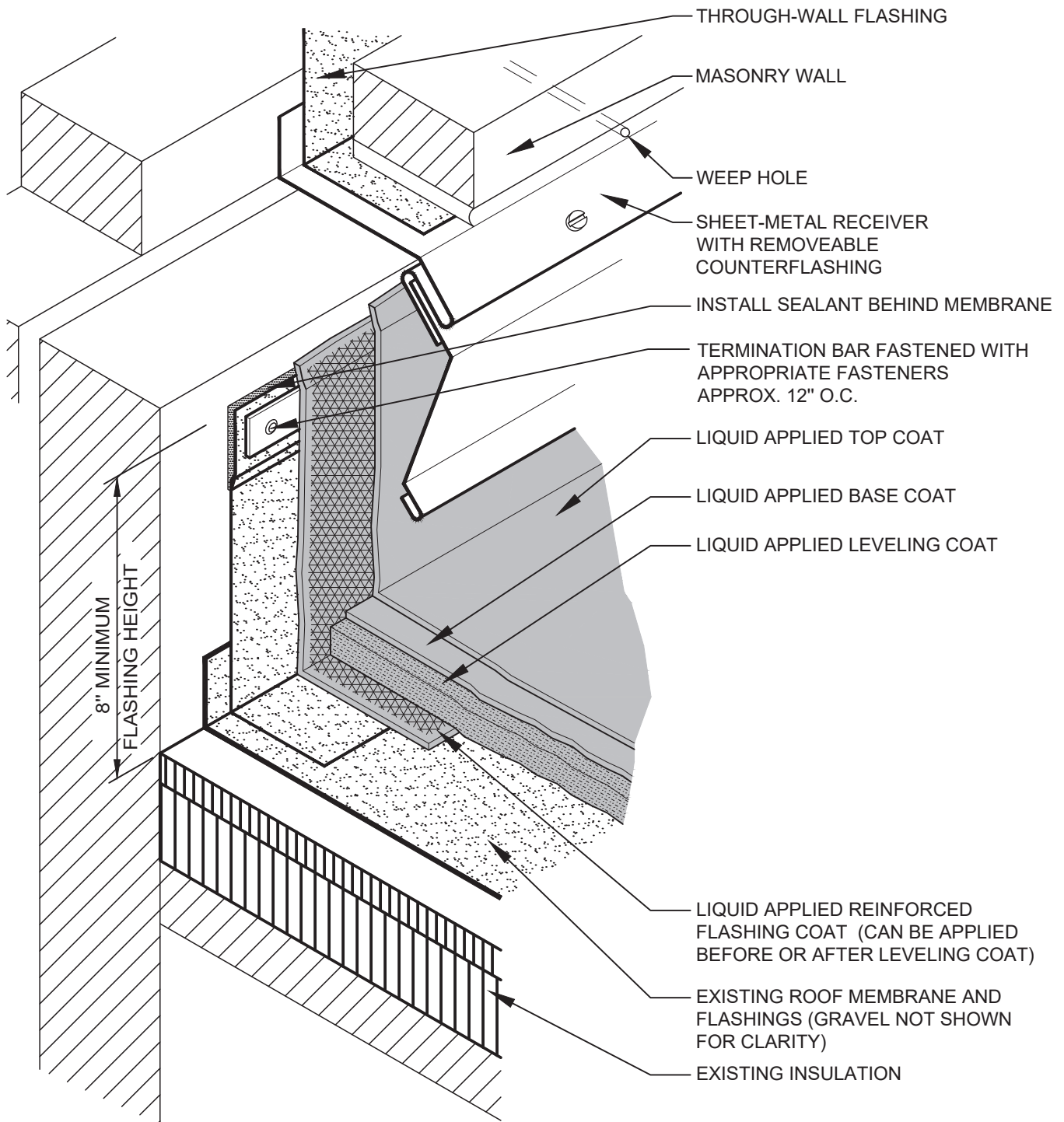
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

BASE FLASHING WITH SURFACE-MOUNTED COUNTERFLASHING AT CONCRETE WALL GRAVEL BUR RESTORATION

LA-GR-5

N.T.S.





NOTES

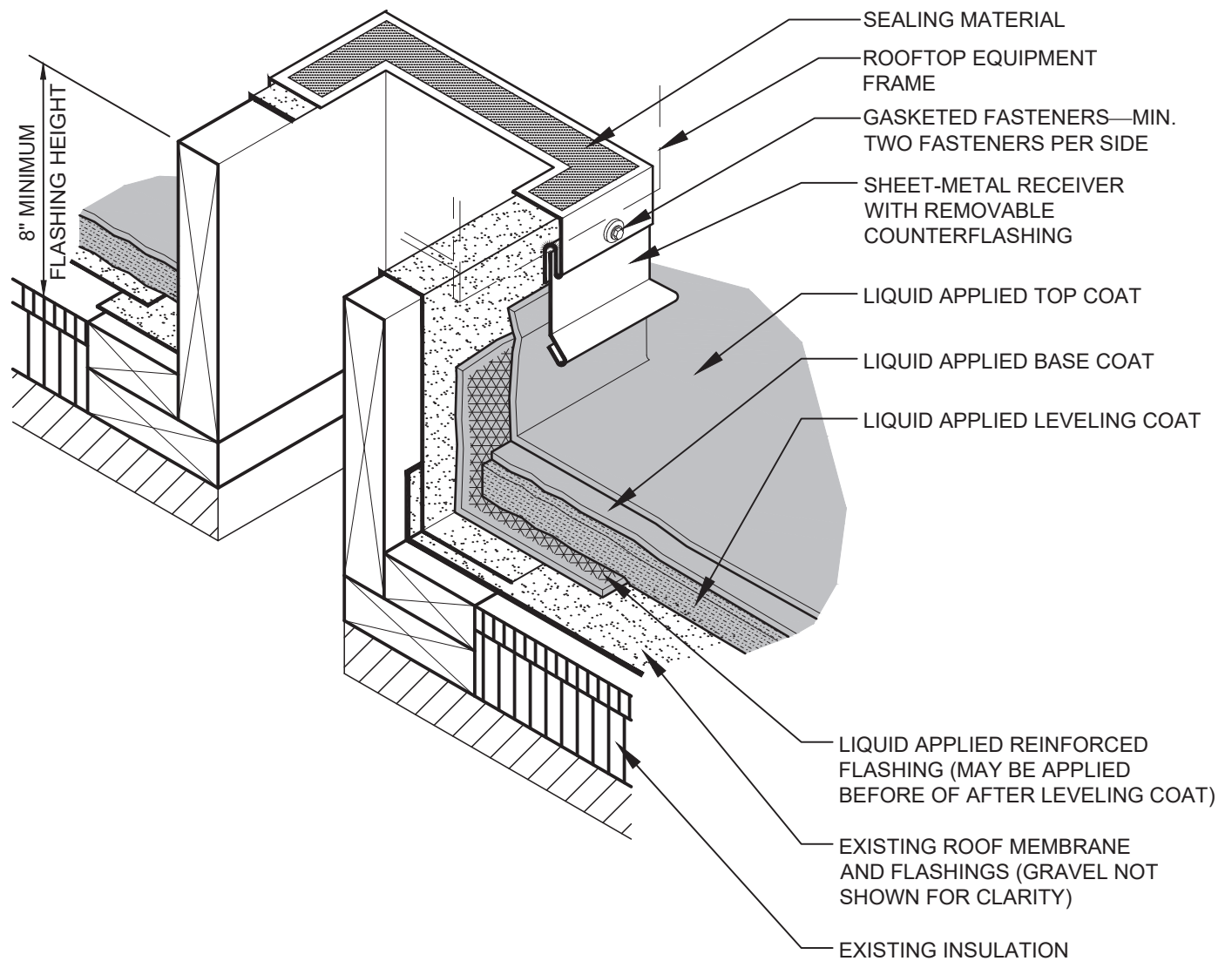
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

BASE FLASHING WITH TWO-PIECE SHEET-METAL COUNTERFLASHING GRAVEL BUR RESTORATION

LA-GR-6

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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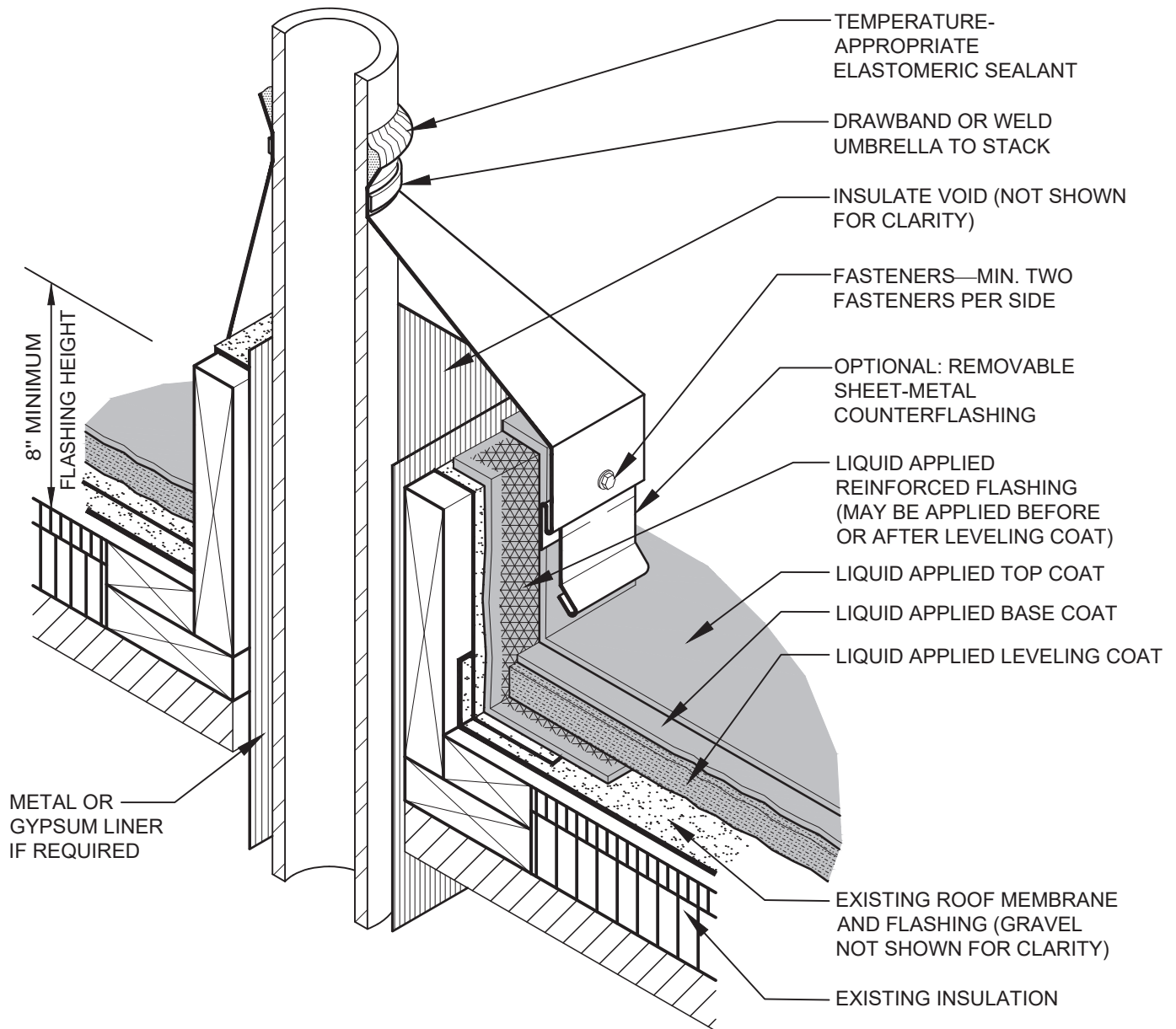
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

**BASE FLASHING AT WOOD CURB
GRAVEL BUR RESTORATION**

LA-GR-13

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



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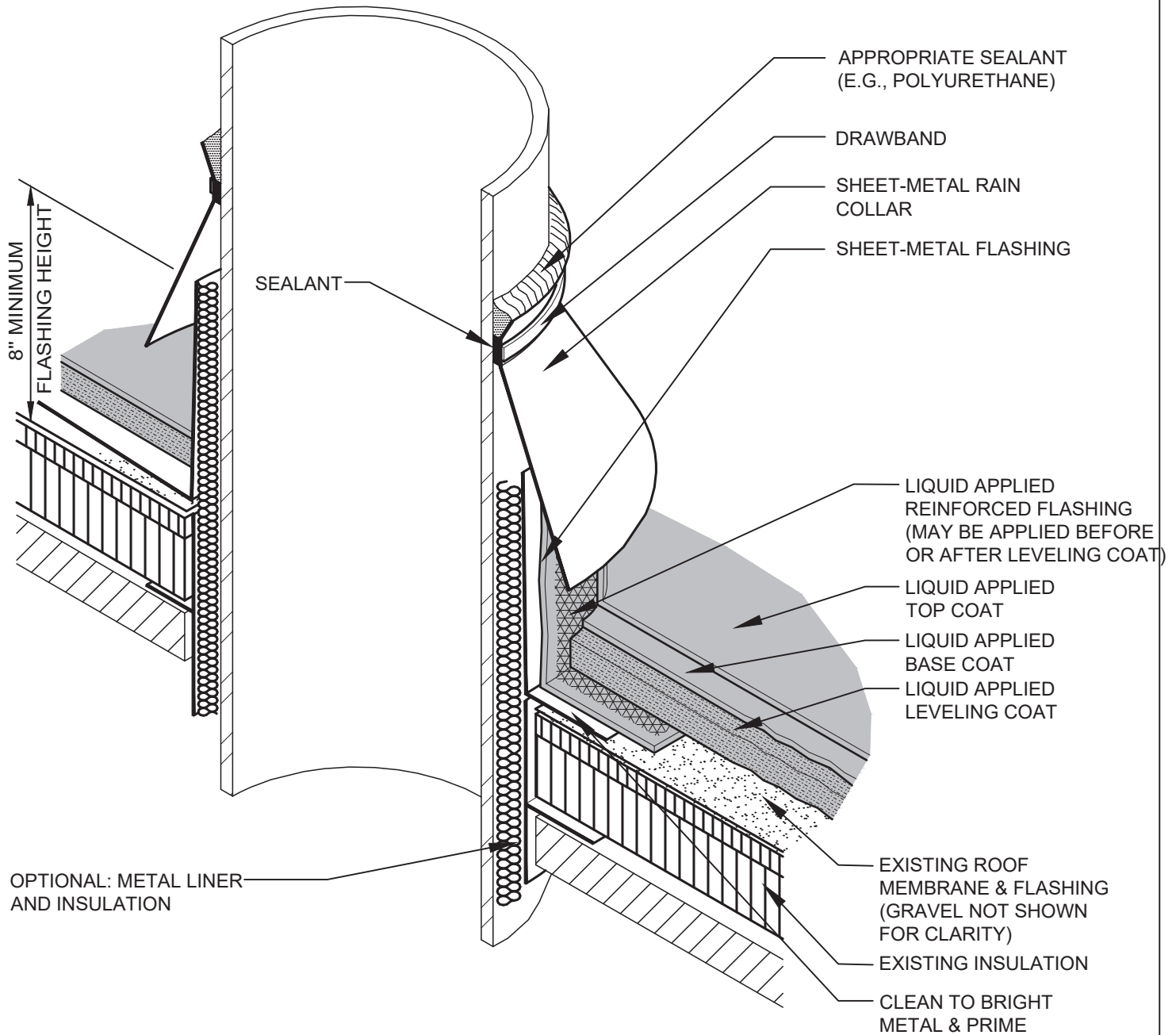
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

**BASE FLASHING AT STACK
VENT WITH CURB [HOT OR COLD]
GRAVEL BUR RESTORATION**

LA-GR-17

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



NOTES

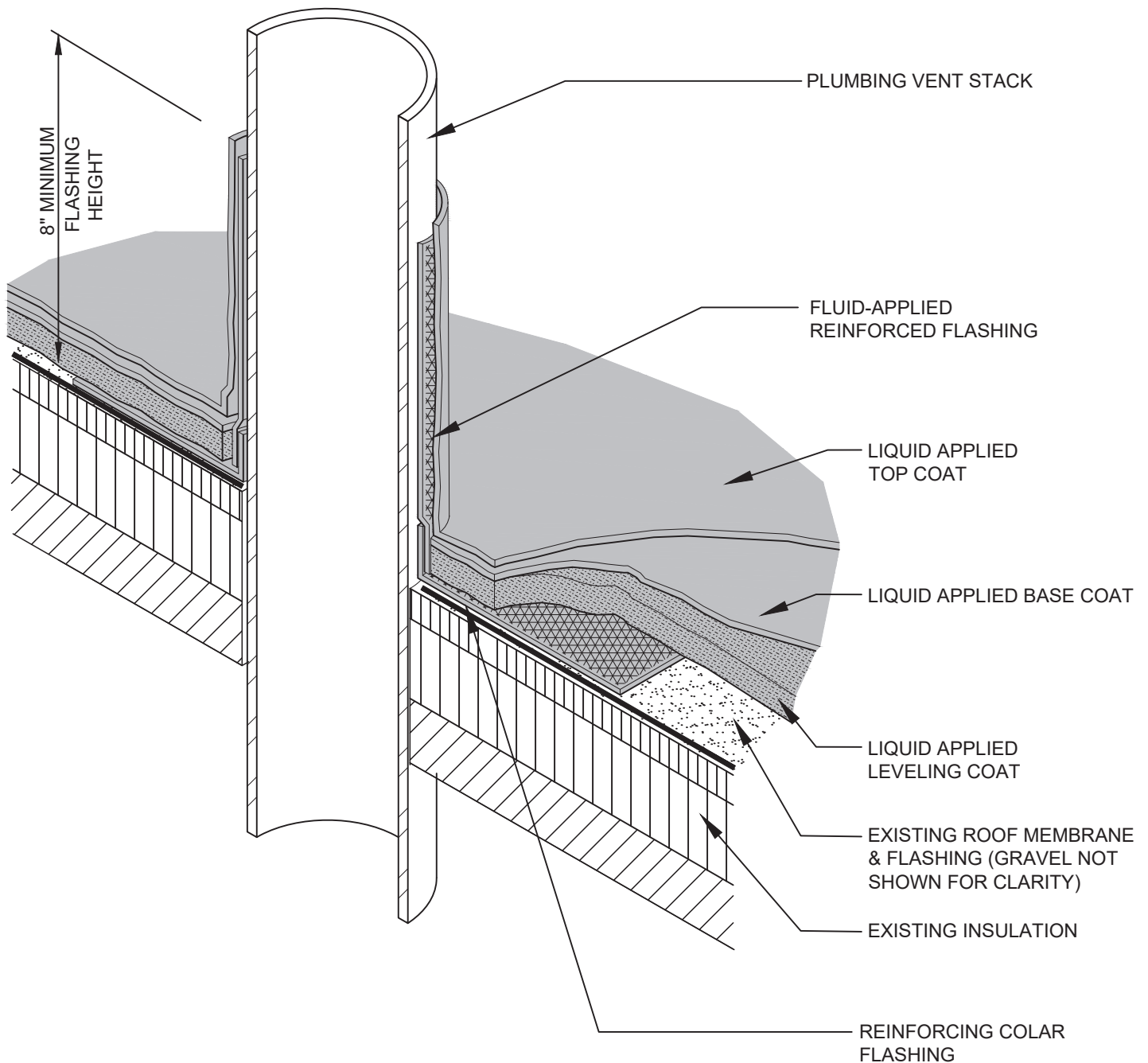
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3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

SHEET-METAL STACK VENT [HOT OR COLD]
GRAVEL BUR RESTORATION

LA-GR-18

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE



NOTES

1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

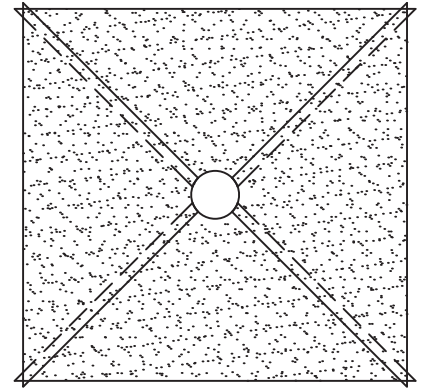
PLUMBING VENT OR PIPE PENETRATION GRAVEL BUR RESTORATION

LA-GR-19

N.T.S.

TREMCO
ROOFING & BUILDING MAINTENANCE

DRAIN STRAINER



CUT REINFORCEMENT INTO TRIANGLES AND OVERLAP INTO BOWL.

CLAMPING RING

TRIM EXISTING FLASHINGS TO WHERE BOWL TURNS DOWN. ENSURE NEW FLASHINGS FULLY ENCAPSULATES OLD FLASHINGS.

DECK CLAMP

EXTEND LIQUID APPLIED SYSTEM INTO DRAIN

CAST-IRON DRAIN BOWL

CLEAN TO BRIGHT METAL AND PRIME

LIQUID APPLIED REINFORCED FLASHING (SPUD GRAVEL PRIOR TO INSTALLING NEW REINFORCED FLASHING)

EXISTING INSULATION SUMP

EXISTING ROOF MEMBRANE (GRAVEL NOT SHOWN FOR CLARITY)

LIQUID APPLIED TOP COAT

LIQUID APPLIED BASE COAT

LIQUID APPLIED LEVELING COAT

NOTES

1. PRIMING OF THE SUBSTRATE MAY BE REQUIRED, FOLLOW SPECIFICATIONS AND MANUFACTURER RECOMMENDATIONS.
2. REINFORCEMENT MUST BE FULLY SATURATED OR ENCAPSULATED IN BASE COAT AS DESCRIBED IN SPECIFICATIONS.
3. REMOVE EXISTING FLASHINGS PRIOR TO INSTALLATION OF NEW FLUID APPLIED SYSTEMS.
4. THE EXISTING LOOSE GRAVEL MUST BE REMOVED AND THE ROOF MUST BE REPAIRED PER MANUFACTURER REQUIREMENTS PRIOR TO APPLICATION OF THE LEVELING COAT.

ROOF DRAIN GRAVEL BUR RESTORATION

LA-GR-24

N.T.S.



Council Meeting

7.

Meeting Date: 10/26/2021

Department: General Services

Pillars: Excellence in Asset Management

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information system

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and CTJ Maintenance for Custodial Services and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$199,773.84.

BACKGROUND:

The Town contracts with outside vendors for custodial cleaning service for all Town owned and leased facilities. Currently, the Town is served by two (2) custodial service contractors, American Facilities Service and Regent Services. The contract for each vendor is expiring, and staff is recommending a single company to perform all custodial services for the Town.

Staff developed a Request For Proposal (RFP) and sought proposals from janitorial services vendors. Twelve (12) vendors submitted proposals. A committee was formed consisting of staff from General Services and Purchasing to evaluate the proposals. Annual cost proposals from vendors ranged from \$199,773.84 to \$452,736.

Vendor	Price / Month	Base Price / Year
CTJ Maintenance	\$16,647.82	\$199,773.84
Unicare Building Maintenance	\$17,376.72	\$208,520.64
UBM	\$17,376.72	\$210,624.12
Global Building Maintenance	\$18,306.00	\$219,672.00
American Facility Service	\$19,425.05	\$233,100.60
Texas Elite Facility	\$20,760.00	\$249,120.00
Regent Services	\$21,475.00	\$257,700.00

Andrews Building Services	\$26,019.79	\$312,237.48
Entrust	\$28,193.34	\$354,447.84
JDM Janitorial Inc	\$29,537.32	\$354,447.84
AHI Facility Services	\$30,155.62	\$361,867.44
Generation H Cleaning Services	\$37,728.00	\$452,736.00

The Committee determined that CTJ Maintenance proposed the best value. The contract calls for the vendor to supply all labor, equipment, paper products, and cleaning supplies. The cost for services is \$199,773.84. This represents a lower cost from the current annual cost of \$268,690.00

This contract will be for one year with the option to renew for four (4) additional years if the Town desires. All CTJ Maintenance employees that will be working in the Town's facilities will be processed through the Town's background check procedures. Staff has received favorable references.

RECOMMENDATION:

Administration recommends approval.

Attachments

- Resolution - CTJ Maintenance
 - RFP Response - CTJ Maintenance
-

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH CTJ MAINTENANCE, INC. FOR JANITORIAL SERVICES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with CTJ Maintenance, Inc. to provide janitorial services to various buildings within the Town for FY21-22.

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

SECTION 1. The City Council hereby approves the agreement between the Town of Addison (“Town”) and CTJ Maintenance, Inc. for janitorial services for various buildings within the Town in an amount not-to-exceed of \$199,773.84, a copy of which is attached to this Resolution as **Exhibit A**. 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 **26th** day of **OCTOBER 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A
**Agreement with CTJ Maintenance, Inc. for
Janitorial Services (FY21-22)**

(Attached)

CONTRACTOR AGREEMENT
Janitorial Services (RFP #21-132)

This **CONTRACTOR AGREEMENT** ("Agreement") is made as of the Effective Date by and between **CTJ Maintenance, Inc.**, hereinafter called "CONTRACTOR", and the **Town of Addison, Texas**, hereinafter called "CITY".

RECITALS

WHEREAS, CITY desires CONTRACTOR to perform certain work and services set forth in Section 1 (the "Scope of Services"), and

WHEREAS, CONTRACTOR has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in the Contract Documents, and enumerated under Section 1, of this Agreement;

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, CITY and CONTRACTOR agree as follows:

Section 1. Scope of Services

Upon issuance of a purchase order or other form of written notice to proceed by CITY, CONTRACTOR agrees to provide to CITY the necessary services, labor, materials, equipment and supplies related to the Janitorial Services for Various Town Buildings project (RFP #21-132) (the "Project"), such services, schedules, and pricing being more fully described in the Contract Documents.

Section 2. Term of Agreement

The term of this Agreement shall begin on November 1, 2021 (the "Effective Date") and shall expire on October 31, 2022 ("Initial Term"), unless extended or renewed in the manner provided herein. The parties may, in CITY's sole discretion, extend the term of this Agreement for up to four additional one (1) year renewal terms (each a "Renewal Term") ending on October 31st of each year thereafter. Further, CITY may, in its sole discretion, extend the term hereof as necessary to allow CONTRACTOR to complete work on any uncompleted work authorized by CITY prior to the expiration of this Agreement. Notwithstanding the foregoing, this Agreement may be sooner terminated as provided in Section 9, below.

Section 3. Contract Documents

A. This Agreement is a part of the Contract Documents, which include:

- 1) This Agreement, including all exhibits and addenda hereto;
- 2) CITY'S Request for Proposal No. 21-132 (herein the "Bid Packet");
- 3) CITY'S written notice(s) to proceed to the CONTRACTOR;
- 4) Properly authorized change orders;
- 5) CONTRACTOR'S Bid Proposal ("Proposal" and/or "Response"); and
- 6) Any other materials distributed by the CITY that relate to the Project.

In the event there exists a conflict between any term, provision and/or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this Section. If discrepancies are found that may impact construction of the Project, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or

inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the Project.

Section 4. Contractor Obligations

A. CONTRACTOR shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should CITY require additional services not included under this Agreement, CONTRACTOR shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by CITY; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for CONTRACTOR to perform the services under this Agreement, CONTRACTOR shall be authorized to engage the services of any agents, assistants, persons, or corporations that CONTRACTOR may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of CITY. The cost of such personnel and assistance shall be a reimbursable expense to CONTRACTOR only if authorized in writing in advance by CITY.

C. Unless otherwise agreed, CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the Scope of Services. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

D. CONTRACTOR shall comply with all laws, ordinances, rules and regulations governing CONTRACTOR's performance of this Agreement.

E. All minor details of the work not specifically mentioned in the Scope of Services but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are set forth in this Agreement. CONTRACTOR will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this Agreement shall be understood to mean and include all work that may be required by CITY to be done by CONTRACTOR to accomplish any alteration or addition to the work in conformance with the Contract Documents. It is agreed that CONTRACTOR shall perform all extra work under the direction of the City's Representative when presented with a written work order signed by the City's Representative, subject, however, to the right of CONTRACTOR to require written confirmation of such extra work order by CITY. Payment for extra work shall be as agreed in the work order.

F. CONTRACTOR agrees to indemnify, defend, and save CITY harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies incurred in the furtherance of the performance of this Agreement. When CITY requests, CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

Section 5. Payment

A. CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in conformance with the current prices and fee schedules set forth in the Contract Documents, provided, that the total amount paid to CONTRACTOR during the Initial Term, and any individual Renewal Term, shall not to exceed ONE HUNDRED AND NINTEY NINE THOUSAND,

SEVEN HUNDRED AND SEVENTY THREE DOLLARS AND 84/100 CENTS (\$199,773.84) (“Contract Price”), subject to additions or deletions for changes or extras agreed upon in writing. Unless otherwise provided herein, payment to CONTRACTOR shall be monthly based on the CONTRACTOR’S monthly progress report and detailed monthly itemized statement for services that shows the names of the CONTRACTOR’S employees, agents, contractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form reasonably acceptable to CITY. CITY shall pay such monthly statements within thirty (30) days after receipt and CITY verification of the services.

B. CITY may deduct from any amounts due or to become due to CONTRACTOR any sum or sums owing by CONTRACTOR to CITY. In the event of any breach by CONTRACTOR of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY’S premises, arising out of CONTRACTOR’S performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONTRACTOR an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by CONTRACTOR.

C. CITY may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating possible filing of claims;
- (3) Failure of CONTRACTOR to make payments promptly to subcontractors or for material or labor which CITY may pay as an agent for the CONTRACTOR; or
- (4) Damages to another contractor or subcontractor.

When the above grounds are removed, or CONTRACTOR provides a surety bond satisfactory to CITY which will protect CITY in the amount withheld because of said grounds, CITY will release the amounts withheld.

Section 6. Responsibilities

A. CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of all services and materials furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the services to conform with the Contract Documents.

B. Neither CITY’S review, approval or acceptance of, nor payment for any of the services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR’S negligent performance of any of the services furnished under this Agreement.

Section 7. Time for Performance

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with CITY’S requirements.

B. In the event CONTRACTOR’S performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONTRACTOR may request an extension of time for the performance of same

as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to CONTRACTOR, unless CONTRACTOR shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONTRACTOR have agreed in writing upon the allowance of additional time to be made.

D. CONTRACTOR understands and agrees that time is of the essence of this contract, and that for each day of delay beyond the number of calendar days allowed by CITY for the completion of the services and work requested (after due allowance for such extension of time as may otherwise be provided for extension of time herein), the CITY may withhold permanently from the Contract Price an amount equal to \$250 per day.

Section 8. Ownership of Project; Bill of Sale

A. CONTRACTOR warrants that title to all work, including all equipment and materials incorporated into the Project, will pass to CITY no later than the time of final payment for that particular work. CONTRACTOR further warrants that upon payment by CITY, all work for which payments have been received from CITY shall be free and clear of liens, claims, security interests or other encumbrances in favor of CONTRACTOR or any other person or entity whatsoever.

B. CONTRACTOR agrees to assign to CITY at the time of completion of the Scope of Services all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees to perform the Project in such manner to preserve all manufacturer's warranties. If necessary as a matter of law, CONTRACTOR may retain the right to enforce directly any such manufacturers' warranties during the one year period following CONTRACTOR's completion of installation of the equipment, materials, and/or performance of the labor, as applicable.

Section 9. Termination

A. CITY may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to CONTRACTOR. In the event suspension or termination is without cause, payment to CONTRACTOR, in accordance with the terms of this Agreement, will be made based on services reasonably determined by CITY to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. If CITY requires a modification of this Agreement with CONTRACTOR, and in the event CITY and CONTRACTOR fail to agree upon a modification to this Agreement, CITY shall have the option of terminating this Agreement and CONTRACTOR's services hereunder at no additional cost other than the payment to CONTRACTOR, in accordance with the terms of this Agreement, for the services reasonably determined by CITY to be properly performed by CONTRACTOR prior to such termination date.

Section 10. Insurance

A. CONTRACTOR shall during the term hereof maintain in full force and effect the following insurance: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONTRACTOR's performance of services pursuant to this Agreement with a minimum combined single limit of not less than 1,000,000.00 per occurrence (\$2,000,000.00 aggregate) for injury to persons (including death), and for property damage; (ii) policy of automobile liability insurance covering any vehicles owned and/or operated by CONTRACTOR, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less

than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of CONTRACTOR's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00.

B. All insurance and certificate(s) of insurance shall comply with the requirements set forth in Contract Documents, and shall contain the following provisions: (1) name CITY, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against CITY for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to CITY of any material change of or to the insurance required herein.

C. A certificate of insurance evidencing the required insurance and all endorsements shall be submitted prior to commencement of services.

Section 11. Indemnification.

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF CONTRACTOR PURSUANT TO THIS AGREEMENT. IN ADDITION TO THE INDEMNITY PROVISIONS OF THE CONTRACT DOCUMENTS, CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY CONTRACTOR'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF CITY, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY CITY ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AND/OR ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 12. Assignment

CONTRACTOR shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of CITY.

Section 13. Applicable Laws

CONTRACTOR shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the state of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

Section 14. Default of CONTRACTOR

In the event CONTRACTOR fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONTRACTOR, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONTRACTOR except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONTRACTOR to and from meetings called by CITY at which CONTRACTOR is required to attend, but shall not include any loss of profit of CONTRACTOR. In the event, of such termination, CITY may proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by subletting the work to another contractor.

B. CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of CONTRACTOR.

Section 15. Adjustments in Services

No claims for extra services, additional services or changes in the services will be made by CONTRACTOR without a prior written consent from CITY prior to the performance of such services.

Section 16. Execution Becomes Effective

This Agreement will be effective upon signing of the Agreement by authorized representatives of CONTRACTOR and CITY.

Section 17. Agreement Amendments

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

Section 18. Severability

In the event 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 provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 19. Independent Contractor.

In satisfying the conditions of and providing the services under this Agreement, CONTRACTOR is acting independently, and CITY assumes no responsibility or liabilities to any third party in connection with CONTRACTOR's actions. All services to be performed by CONTRACTOR pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of CITY. CONTRACTOR shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this Agreement.

Section 20. Right-Of-Access.

CITY will obtain and/or furnish right-of-access on any project site for CONTRACTOR to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services. CONTRACTOR will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.

Section 21. Notice.

Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to CITY: Wesley S. Pierson, City Manager
City of Town of Addison
5300 Belt Line Road
Town of Addison, Texas 75254

With copy to: Whitt Wyatt, City Attorney
Wood Banowsky, PLLC
3710 Rawlins St., Ste. 1000
Dallas, Texas 75219

If to CONTRACTOR: Lorena Noguera-Rivello, President
CTJ Maintenance, Inc.
6565 N. Macarthur Blvd., Suite 225
Irving, Texas 75039

Section 22. Recitals; Exhibits.

All recitals and exhibits attached hereto are incorporated and made a part hereof for all purposes.

Section 23. Survival of Obligations.

Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 24. Counterparts

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

Section 25. Sales and Use Taxes

CONTRACTOR understands and acknowledges that CITY is a governmental entity and exempt from the payment of sales and use taxes for certain materials and equipment conveyed to City as part of this Project or otherwise incorporated into the Project. CITY agrees to provide CONTRACTOR such documentation as may otherwise be required by state law to allow CONTRACTOR to avoid payment of sales and uses taxes for materials and equipment with respect to the Project to the extent allowed by law.

Section 26. Audits and Records.

CONTRACTOR agrees that during the term hereof the CITY and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of CONTRACTOR's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the CITY or date of termination if sooner.

Section 27. Conflicts of Interests.

CONTRACTOR represents that no official or employee of the CITY has any direct or indirect pecuniary interest in this Agreement.

Section 28. Hazardous Materials.

CONTRACTOR shall report the presence and location of any hazardous materials it notices or which an engineer of similar skill and experience should have noticed to the CITY.

Section 29. No Boycott Israel and/or No Industry Discrimination.

Pursuant to Texas Government Code Chapter 2270, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not current discriminate against firearm and ammunition industries and will not for the term of the contract. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date of last execution hereof.

FOR CITY:

Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

FOR CONTRACTOR:

CTJ Maintenance, Inc.

By: _____

Lorena Noguera-Rivello, President

Date: 10/14/2021

ATTEST:

By: _____
Irma Parker, City Secretary



Request for Proposal No. 21-132
Janitorial Services for
Various Town Buildings

PROPOSAL BY:



CTJ MAINTENANCE, INC

6565 N. MACARTHUR BLVD. #225, IRVING, TX 75039

PH:214-624-5233 FX:214-624-5101

EMAIL: lorena.noguera@ctjmaintenance.com

LORENA NOGUERA-RIVELLO

TABLE OF CONTENTS

COVER LETTER	3
GENERAL BACKGROUND	4
HUMAN RESOURCES	6
TRANSITION AND COMMUNICATION PLAN	8
TRAINING PROGRAM	10
QUALITY CONTROL AND FORMS	13
REFERENCES	21
FEE STRUCTURE & CONTRACT TERMS	22
REQUIRED DOCUMENTS	27

August 10, 2021

TOWN OF ADDISON
5350 Belt Line Road
Dallas, Texas 75254

RE: RFP #21-132 Janitorial Services for Various Town Locations

CTJ Maintenance appreciates the opportunity to submit a proposal for RFP #21-132 for Janitorial Services. We attended the pre-proposal meeting and have fully reviewed and understand the specifications.

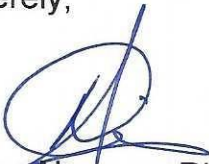
CTJ Maintenance was incorporated on March 15, 1996 and is a locally owned and operated full service janitorial and facilities maintenance organization. Our areas of expertise include Janitorial and Custodial Services, Flooring Cleaning and Maintenance, Window Washing, Pressure Washing, Disinfection Services, and Maintenance Technician support.

Our portfolio of highly satisfied clients includes Denton County, Tarrant County, the City of Carrollton, NCTCOG, and DART to name a few. While we have several new customers, our broader customer base includes contracts and tenure that span 12 or more continuous years of service demonstrating our focus on quality, reliability and stability.

Our company differentiates itself from the competition by using innovative tools and methods to improve safety, quality and efficiency. This is driven by 1) An all-local leadership team which is visible in the field with our customers partnering for mutual success, and 2) Our greatest asset – a stable workforce with a high level of overall satisfaction as evidenced through a low turnover rate and a growing list of referrals.

Again, we appreciate the opportunity to submit this proposal and we look forward to partnering with your team!

Sincerely,



Lorena Noguera-Rivello, President

TAB 1 – GENERAL BACKGROUND

GENERAL BACKGROUND

CTJ Maintenance, Inc. is a Texas Corporation based in the DFW Metroplex and was incorporated in March, 1996. In our more than 25 years of experience we have served the City of Dallas, Dallas County, the City of Fort Worth, Tarrant County, the City of Irving, and City of Carrollton, Denton County and many others. Our current customers include the North Central Texas Council of Governments (NCTCOG) with locations outside the Metroplex including Terrell and Greenville. We currently clean and maintain over 3.5 Million Square Feet of government space daily in the greater DFW Metroplex and Waco, TX areas alone. Our highly trained staff and leadership have repeatedly demonstrated our ability to serve local and county governmental facilities of all types:

- Courthouses
- Precinct Centers/Town Halls
- Municipal Service Areas
- WIC/Health Departments/Medical Examiners
- Senior Centers
- Parks/Outdoor Recreation Areas
- Recreation Facilities
- Law Enforcement/Public Safety Buildings
- Probation Centers
- Libraries
- Universities/Schools

We are a locally headquartered Texas Corporation who prides itself on having 100% of our leadership living in the municipalities we serve. Our organization is broad enough to ensure coverage is never missed yet intimate enough that our leadership is always in the field working hand-in-hand with our customers. We genuinely appreciate the opportunity to submit this proposal!

GENERAL BACKGROUND, CNTD

CTJ is a certified Minority Owned Business and family owned janitorial and disinfection services business with over 25 years' experience. Our corporate officers are Lorena Noguera-Rivello, President and Matthew Rivello, Vice President with each over 25 years' experience.

- Incorporated in March of 1996
- Corporate office located in Irving, Texas
- Over 112 associates on current staff
- Currently servicing 17 active customers and over 3.5 million square feet of commercial and government space
- Certified as both MBE and HUB

Highlights:

- ❖ 7 day/24 hour servicing of facilities ranging from single buildings to campuses to multiple locations (medium to large facilities) – generally high-traffic – both for private and public customers
- ❖ Seasoned Management Staff with over 200 years combined experience in the janitorial and facility maintenance industry
- ❖ Experience servicing high-security and high traffic buildings including universities, sports/athletic arenas, criminal processing centers, police stations, courthouses, military installations, etc.

Expertise includes:

- ✓ Disinfection, Sanitation, and Deep Cleaning (COVID and others)
- ✓ Servicing Hard Surface floors and Carpet Cleaning
- ✓ Operation and use of state-of-the-art equipment
- ✓ Servicing LEED Certified Facilities
- ✓ Use of Eco-Friendly – Green Seal certified – cleaning products and materials



GENERAL BACKGROUND - QUALIFICATIONS

CTJ has more than 25 years of continuous business operational performance specializing in janitorial and maintenance services.

CTJ has serviced a variety of clients and facilities over our 25-year history who all were highly satisfied with our workmanship including:



TAB 2 – HUMAN RESOURCES

HUMAN RESOURCES

RECRUITMENT AND STAFFING

Our HR team has a proven track record of completing successful transitions and start-ups for both large and smaller scale operations, and in difficult labor markets.

By utilizing non-traditional recruiting techniques, we will be able to achieve our start-up hiring target which is 20% above the required staffing level, while positioning ourselves to successfully maintain candidates in the recruiting pipeline. These include (but are not limited to):

- Human Resource staffing company
- Job Fairs
- Previously completed projects
- Employee Recommendations
- Texas WorkForce Solutions
- InDeed.com

SCREENING

For all new hires we require a current form of identification including Driver's License, Social Security Cards, I-9 forms, Permanent Resident Cards, etc.

- We conduct Reference checks, Drug testing, and Universal background checks to ensure a fully compliant employee staff for all current contracts.
- Additionally, CJIS background checks are provided for all employees working in police, homeland security, county courthouses, and other highly sensitive buildings.

RETENTION

Our 4 keys to employee retention procedures:

1. Employee Selection – Hire the best candidates through our comprehensive interview and background check process
2. Competitive Pay – Exceed industry standard/average
3. Incentives – Holiday pay, gift cards, employee recognition
4. Open Door Policy – Transparency and easy access for all employees to leadership

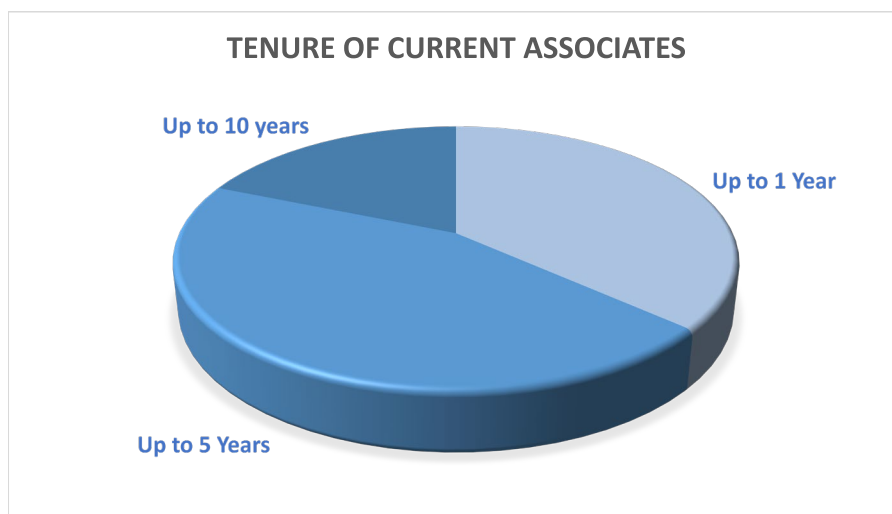
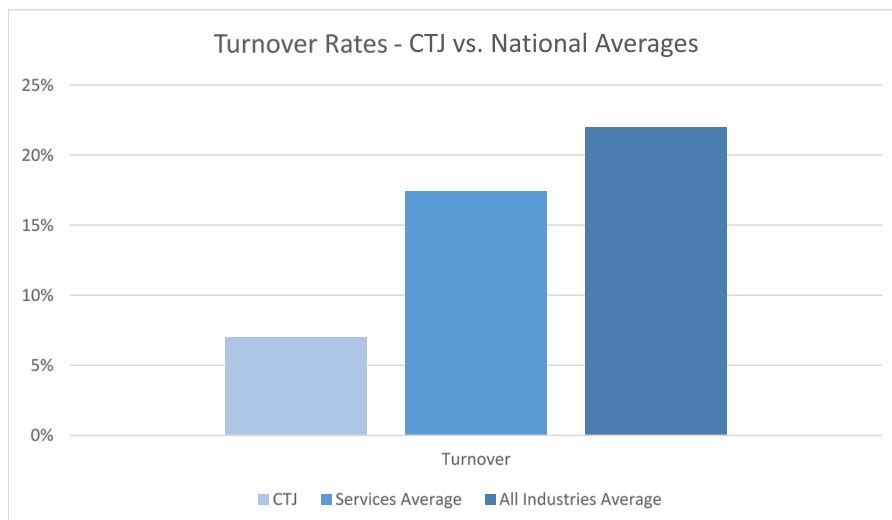
Additionally, we provide holiday pay, jury duty, bereavement and workers compensation.

HUMAN RESOURCES, CNTD

EMPLOYMENT STATISTICS

At CTJ our associates are our greatest asset vigilantly maintaining a high level of quality in all that they do and high focus on customer satisfaction.

- Over 112 associates currently on staff
- Management staff with over 200 years of experience in the industry
- Average tenure of associates is 3 years of service – with years of service ranging from 1 to 14 years
- Annual Turnover Rate is 7% – Better than Industry (17.4%) and National Averages (22%)



TAB 3 – TRANSITION AND COMMUNICATION PLAN

COMMUNICATION AND TRANSITION

DAILY COMMUNICATION

Communication is key and CTJ will ensure contact numbers (cell phone) are provided for our project manager. We will ensure we are in constant contact, solving problems, flexing labor, etc.

You will have full access to leadership through text, email and/or cell phone throughout the life of the contract.

COMMUNICATION PLAN

Communication Form/Forum	Recipients	Responsibilities	Format	Frequency
Daily Task Checklists	Project Manager	Cleaners	Hard Copy	Daily
Corrective Actions	POC Addison	Project Manager	Verbal & Written	Within 48 hours
Daily Quality Inspections	Project Manager	Project Manager	Hard Copy & Email	Daily
Quality Inspections	POC Addison	Project Manager	Hard Copy & Email	Weekly
Monthly Connect Meeting	POC Addison	Project Manager	Face-to-Face or By Phone	Monthly or As Needed

TRANSITION STRATEGY

- CTJ looks to retain existing employees with stellar performance – We often simply “re-badge” existing employees that have valuable experience.
- We will conduct an onsite application process for employees interested in continuing to work for the Town if possible.
- As a retention tool, we look to provide flexible work schedules within the guidelines of the RFP to retain employees.
- We service other facilities, including the City of Carrollton, in the immediate area and can leverage that staff for additional support.
- We retain a list of back-up workers to cover shifts for employees on vacation, sick, terminations, etc.

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



COMMUNICATION AND TRANSITION, CNTD

EXAMPLE TRANSITION PLAN

ACTION ITEM	PLAN DESCRIPTION	DUE DATE	OWNER
SERVICE DELIVERY TEAM BEGINS THE FOLLOWING PROCESS:	<ul style="list-style-type: none"> • Background Checks • Badges/Uniform • Orientation Training • Safety Training • Quality Assurance Training • Tour of Building 	30 days out	Jose Julia Ana
QUALITY ASSURANCE TEAM DEVELOPS THE FOLLOWING PROCESS:	<ul style="list-style-type: none"> • Performance Work Schedules • Task Schedules • Inspection Requirements • Equipment/Supply list • Timesheets/Work Schedules • Communication Plan • Contingency Plan 	25 days out	Ana
PROJECT MANAGER DEVELOPS THE FOLLOWING PROCESS:	<ul style="list-style-type: none"> • Job Specifications • Designated start times and completion goals • Training on performing each task as outlined in 'Scope of Work' • Individual 'space assignments' 	25 days out	Jose
SUPERVISORS DEVELOPS THE FOLLOWING PROCESS:	<ul style="list-style-type: none"> • Quality Control Inspections for each building to ensure each facility is in compliance prior to contract start date. • Equipment list to ensure all buildings have all equipment/supplies in janitors' closets to begin on contract start date. • Key control process to ensure all key/badge access on contract start date. • Request for Service process to ensure all building facility managers can request non-daily tasks. • Immediate Response/Corrective Action process to ensure rapid response for areas needing corrective action. • Ensures Janitorial closets in all buildings have equipment and supplies are adequately stocked and available for contract start date. • Documentation ensuring all employees trained on quality control and safety. 	20 days out	Ana
QUALITY ASSURANCE TEAM DEVELOPS THE FOLLOWING PROCESS:	<ul style="list-style-type: none"> • Quality Assurance Process Review • Immediate Corrective Action Review • Non-Scheduled task Request • Floor Maintenance Schedule • Inspection Form Review 	10 days out	Ana
SERVICE DELIVERY TEAM ENSURES ALL EMPLOYEES HAVE RECEIVED THE FOLLOWING:	<ul style="list-style-type: none"> • Set up security plan (alarm codes, exit plan, etc) • Set up plan for handling theft, vandalism or pilferage • Set up key control plan and inventory process 	5 days out	Jose Ana Julia
ALL TEAMS ENSURE ALL PREPARATION COMPLETED FOR THE FOLLOWING:	<ul style="list-style-type: none"> • Contract Begins 		

TAB 4 – TRAINING PROGRAM

TRAINING

TRAINING PROGRAM

CTJ employs managers and cleaning staff that are experienced, competent and fully qualified to perform their assigned duties/tasks. Below is the outline of our standard training we will conduct for all New Hires/Transfers and the Recurring training provided to employees assigned:

On-Boarding Process (New Hire)

- Company rules, regulations and safety policies, OSHA regulations (including blood borne cleanup)
- Company dress code requirements
- OSHA, EEOC, Wages/Hour rules, guidelines and laws
- Pay, timekeeping, payroll records and related HR items
- Discipline and employee rights

On-the-Job Training: (New Hire and Transfers)

CTJ employs a qualified Project Manager that conducts a training program for all employees assigned to the new project. The items covered include, but are not limited to the following:

- General Safety topics including proper lifting
- Hands on demonstration of proper and approved cleaning techniques
- Restroom disinfectant cleaning
- Vacuuming / Spray Buffing / Carpet spot cleaning and other floor maintenance techniques
- MSDS reviews and proper use of cleaning chemicals and supplies
- Task and Space Assignments. "Space Assignment": Each employee is assigned an area of responsibility, tasks required to satisfactory clean the area and timeframes for completion
- Proper use and maintenance of equipment
- Fire and Prevention
- Green Cleaning policy
- Dress Code (including ID badge, uniform, proper foot wear, proper ID, etc.)
- Proper use of cell phones and other electronic devices/accessories
- Smoking restrictions
- Any location specific training: Safety, Access, and Security

On-Going Training (Recurring):

- Semi-Annual Equipment Maintenance Review
- Annual Safety training and Health & Environmental Protection
- Project manager receives annual training on the OSHA standard 29 CFR 1910.1200 (Occupational Exposure to Bloodborne Pathogens) and the Texas Hazard Communication Act (Texas Health and Safety Code, Chapter 502)

TRAINING, CNTD

SAFETY PROGRAM AND TRAINING – New Hires and Recurring

CTJ Maintenance Safety Topics consist of (6) operational areas:

- Safety – General Reporting
- Safety – Orientation Training
- Safety – Floor Work
- Safety – Electrical Equipment
- Safety – High Work
- Safety – Biohazardous

Safety - General Reporting

Employees are instructed to report the following conditions to supervisors as part of the safety training:

- Report the use of unsafe or misused equipment
- Report the use of unsafe Chemicals / mislabeled Chemicals
- Report anyone under the influence of drugs, alcohol or any mind-altering chemical
- Report any area in the facility deemed unsafe
- Report all Injuries related to the workplace

Safety - Orientation Training

As part of the Orientation training, employees are trained on the following:

- Proper handling of equipment, ladders, floor machines, etc.
- Proper maintenance of Supplies/chemical storage in janitorial closets
- Proper wearing of gloves when using harsh chemicals
- Wearing protective gear when handling hazardous material
- No horseplay allowed in the facility
- No working if impaired by fatigue, illness or medication

Safety - Proper Floor Care

Employees used for floor care receive training on safety of customers, proper use of chemicals and equipment:

- Floor crew shall wear closed shoes and safe low heels that are reasonably slip-resistant, no sandals or open shoes
- Floor crew should take proper precautions when working on wet soapy floors to avoid slip-fall accidents
- Proper signage should be used in areas frequented by the public, signs shall be posted warning all people in the area of WET FLOORS
- All employees will know where the MSDS book is kept and reviewed when appropriate

TRAINING, CNTD

Safety - Electrical Equipment

When operating electrical equipment, employees are trained on these safety methods:

- Operate vacuums, floor machines and all equipment per manufacturer's instructions
- Inspect all equipment before and after use, report any unsafe conditions to supervisor, do not use any equipment until repaired
- Make sure all switches are in the OFF position before plugging in equipment or releasing the handles
- Unplug all equipment before making adjustment or repairs
- Equipment will be cleaned nightly before put away, stored in janitor's' closet neat and orderly

Safety - High Work

Employees used for high work area cleaning will receive proper training for handling ladders, scaffolding and step stools:

- No work over ten feet high without proper instruction from supervisor
- Scaffolding and ladders will be properly checked prior to use
- Ladders to be used on level surfaces and inspected for cracks, excessive play at joint, worn or loose screws, etc.
- Extension ladders should not be used without supervisor present

Safety – Biohazard Services Training

CTJ employees receive initial and annual training on the symptoms and transmission of bloodborne pathogen diseases. Our training program covers:

- A copy and explanation of the OSHA bloodborne pathogen standard including what constitutes an exposure incident
- An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available
- An explanation of the type, uses, location, removal, handling, decontamination and disposal of personal protective equipment
- Each location is supplied with a clean-up kit for bloodborne spills

In addition, CTJ employees receive annual training on the OSHA standard 29 CFR 1910.1200 (Occupational Exposure to Bloodborne Pathogens) and the Texas Hazard Communication Act (Texas Health and Safety Code, Chapter 502), they are responsible for:

- Maintaining, reviewing and updating the ECP annually, or when necessary to include new or modified tasks, or procedures
- Provide and maintain all necessary personal protective equipment, labels and red bags
- Maintaining all OSHA records
- Post exposure evaluation and follow-up

TAB 5 – QUALITY CONTROL AND FORMS

QUALITY CONTROL

Our quality assurance program structure is designed around the following areas to ensure our team adequately performs all work delivery services. Each quality control section listed below provides the full suite of quality delivery needed to maintain world-class performance. This program provides complete visibility, monitoring and control of all aspects of delivering quality service.

QUALITY CONTROL – TOOL

Allows our leadership team to monitor quality daily and to respond to issues in real time.

- Work Task Planning Tool (Task Checklist)
- Daily Task Inspection Tool
- Daily Corrective Action Tool

QUALITY CONTROL – REPORTING

Allows the CTJ management team to provide feedback to our clients. These reports provide visibility, transparency and accountability.

- Daily Corrective Action Reporting
- Daily Inspection Reporting
- Real-Time Management Feedback
- Weekly Leadership Update
- Monthly Project Management Reporting

QUALITY CONTROL – PROCESSING AND TRACKING

Allows CTJ to track issues and trends in overall team performance, individual associate performance, and overall supply needs.

- Deficiency Trending/Tracking
- Associate Performance Tracking (internal)
- Equipment and Supply Inventory Tracking (internal)

QUALITY CONTROL – ON-SITE MANAGEMENT

Supervisors are on-site daily to resolve issues, report any deficiencies and to manage cleaning crew activities.

Visibility is key to gain the utmost quality, service and productivity from our team. Our management team personally ensures that our cleaning crew will perform at the highest standards. Our key leadership mantra is:

✓ Hands-on and Visible at all times!

QUALITY CONTROL, CNTD

Quality Control Plan

CTJ Maintenance commits to providing excellent customer service. Our robust Quality Plan allows us to accurately measure customer satisfaction, respond rapidly to customer complaints and deliver on quality service.

For over 25 years, we have utilized the Tools, Methods and Measures listed below, to provide excellent service for our clients.

QUALITY PROGRAM TOOL	
Work Task Tool	<p>This tool is used to assign <u>detailed</u> tasks to an employee.</p> <p>The employee records date/time each task was completed.</p> <p>This allows the inspector to monitor if/when the employee completed the task and ensures all work is accomplished correctly and timely.</p>
Work Timeline Tool	<p>This tool is used to monitor the <u>location</u> of each employee.</p> <p>Daily the employee performs each task at a specific location/time.</p> <p>This allows the inspector to locate an employee at all times and inspect each task in real-time.</p>
Work Supplies/ Equipment Tool	<p>This tool is used to <u>inventory</u> equipment and supplies to ensure adequate cleaning and maintenance of equipment daily.</p>
Daily Inspection Tool	<p>This tool is used by the project managers to <u>inspect</u> the facility.</p> <p>The supervisor inspects each area of the facility and provides a pass/fail for the employee.</p> <p>Unsatisfactory inspections result in on-the-job training or employee corrective action.</p>
Daily Corrective Action Tool	<p>This tool is used for <u>corrective action</u> purposes to ensure immediate feedback in response to issues, changes in processes or one-time request for service.</p>

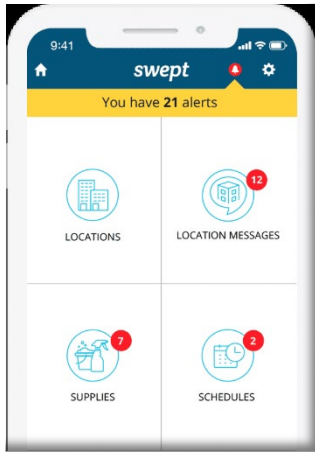
QUALITY CONTROL, CNTD

QUALITY PROGRAM METHODS	
Method for Staffing/Schedules	We provide minute-by-minute cleaning schedules to all employees for time management and quality assurance.
Method for Efficient Equipment	The use and maintenance of all equipment is part of the daily inspection for our management staff. We currently use Green Seal products that are environmentally friendly. The supervisors will also make sure that all equipment meets OSHA requirements and properly maintained.
Method for Daily Inspections	Our supervisors inspect buildings on a daily basis. They provide immediate feedback to workers to ensure each building meets the highest level of cleanliness.
Method for Real-Time Management Feedback	Our project manager will be responsible for overall problem resolution and will have the full authority to act on behalf of CTJ at any time. They will be available to the Facility Manager twenty-four hours a day, seven days a week, to respond to any issue that may arise.
QUALITY PROGRAM MEASURES	
Real-Time Measures	All immediate tasks are resolved within 30 minutes of reporting. These requests are reported directly to project managers and considered satisfactorily completed within the 30 minute time of inspection.
Daily Measures	Supervisors/Project Managers inspect facilities daily, all inspections are rated as excellent or unsatisfactory. All unsatisfactory inspections result in training or employee corrective action.
Weekly Measures	Project Managers are required to report all building deficiencies and re-training request to the contract manager on a weekly basis. All unsatisfactory reports are analyzed by project team for proactive review. The project team is tasked to provide proactive recommendations to prevent future deficiencies.
Monthly Measures	All daily, weekly measures are reported to the project manager for the Monthly Report Card. This monthly report provides the team with a score (1 to 5). Each team is rewarded or corrected based on this monthly report card.
Annual Measures	The annual measures are designed for hiring, training and floor support. The annual report documents the hiring, retention and rewarding of employees and the quality of our floor team.

Request for Proposal No. 21-132 Janitorial Services for Various Town Buildings

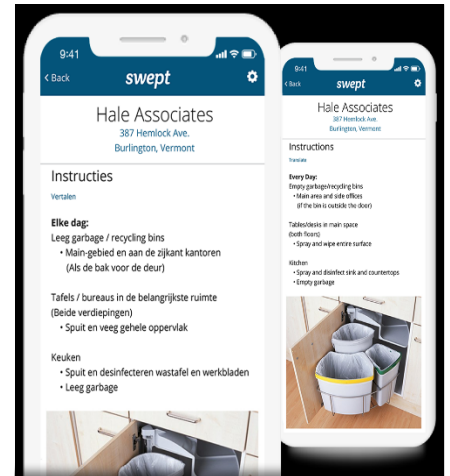


QUALITY CONTROL, CNTD – SWEPT APP



CTJ is proud to be rolling out the SWEPT App to all of our client accounts. SWEPT is a one-stop electronic solution for quality control through task management, supply management, inspections, and real-time problem solving.

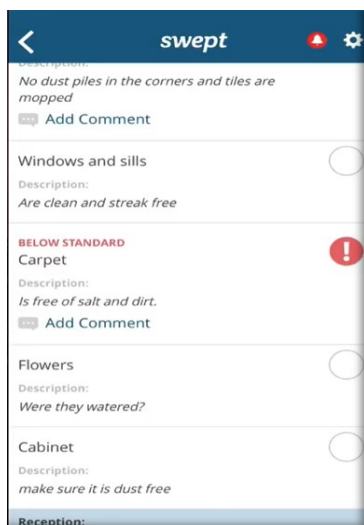
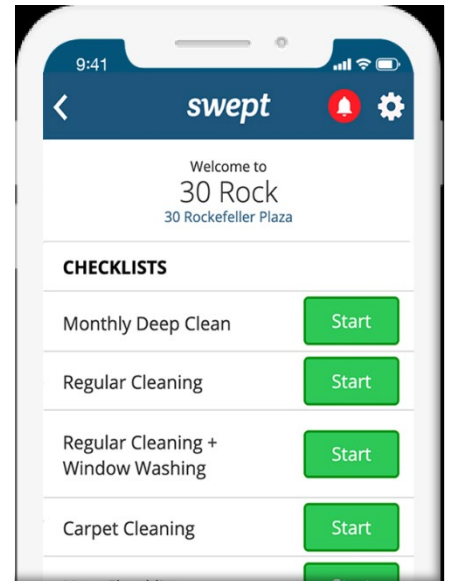
This cutting-edge tool is a perfect ensemble of support to our associates to complete their work effectively, as well as, an excellent tool to communicate status and progress to our clients.



Swept supplies our associates all the information they need to do their best work and in their native language. While allowing for easy time tracking, problem reporting, supply requests, and location alerts.

When cleaners need to read instructions in their native language, it's just a click away. With enhanced translations, SWEPT can handle all major languages of our staff. Instructions can be updated in real-time and instantly translated to prevent any miscommunication or misunderstanding.

With SWEPT we can easily generate multiple custom checklists for each of the areas of the campus, ensuring that everything on the periodic task list is getting done. The checklists can be easily adjusted and updated as the scope of work changes to clearly communicate expectations across the entire team. Tasks are tracked in real-time and the associates can easily communicate if problems exist and request help. Managers can easily create custom inspection plans, and produce cleaning inspection reports.



Inspection plans can include unlimited inspection points, that are easily organized to make sure every area is inspected thoroughly. When conducting on-site inspections, the manager is able to rate the quality of individual cleaning tasks. In addition to selecting a rating, they can easily record comments, and take photos to provide clear communication for their rating.

QUALITY CONTROL – SAMPLE FORMS

EXAMPLE WEEKLY TASK LIST							
Item	PERFORMANCE REQUIREMENTS	weekly standard	M	T	W	T	F
	Office Spaces:						
	Pick up trash, empty all waste and recycling receptacles, reline waste with plastic liners	5X	X	X	X	X	X
	Vacuum carpeted areas	2X		X		X	
	Spot clean minor carpet stains	As Needed					
	Common/Reception Areas:						
	Pick up trash, empty all waste and recycling receptacles, reline waste with plastic liners	5X	X	X	X	X	X
	Dust off horizontal surfaces (not requiring ladder)	1X			X		
	Dust wipe and polish chairs, desks, tables, counters, pictures, etc.	2X		X		X	
	Clean entry door glass	1X			X		
	Spot clean marks next to light switches, doors, door frames, and glass	2X		X		X	
	Sanitize drinking fountains	5X	X	X	X	X	X
	Police immediate exterior of entries for debris	3X	X		X		X
	Spot mop floor with disinfectant cleaners	5X	X	X	X	X	X
	Vacuum carpeted areas	2X	X		X		X
	Restroom Cleaning:						
	Pick up trash, empty all waste and recycling receptacles, reline waste with plastic liners	5X	X	X	X	X	X
	Clean and disinfect all toilet bowls, toilet seats and urinals	5X	X	X	X	X	X
	Clean and disinfect counters, wash basins and soap dispensers	5X	X	X	X	X	X
	Clean and polish mirrors and dispensers	5X	X	X	X	X	X
	Clean and polish chrome fixtures	5X	X	X	X	X	X
	Sweep, damp mop and disinfect all restroom floors	5X	X	X	X	X	X
	Remove gum, hair and other foreign substances from floor surfaces	5X	X	X	X	X	X
	Dust and wipe horizontal surfaces within reach including vent	5X	X		X		X

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



QUALITY CONTROL – SAMPLE FORMS, CNTD

Building Inspection

Location _____ Employee _____ Date _____

P = Poor – Performance is unacceptable
F = Fair, Below Standard - Performance is below the CTJ MAINTENANCE standards for Specifications at this location
G = Good, To Standard – Performance meets CTJ MAINTENANCE standards for Specifications at this location
E = Excellent – Performance exceeds and never falls short of CTJ MAINTENANCE standards for Specifications at this location

Entrance

P F G E

P	F	G	E	
				Door glass
				Door frame
				Sweeping
				Cobwebs
				Mats vacuumed
				Trash empty
				Ash trays empty, fresh sand or cat litter
				Trash, cigarette butts picked up off ground

Restrooms

P F G E

P	F	G	E	
				Countertops and back splash cleaned
				Sinks
				Mirrors
				Clean exterior of vanities
				Bright work
				Toilets
				Urinals
				Floors (vacuumed and mopped)
				Vent grills
				Base Boards
				Dusting
				Light fixtures and switches
				Towel bars
				Dispensers, wiped down and polished
				Walls spot cleaned
				Supplies filled
				Showers cleaned
				Push plates
				Kick plates

Restroom Detailing

P F G E

P	F	G	E	
				Sinks
				Faucet
				Toilets
				Urinals
				Shower
				Baseboards
				Floor

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



QUALITY CONTROL – SAMPLE FORMS, CNTD

TOTALS	1	2	3	4
Areas	Poor	Fair [Below Standard]	Good [To Standard]	Excellent
Entrance				
Restrooms				
Restroom Detailing				
Lobby				
Trash/recycling				
Elevators				
Stairwells				
Dusting				
Detail Dusting				
Break rooms/coffee centers				
Hard floors				
Vacuuming				
Detail Vacuuming				
Miscellaneous Detail Cleaning				
Closing check list				
Equipment/Janitor closet				
Vehicle Inspection				
Total # of Checks	<input type="text"/> X 1	<input type="text"/> X 2	<input type="text"/> X 3	<input type="text"/> X 4 = <input type="text"/>

1. Total of the 4 Columns =	<input type="text"/>
2. Divide Total by # of Areas Rated =	<input type="text"/>
3. OVERALL RATING =	<input type="text"/>
[#1 divided by #2]	

QUALITY CONTROL – MANUAL FORM
CNTD

- 1 = Poor [0 – 1.4]
- 2 = Fair, [Below Standards] [1.5 – 2.4]
- 3 = Good [To Standards] [2.5 – 3.4]
- 4 = Excellent [Exceeds Standards] [3.5 – 4]

EXAMPLES,

Comments:

Employee Signature: _____

Date: _____

Supervisor Signature: _____

Date: _____

TAB 6 – REFERENCES

REFERENCES

	<p>Tarrant County 100 WEATHERFORD RD, FT. WORTH, TX 76102 FRANK LOPEZ - FTLOPEZ@TARRANTCOUNTY.COM (817) 831-6412 SQ FT: 1,115,000 CONTRACT PERIOD: 4/1/08 TO PRESENT</p>
	<p>Denton County 740 S. MAYHILL ROAD AUSTIN WELLS – AUSTIN.WELLS@DENTONCOUNTY.COM (940) 349-2970 SQ FT: 675,000 CONTRACT PERIOD: 10/1/18 TO PRESENT</p>
	<p>Brazos River Authority 4600 COBBS DRIVE, WACO, TX 76714 DIRK BLAND – DIRK.BLAND@BRAZOS.ORG (254) 761-3199 CENTRAL OFFICES, TEMPLE/BELTON, DOSIER FARMS WWTPS CONTRACT PERIOD: 12/1/15 TO PRESENT</p>
	<p>North Central Texas Council of Governments 616 SIX FLAGS DRIVE, ARLINGTON, TX 76011 GREG EMERY – GEMERY@NCTCOG.ORG (817) 695-9105 SQ FT: 90,365 CONTRACT PERIOD: 10/1/2019 TO PRESENT</p>
	<p>City of Carrollton 1945 JACKSON RD., CARROLLTON, TX 75006 DWAYNE BIANCO - DWAYNE.BIANCO@CITYOFCARROLLTON.COM (972) 466-5785 SQ FT: 325,000 CONTRACT PERIOD: 5/1/13 TO PRESENT</p>
	<p>Dallas Area Rapid Transit 4209 MAIN STREET, DALLAS, TX 75226 PERRY COLE – PCOLE@DART.ORG (214) 828-6795 SQ FT: 212,639 CONTRACT PERIOD: 8/1/15 TO 8/31/2020</p>
	<p>City of Fort Worth 5001 JAMES AVE., STE 401, FORT WORTH, TX 76115 BRENDA MIDGETT – BRENDA.MIDGETT@FORTWORTHGOV.ORG (817) 392-7860 SQ FT: 966,000 CONTRACT PERIOD: 4/1/10 TO 10/31/15</p>

TAB 7 – FEE STRUCTURE AND CONTRACT TERMS

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



FEE STRUCTURE AND CONTRACT TERMS

Please indicate the monthly and annual fee for each facility.

LOCATION	Monthly Fee	Annual Fee
Athletic Club	\$7,324.30	\$87,891.60
Airport Building	\$475.00	\$5,700.00
Conference Centre	\$316.73	\$3,800.76
Police Station	\$2,692.20	\$32,306.40
TreeHouse	\$990.00	\$11,880.00
Central Fire Station	\$395.91	\$4,750.92
Finance Building	\$593.86	\$7,126.32
Addison Circle Park Pavilion	\$554.00	\$6,648.00
Police Substation	\$158.36	\$1,900.32
Service Center	\$1,583.63	\$19,003.56
Stone Cottage	\$158.36	\$1,900.32
Theatre Centre	\$712.63	\$8,551.56
Town Hall	\$692.84	\$8,314.08

Additional Cleaning and Services on an As Needed Basis

Location	As Needed Fee
Conference Centre	
Additional Clean	\$70.00
Carpet Cleaning	\$0.25/sq ft
Floor Strip and Wax	\$0.25/sq ft
Window Cleaning	\$250.00
Theatre Centre	
Additional Clean	\$55.00
Theatre Main Space Clean	\$125.00
Studio Theatre Clean	\$125.00
Stone Cottage	
Additional Clean	\$35.00
Pavilion	
As Needed Cleaning of Special Events Restroom	\$125.00

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



FEE STRUCTURE AND CONTRACT TERMS, CNTD

ADD ALTERNATES

LOCATION	EXTERIOR WINDOW CLEANING COST	DEEP CARPET/SHAMPOO AND CLEANING COSTS	STRIP AND WAX ALL HARD /TILE FLOORS
Athletic Club	\$2,000.00	\$0.25/sq ft	\$0.25/sq ft
Airport Building	\$1,250.00	\$0.25/sq ft	\$0.25/sq ft
Conference Centre	\$1,250.00	\$0.25/sq ft	\$0.25/sq ft
Police Station	\$1,550.00	\$0.25/sq ft	\$0.25/sq ft
TreeHouse	\$500.00	\$0.25/sq ft	\$0.25/sq ft
Central Fire Station	\$500.00	\$0.25/sq ft	\$0.25/sq ft
Finance Building	\$500.00	\$0.25/sq ft	\$0.25/sq ft
Addison Circle Park Pavilion	\$150.00	\$0.25/sq ft	\$0.25/sq ft
Police Substation	\$100.00	\$0.25/sq ft	\$0.25/sq ft
Service Center	\$1,250.00	\$0.25/sq ft	\$0.25/sq ft
Stone Cottage	\$100.00	\$0.25/sq ft	\$0.25/sq ft
Theatre Centre	\$1,500.00	\$0.25/sq ft	\$0.25/sq ft
Town Hall	\$550.00	\$0.25/sq ft	\$0.25/sq ft

If add/alts are awarded it will be the responsibility of the contractor to set specific dates and time for each location in advance.

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



FEE STRUCTURE AND CONTRACT TERMS, CNTD

Town of Addison

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 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 LAW SUITS:** 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.

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



FEE STRUCTURE AND CONTRACT TERMS, CNTD

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 7th 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. 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.

**Request for Proposal
No. 21-132 Janitorial Services for Various Town Buildings**



FEE STRUCTURE AND CONTRACT TERMS, CNTD

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.

TAB 8 – REQUIRED DOCUMENTS

- 13.4 Employees: The personnel employed by the Contractor shall be capable employees, qualified in janitorial type work. The Contractor shall be staffed with trained and experienced cleaning personnel.

A fully qualified force shall be on board at the beginning of the contract performance and shall be maintained throughout the period of this contract. All personnel shall receive close and continuing first-line supervision by the Contractor.

- 13.5 Uniforms & Badges: When on duty, all Contractor's employees shall have on their person identification showing the employee photo, name, and personal data. In addition, Contractor employees shall be neat in appearance.

Wearing of the identification while on duty and presenting a neat, clean appearance is **mandatory**.

14.0 SECURITY

- 14.1 The security of the building keys shall be maintained according to the policies of the Town. Liability for lost keys, re-keying cost, and other related expenses shall be the full responsibility of the Contractor. **THE CONTRACTOR SHALL NOT ALTER ANY LOCK OR REPRODUCE ANY KEY.**

- 14.2 The Contractor shall establish procedures to assure that the building is secured as required by the Town. Janitorial personnel shall be required to secure the premises upon completion of assigned job duties. All exterior doors shall be locked, all lights are to be turned off (except security lights and lights designated as security lights) and the security systems shall be activated prior to leaving the premises. Any malfunction shall be reported to the Addison Police dispatcher prior to leaving the building. Failure to comply with this provision may result in termination of the contract.

- 14.3 In the event that the security system alarm is set off by the janitorial personnel and police are dispatched, and if the Town determines that the janitorial staff is at fault, a fine will be levied against the Contractor in the amount of \$50.00 for each false alarm. A False Alarm notice and invoice will be sent to the Contractor. Such invoice(s) must be paid in full either by check from the Contractor or in the form of a credit memo issued to the Town of Addison against the Contractor's monthly invoice for that location.

- 14.4 **The Contractor's supervisor will be responsible and available at all times to respond within 30 minutes to a facility where his or her crews failed to secure the facility.** If Town staff has to respond, costs associated with their response out of pocket costs will be deducted from the monthly invoice

Name of Supervisor(s)	Phone Number	Email
V. Enriquez	469-880-6081	venriquez@ctjmaintenance.com
J. Vega	682-407-7498	ctjservices@ctjmaintenance.com

**REQUEST FOR PROPOSAL STATEMENT
AND SUBMISSION CHECKLIST**

PROPOSER: CTJ MAINTENANCE, INC.

Company Name

ADDRESS: 6565 N. MacArthur Blvd., #225

Number & Street

Irving, TX 75039

City, State, Zip Code

PROJECT: Contract for Custodial Services – RFP No. 21-132

All Proposers must provide the following information: (Those proposers failing to complete the Qualifications of Proposer Statement packet may be disqualified.)

Pursuant to Contract Documents and information for prospective proposers for above mentioned proposed project, the undersigned is submitting the information as required with the understanding that the purpose is for your confidential use only to assist in determining the qualifications of this organization to perform the type and magnitude of work included; and further, guarantee the trust and accuracy of all statements hereinafter made, and will accept your determination of qualifications without prejudice. The surety herein name, and any other bonding company, bank, subcontractor, supplier, or any other persons, firms or corporations with whom I/we have done business, or who have extended any credit to me/us are hereby authorized to furnish you with any information you may request concerning me/us, including, but not limited to information concerning performance on previous work and my/our credit standing with any of them; and I/we hereby release any and all such parties from any legal responsibility whatsoever on account of having furnished such information to you.

Signature _____


Contractor/Proposer

Date 08/10/2021

Print Name _____

Lorena Noguera-Rivello

Contractor/Proposer

Title _____

President

Items to be furnished (4 copies):

- A. Request for Proposal Statement
- B. Qualification of Proposer Statement
- C. Certification of Compliance with terms and conditions of RFP (signed)
- D. Customer/Reference List (Enclosed in sealed envelope marked "Confidential")
- E. Proposed Scope of Work

To be completed and furnished by appropriate Insurance Agent:

- A. Insurance Requirement Affidavit

COMPANY BACKGROUND AND REFERENCES

1. Number of years in business as a Custodial Contractor:

25 Years

2. Please provide information pertaining to staffing levels indicating the breakdown of supervisory versus service personnel. Also, indicate the anticipated number of hours for cleaning for each location, each time.

LOCATION	NUMBER OF SUPERVISORS	NUMBER OF SERVICE PERSONNEL	NUMBER OF MAN HOURS PER NIGHT
Athletic Club	1	2	4
Airport Building	1	2	1.5
Conference Centre	1	2	3.5
Police Station	1	3	4
TreeHouse	1	2	1.5
Central Fire Station	1	2	1
Finance Building	1	2	1.5
Addison Circle Park Pavilion	1	1	0.5
Police Substation	1	1	0.5
Service Center	1	2	3
Stone Cottage	1	1	0.5
Theatre Centre	1	2	2.5
Town Hall	1	2	1.5

3. Number of full-time employees at DFW location:

Administrative	<u>1</u>
Supervisory	<u>8</u>
Crew Leaders	<u>6</u>
Service Employees	<u>24</u>

4. Number of part-time employees at DFW location:

Administrative	<u>1</u>
Supervisory	<u>0</u>
Crew Leaders	<u>0</u>
Service Employees	<u>72</u>

5. How do you handle emergency requests for service? What is your normal response time and fee charged for such service?

Our assigned Project Manager (Supervisor) will be on call 24/7 and should be contacted for any critical needs. Our typical emergency response time is within 2 hours on weekdays and within 4 hours on weekends/holidays.

6. List of current customers, on form provided. At least five (5) customers with contracts of comparable type and magnitude will be contacted as references, a determining factor in the award of the contract. A Town representative may inspect the buildings of customers used as references, with the customer's approval. Are any of the references give, relative by blood or marriage? Yes _____ No If so, please list them below:

<u>Company</u>	<u>Contact</u>	<u>Phone</u>	<u>Sq. Ft.</u>	<u>Years</u>
N/A				

7. List any government contracts you have or have had:

<u>Organization</u>	<u>Contact</u>	<u>Phone</u>	<u>Sq. Ft.</u>	<u>Dates</u>
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Please see reference sheet provided with submission.

8. Have you or any present partners or officers failed to complete a contract? Yes _____ No If yes, give name of owner and/or surety and reason.

9. List of equipment owned by Contractor that is in serviceable condition and available for use under the contract. The Contractor is responsible for always keeping the equipment in safe and operable repair. Limited storage for contractor's equipment and supplies are available in facilities.

CTJ plans to store equipment needed for daily activities in the individual buildings. Periodic Floor Maintenance equipment (carpet extractors, large buffers, Auto Scrubbers, etc.) will be brought onsite when work is scheduled.

A brief list includes: Commercial Vacuums (Upright and Backpack), Mop Buckets w/Wringers, Anitmicrobial mops, Rotary Scrubbing machines, Buffers, Carpet Extractors, Rolling Working carts, Brute trash cans w/utility belts, Dustpans and brooms, Squeegees for floors and windows, Tack mops and Dry mops (36" and 42"), step ladders, and Signage (i.e. Closed for Cleaning, Wet floor, etc.)

10. The owner, manager, or supervisor must be reachable 24 hours a day, seven days a week, 365 days a year. Does this present a problem?

Yes _____ No

If this is not a problem, how will we reach one of the above people?

Cell phone Answering service _____ Home phone _____ Other _____

11. Is your office located in a building zoned for a business (as opposed to residential) and is there someone there during business hours to take phone calls, answer questions, and locate a manager or supervisory person?

Yes No _____

12. How long have you been at your present address?

Years 3 Months 8

Previous address:


Years 6 Months _____

CERTIFICATION OF COMPLIANCE WITH TERMS AND CONDITIONS OF REQUEST FOR PROPOSAL / EXCEPTIONS

I have read, understand, and agree to comply with the terms and conditions specified in this Request for Proposal.

Checking "YES" indicates acceptance of all terms and conditions, while checking "NO" denotes non-acceptance and vendor's exceptions should be detailed below. In order for any exceptions to be considered they MUST be documented.

YES I agree. NO Exceptions noted below:

Signature 
Contractor/Proposer

Date 08/10/2021

Print Name Lorena Noguera-Rivello
Contractor/Proposer

Title PRESIDENT

EXCEPTION SUMMARY FORM

RFP SECTION #	RFP PAGE #	EXCEPTION (Provide a Detailed Explanation)
N/A		

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

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

With respect to the foregoing insurance,

1. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison.

2. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
3. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name the Town of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison and licensed to do business in the State of Texas.

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

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

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

AGREEMENT

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

Project/Bid# 21-132 Janitorial Services for Various Town Locations

Company: CTJ MAINTENANCE, INC.

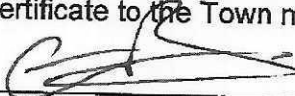
Printed Name: Lorena Noguera-Rivello, President

Signature:  **Date:** 08/10/2021

**RFP #21-132 Janitorial Services
INSURANCE REQUIREMENT AFFIDAVIT**

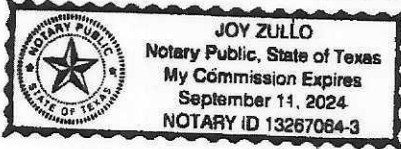
To be completed by appropriate insurance agent

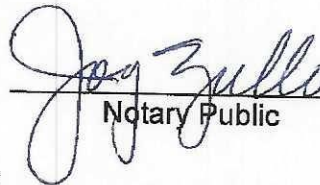
I, the undersigned agent, certify that the insurance requirements contained in this bid document have been reviewed by me with the below identified vendor. If the below identified vendor is awarded this contract by the Town of Addison, I will be able, within ten (10) days after being notified of such potential award, to furnish a valid insurance certificate to the Town meeting all of the requirements contained in this bid.

 _____ Agent's Signature	Chris Bailey _____ Agent's Name Printed
Cincinnati Casualty Co. and Mercury County Mutual Insurance Co. _____ Name of Insurance Carrier	972-512-7700 _____ Phone Number of Agent
4120 International Pkwy #2000 _____ Address of Agency	Carrollton, TX 75007 _____ City, State, Zip
CTJ Maintenance, Inc _____ Vendor's Name	

SUBSCRIBED AND SWORN to before me by the above named

on this 11 day of August, 2021.





Notary Public

Note to Proposer:

This form may be submitted with your proposal however, it must be completed by your insurance agent. The form maybe also be faxed from your insurance agent to the Town of Addison at 972-450-7065. This form must be received by Purchasing before or within 48 hours of the bid closing date.

Note to Agent:

If this time requirement is not met, The Town of Addison has the right to declare this vendor non-responsive and award the contract to the next lowest responsible bidder meeting the specifications. If you have any questions concerning these requirements, please contact the Purchasing Manager at 972-450-7091.

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#: 21-132 Janitorial Services for Various Town Locations

Company Name: CTJ MAINTENANCE, INC.

Signature:



Date: 08/10/2021

Information and Instruction Form

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

Section I Company Profile

Name of Business: CTJ MAINTENANCE, INC.
Business Address: 6565 N. MacArthur Blvd., Suite 225
Irving, TX 75039
Contact Name: Lorena Noguera-Rivello
Phone#: 214-624-5233
Fax#: 214-624-5101
Email: lorena.noguera@ctjmaintenance.com

Name(s) Title of Authorized Company Officers: Lorena Noguera-Rivello, President
Matthew Rivello, Vice President

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

DUN #: 062477353

Remit Address: If different than your physical address: SAME AS ABOVE

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 for further information.

Contractor/Supplier Responsibility: It is the contractor/suppliers responsibility to check for any addenda or questions and answers that might have been issued before bid closing date and time. Contractors/Suppliers will be

notified of any addenda and Q&A if they are on the invited list, they view the bid, or add themselves to the watch list.

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

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

Town of Addison

5350 Beltline Road

Dallas, TX 75254

Attn: Purchasing Department

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

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

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

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

Bid Prices: Pre-Award bid prices shall remain Firm and Irrevocable for a Period of 60 Days.

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

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

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

HUB Owned Business No Include a current copy of your HUB certification with your response or insert Certification number 1752647936900 and expire date 07/31/2022.

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 N/A

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.

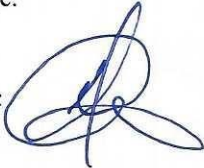
Bidder Compliance: Bidder agrees to comply with all conditions contained in this Information and Instruction Form and the additional terms and conditions and specifications included in this request. The undersigned hereby agrees to furnish and deliver the articles or services as specified at the prices 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: 08/10/2021

Title: PRESIDENT

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

10/17/17

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2021-789185

Date Filed:
08/11/2021

Date Acknowledged:

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

CTJ Maintenance Inc
Irving, TX United States

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

Town of Addison

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

RFP 21-132
Janitorial Services for Various Buildings

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Lorena Noguera-Rivello, and my date of birth is 12/11/1982.

My address is 6565 N. MacArthur Blvd., Suite 225, Irving, TX, 75039, USA.
(street) (city) (state) (zip code) (country)

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

Executed in DALLAS County, State of TEXAS, on the 10th day of August, 2021.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

Texas Historically Underutilized Business (HUB) Certificate



Statewide Historically Underutilized Business Program

Certificate/VID Number: **1752647936900**
Approval Date: **May 18, 2021**
Scheduled Expiration Date: **July 31, 2022**

In accordance with the Memorandum of Agreement between the
DALLAS/FORT WORTH MINORITY SUPPLIER DEVELOPMENT COUNCIL (DFW MSDC)
and the Texas Comptroller of Public Accounts (CPA), the CPA hereby certifies that

CTJ MAINTENANCE, INC.

has successfully met the established requirements of the State of Texas Historically Underutilized Business (HUB) Program to be recognized as a HUB. This certificate printed **May 18, 2021**, supersedes any registration and certificate previously issued by the HUB Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, addresses, phone and fax numbers or authorized signatures) provided in the submission of the business; application for registration/certification into DFW MSDC's program, you must immediately (within 30 days of such changes) notify DFW MSDC's program in writing. The CPA reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility. If your firm ceases to remain certified in the DFW MSDC's program, you must apply and become certified through the State of Texas HUB program to maintain your HUB certification.

*Statewide HUB Program
Statewide Procurement Division*

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies, universities and prime contractors are encouraged to verify the company's HUB certification prior to issuing a notice of award by accessing the Internet (<https://mycpa.cpa.state.tx.us/tpasscmbisearch/index.jsp>) or by contacting the HUB Program at **512-463-5872** or toll-free in Texas at **1-888-863-5881**.

Council Meeting

8.

Meeting Date: 10/26/2021

Department: General Services

Pillars: Excellence in Asset Management

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information system

AGENDA CAPTION:

Consider Action on a **Resolution Approving the Purchase of (1) 2022 F-350 Crew Cab Truck, (1) 2022 Ford F-350 Crew Cab Dump Body Truck, and (1) 2022 Ford F-250 Crew Cab Service Body Truck from Silsbee Ford Through the Purchasing Cooperative Known as TIPS USA** in an Amount Not to Exceed \$157,673.50.

BACKGROUND:

An Asset Management System (AMS) is utilized to track the Town's vehicles and analyze their condition. Staff reviews and evaluates the condition of the vehicles on an annual basis to determine which assets warrant replacement. The General Services and Parks vehicles listed below have reached the end of their useful life and are due for replacement.

Purchasing cooperatives solicit competitive bids from many vendors for products and services for their members. Purchasing through a cooperative streamlines the procurement process for public entities resulting in a savings of both administrative time and money. Through the TIPS USA purchasing Cooperative, staff identified Silsbee Ford as being able to provide the replacement trucks needed.

The Capital Equipment Replacement Fund (CERF) was established to accumulate sufficient resources to replace existing capital rolling stock and heavy equipment that has reached the end of its useful life. Capital Equipment Replacement Fund resources are acquired through charges to operating departments. The charges are calculated using a straight-line depreciation-based method on an item's expected life.

The following assets are recommended for replacement based on the AMS and staff condition assessment:

Capital Equipment Replacement Fund Purchase

Item	Department	Price	Budgeted Amount
(1) 2022 Ford F-350 Crew Cab Dump Body	Parks	\$58,346.25	\$58,350.00
(1) 2022 Ford F-250 Crew Cab Service Body	General Services	\$59,065.25	\$59,500.00
Total		\$117,411.50	\$117,850.00

The Parks Department added a new Ford F-350 truck for a new Parks crew through the budget process.

Department Funded

Item	Department	Price	Budgeted Amount
(1) 2022 Ford F-350 Crew Cab	Parks	\$40,262.00	\$64,715.00
Total		\$40,262.00	\$64,715.00

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Silsbee For Vehicle Purchases
Silsbee Ford Pricing Sheet

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE PURCHASE OF TWO REPLACEMENT VEHICLES AND ONE ADDITIONAL VEHICLE FOR THE GENERAL SERVICES AND PARKS DEPARTMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE AGREEMENTS IN AN AMOUNT NOT TO EXCEED \$157,673.50; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has established a Capital Equipment Replacement Fund (CERF) to provide resources for the replacement of existing capital rolling stock and heavy equipment upon the end of the equipment’s useful life; and

WHEREAS, the City Council desires to authorize the purchase of two new replacement vehicles for the General Services and Parks departments utilizing available CERF funds, and one additional new vehicle for the Parks department utilizing the funding previously approved in the current fiscal year budget; and

WHEREAS, Town staff has identified the preferred vendor for the purchase of all three vehicles utilizing cooperative purchasing through TIPS USA Purchasing Cooperative.

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

SECTION 1. The City Council hereby approves the purchase of the following three vehicles from the selected vendor, Silsbee Ford, utilizing the funding sources and further authorizes the City Manager to execute the necessary purchase agreements:

<u>Item</u>	<u>Department</u>	<u>Price</u>	<u>Funding</u>
(1) 2022 Ford F-350 Crew Cab Dump Body	Parks	\$58,346.25	CERF
(1) 2022 Ford F-350 Crew Cab	Parks	\$40,262.00	FY2022 Budget
(1) 2022 Ford F-250 Crew Cab Service Body	General Services	\$59,065.25	CERF
TOTAL		<u>\$157,673.50</u>	

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 26th day of OCTOBER 2021.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary



PRODUCT PRICING SUMMARY

TIPS USA 200206 TRANSPORTATION VEHICLES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF ADDISON

Prepared by: RICHARD HYDER

Contact: ROB BOURESTOM 214.325.5760

Phone: 409.300.1385

Email: RBOURESTOM@ADDISONTX.GOV

Email: RHYDER.COWBOYFLEET@GMAIL.COM

Product Description: FORD F350 CREW CAB PICKUP

Date: April 20, 2021

A. Bid Item: 37 A. Base Price: **\$ 31,304.00**

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
W3A	2022 F350 CREW CAB SRW 4X2 6.75' BED	\$ 2,495.00	18B	PLATFORM RUNNING BOARDS	\$ 445.00
996	6.2L V8 GAS	\$ -		REAR VIEW CAMERA	\$ -
Z1	EXTERIOR WHITE	\$ -			
AS	INTERIOR VINYL 40/20/40	\$ -			
90L	POWER EQUIPMENT GROUP	\$ 1,125.00		PARKS CREW TRUCK	
	BLUETOOTH	\$ -			
76C	BACKUP ALARM	\$ 140.00			
52B	TRAILER BRAKE CONTROLLER	\$ 270.00			

Total of B. Published Options: \$ 4,475.00

Published Option Discount (5%) \$ (99.00)

C. Unpublished Options [not to exceed 25%]

\$= 11.3 %

Description	Bid Price	Options	Bid Price
3 KEYS AND FOBS	\$ 125.00		
WINDOW TINT	\$ 195.00		
SOUND OFF AMBER/CLEAR LIGHTBAR W/ ARROW	\$ 1,250.00		
HIDDEN AMBER CLEAR LEDS IN REVERSE LIGHTS	\$ 200.00		
SURFACE MT AMBER/CLEAR LEDS FRONT CORNE	\$ 240.00		
SWITCHBOX CONTROLLER	\$ -		
SPRAY IN BEDLINER	\$ 495.00		
RKI SINGLE LID CROSSOVER TOOLBOX	\$ 795.00		
INSTALLATION	\$ 750.00		

Total of C. Unpublished Options: \$ 4,050.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment:

\$ -

G. Additional Delivery Charge: 304 miles

\$ 532.00

H. Subtotal:

\$ 40,262.00

I. Quantity Ordered 1 x H =

\$ 40,262.00

J. Trade in:

\$ -

K. Total Purchase Price Including TIPS Fee

\$ 40,262.00



PRODUCT PRICING SUMMARY

TIPS USA 200206 TRANSPORTATION VEHICLES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF ADDISON

Prepared by: RICHARD HYDER

Contact: ROB BOURESTOM 214.325.5760

Phone: 409.300.1385

Email: RBOURESTOM@ADDISONTX.GOV

Email: RHYDER.COWBOYFLEET@GMAIL.COM

Product Description: FORD F350 CREW CAB CHASSIS

Date: April 21, 2021

A. Bid Item: 41 A. Base Price: \$ **28,561.00**

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
F3G	2022 FORD F350 REG CHASSIS DRW 60"CA	\$ 2,495.00	872	REAR VIEW CAMERA KIT	\$ 415.00
Z1	EXTERIOR WHITE	\$ -	18B	PLATFORM RUNNING BOARDS	\$ 445.00
AS	INTERIOR GRAY VINYL 40/20/40	\$ -	TRUX	RUGBY 2/3 YD DUMP BODY, MANUAL	\$ 21,625.00
996	6.2L V8 GAS	\$ -		TARP, COMBO RECEIVER HITCH, 2 UND	
90L	POWER EQUIPMENT GROUP	\$ 915.00		BODY TOOLBOXES, ACCESS LADDER	
76C	BACKUP ALARM	\$ 140.00		PER QUOTE #636	
52B	TRAILER BRAKE CONTROLLER	\$ 270.00		PARKS DUMP BODY 0624	
512	SPARE TIRE AND WHEEL	\$ 350.00			

Total of B. Published Options: \$ **26,655.00**

Published Option Discount (5%): \$ **(126.75)**

C. Unpublished Options [not to exceed 25%]

\$= 4.9 %

Description	Bid Price	Options	Bid Price
3 KEYS AND FOBS	\$ 125.00		
WINDOW TINT	\$ 195.00		
SOUND OFF AMBER/CLEAR LIGHTBAR W/ ARROW	\$ 1,250.00		
SURFACE MT AMBER/CLEAR LEDS REAR	\$ 240.00		
SURFACE MT AMBER/CLEAR LEDS FRONT CORNE	\$ 240.00		
SWITCHBOX CONTROLLER	\$ -		
INSTALLATION	\$ 675.00		

Total of C. Unpublished Options: \$ **2,725.00**

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment:

\$ -

G. Additional Delivery Charge: 304 miles

\$ **532.00**

H. Subtotal:

\$ **58,346.25**

I. Quantity Ordered 1 x H =

\$ **58,346.25**

J. Trade in:

\$ -

K. Total Purchase Price Including TIPS Fee

\$ **58,346.25**



PRODUCT PRICING SUMMARY

TIPS USA 200206 TRANSPORTATION VEHICLES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF ADDISON

Prepared by: RICHARD HYDER

Contact: ROB BOURESTOM 214.325.5760

Phone: 409.300.1385

Email: RBOURESTOM@ADDISONTX.GOV

Email: RHYDER.COWBOYFLEET@GMAIL.COM

Product Description: FORD F250 CREW CAB

Date: April 21, 2021

A. Bid Item: 34 A. Base Price: \$ **28,909.00**

B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
W2A	2022 FORD F250 CREW 4X2 56"CA	\$ 2,795.00		REARVIEW CAMERA	\$ -
99T	6.7L V8 DIESEL (475 HP)	\$ 10,495.00	TRUX	READING SERVICE BODY, 30 GALLON	\$ 13,385.00
Z1	EXTERIOR WHITE	\$ -		IR AIR COMPRESSOR CURBSIDE, 50' AIR	
AS	INTERIOR VINYL 40/20/40	\$ -		HOSE AND REEL PER QUOTE #637	
90L	POWER EQUIPMENT GROUP	\$ 1,125.00			
	BLUETOOTH	\$ -		GEN SVCS SHOP 0909	
76C	BACKUP ALARM	\$ 140.00			
52B	TRAILER BRAKE CONTROLLER	\$ 270.00			

Total of B. Published Options: \$ **28,210.00**

Published Option Discount (5%): \$ **(1,270.75)**

C. Unpublished Options [not to exceed 25%]

\$= 4.7 %

Description	Bid Price	Options	Bid Price
3 KEYS AND FOBS	\$ 125.00		
WINDOW TINT	\$ 195.00		
SOUND OFF AMBER/BLUE LIGHTBAR W/ ARROW	\$ 1,250.00		
HIDDEN AMBER BLUE LEDS IN REVERSE LIGHTS	\$ 200.00		
SURFACE MT AMBER/BLUE LEDS FRONT CORNER	\$ 240.00		
SWITCHBOX CONTROLLER	\$ -		
INSTALLATION	\$ 675.00		

Total of C. Unpublished Options: \$ **2,685.00**

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ -

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment:

\$ -

G. Additional Delivery Charge: 304 miles

\$ **532.00**

H. Subtotal:

\$ **59,065.25**

I. Quantity Ordered 1 x H =

\$ **59,065.25**

J. Trade in:

\$ -

K. Total Purchase Price

\$ **59,065.25**

Council Meeting

9.

Meeting Date: 10/26/2021

Department: Parks & Recreation

Pillars: Excellence in Asset Management

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information system

AGENDA CAPTION:

Consider Action on a **Resolution Approving a Professional Services Agreement Between the Town of Addison and Garver, LLC. for Construction Project Management Services Related to the Addison Athletic Club Renovations and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$69,950.

BACKGROUND:

On October 12, 2021 Council approved an agreement with Northridge Construction for the Addison Athletic Club Renovation Project in an amount not to exceed \$4,035,085. Council's action also established a project budget which included \$473,466 for project contingency and \$70,000 for Construction Project Management Services. This action item is to consider approving a contract with Garver, LLC to provide Construction Project Management Services in an amount not to exceed \$69,950.

If approved by Council, Garver would provide the following services during the anticipated 195 day construction period:

- Develop a quality control plan specific to the project and implement the plan.
- Issue a Notice to Proceed.
- Evaluate the project schedule provided by the contractor.
- Obtain from the contractor all bonds, permits and other documentation needed.
- Attend progress coordination meetings with the owner and contractor.
- Evaluate for quality control, review construction material submittals, shop drawings, and responses provided by the project Architect to ensure compliance with the requirements of the drawings and specifications is achieved.
- Review progress payment requests and make a recommendation to the Owner regarding payments.
- Issue instructions to the Contractor and Architect on behalf of the owner, respond to requests for information (RFI's) and provide clarifications regarding the construction contract documents.
- Maintain a material submittal and RFI log.

- Schedule and conduct bi-weekly meetings to discuss progress and monitor the schedule.
- Collect and distribute final record drawings at project completion.
- Prepare and authorize change orders or supplemental agreements for changes in work.
- Participate in a pre-final walkthrough and final inspection, review closeout documents, and submit the final pay request.
- Assist in the closeout process and verify all warranties, as-builts and other closeout documents are secured.

Janna Tidwell, Director of Parks and Recreation will be the Town's point of contact responsible for ensuring Garver fulfills the obligations of the contract. Bill Hawley, Director of Administrative Services, and Phillip Willis, Senior Construction Inspector, will be supporting Ms. Tidwell in the day to day oversight of this project.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - AAC Construction Management

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE TOWN OF ADDISON AND GARVER, LLC FOR CONSTRUCTION PROJECT MANAGEMENT SERVICES RELATED TO THE ADDISON ATHLETIC CLUB RENOVATIONS PROJECT IN AN AMOUNT NOT TO EXCEED \$69,950; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Garver, LLC to provide professional engineering and construction management services in connection with the Addison Athletic Club renovations project.

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

SECTION 1. The Agreement for Construction Project Management Services between the Town of Addison and Garver, LLC, for professional engineering services related to the Addison Athletic Club Renovation Project in an amount not to exceed \$69,950.00, 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 26th day of OCTOBER 2021.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

PROFESSIONAL SERVICES AGREEMENT
AAC Renovations Construction Management

This Professional Services Agreement (“Agreement”) is made by and between the Town of Addison, Texas (“City”), and Garver, LLC (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized representatives.

RECITALS

WHEREAS, City desires Professional to perform certain work and services set forth in Section 1, Scope of Services and

WHEREAS, Professional has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in said Scope of Services, and enumerated under Section 1, of this Agreement;

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, City and Professional agree as follows:

Section 1. Scope of Services

Upon issuance of a written notice to proceed by City, Professional agrees to provide to City the professional services for the Addison Athletic Club (AAC) Renovations Construction Management Project (“Project”), as set forth in the Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference (the “Scope of Services”).

Section 2. Term of Agreement

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and shall continue until Professional completes the services required herein to the satisfaction of City, unless sooner terminated as provided in Section 8, below.

Section 3. Professional Obligations

A. Professional shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services in accordance with the fee schedule set forth in Exhibit “B”, attached hereto and incorporated herein by reference, and within the time schedule prescribed by City; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of City. The cost of such

personnel and assistance shall be a reimbursable expense to Professional only if authorized in writing in advance by City.

C. Professional shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in the Scope of Services.

D. Industry standard of care: Professional shall perform services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar circumstances and professional license. Professional shall perform its services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

Section 4. Payment

A. City agrees to pay Professional for all services authorized in writing and properly performed by Professional in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated herein by reference, subject to additions or deletions for changes or extras agreed upon in writing. All payments to Professional by City shall be based on detailed monthly invoices submitted by Professional for work performed and accepted by City, less any previous payments. Payment will be due within 30 days of the City's receipt of an approved invoice.

B. City reserves the right to delay, without penalty, any disputed payment to Professional when Professional has not made satisfactory progress on the Project as described in the Scope of Services.

C. The total compensation to Professional shall be as specified in payment schedule set forth in Exhibits "A" and "B", which shall not exceed Sixty-Nine Thousand, Nine Hundred and Fifty Dollars and No/100 (\$69,950.00). In the event of any material breach by Professional of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against City, or City's premises, arising out of Professional's performance of this Agreement, City shall have the right to retain out of any disputed payments due or to become due to Professional an amount sufficient to completely protect City from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by Professional.

Section 5. Responsibilities

A. Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other services furnished by Professional under this Agreement. Professional shall, as part of existing, authorized fees, correct or revise any errors or omissions in the design, drawings, specifications, plans and other services.

B. Neither City's review, approval/acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this

Agreement.

C. The rights and remedies of City under this Agreement are as provided by law.

Section 6. Time for Performance

A. Professional shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with City's requirements. Time is of material consideration for services performed under this Agreement.

B. In the event Professional's performance of this Agreement is delayed or interfered with by acts of the City or others, Professional may request an extension of time for the performance of same as hereinafter provided.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to Professional, unless Professional shall have made written request upon City for such extension within five (5) business days after the cause for such extension occurred, and unless City and Professional have agreed in writing upon the allowance of additional time to be made.

Section 7. Documents

A. All surveys, studies, proposals, applications, drawings, plans, specifications and other documents, including those in electronic form, prepared by Professional and its consultants, subcontractors, agents, representatives, and/or employees in connection with this Agreement ("Project Documents") are intended for the use and benefit of City. Professional and its consultants, subcontractors, agents, representatives, and/or employees shall be deemed the authors of their respective part of the Project Documents. Notwithstanding, upon payment by City as required by this Agreement, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement; provided however, any and all underlying intellectual property, if any (unless provided by City), shall remain the property of Professional such that Professional may continue to perform its business in the normal course. Upon payment in full, Professional hereby grants City an irrevocable, non-exclusive, royalty-free license to use the same for the purposes contemplated under this Agreement. City releases Professional and its subconsultants against all claims, losses, damages, injuries, and expenses, including reasonable attorneys' fees arising out of change to, or re-use of deliverables provided under this Agreement for any other project where Professional is not involved in said other project, or modification(s). City shall have full authority to authorize contractor(s), subcontractors, sub-subcontractors, City consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by Professional in connection with this Agreement are "works for hire" and shall be the property of City upon payment of Professional as provided in this Agreement. City shall have the right to publish, disclose, distribute and otherwise use Project Documents in accordance with the Engineering Practice Act of the State of Texas (Texas Occupation Code, Chapter 1001, as amended) and/or Texas Occupations Code, Chapter 1051, as amended. Professional shall, upon

completion of the services and full payment for Professional's services by the City, or earlier termination and appropriate compensation as provided by this Agreement, provide City with reproductions of all materials, reports, and exhibits prepared by Professional pursuant to this Agreement in such electronic format(s) as may be requested by the City.

B. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer programs, computer code, software, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval of City. All instruments of service shall be professionally sealed as may be required by law or by City.

C. Acceptance and approval of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings and specifications, or other documents prepared by Professional, its employees, contractor, agents and consultants.

Section 8. Termination

A. City may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to Professional. In the event suspension or termination is without cause, payment to Professional, in accordance with the terms of this Agreement, will be made on the basis of services satisfactorily performed according to the industry standard of care to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to City.

B. Should City require a modification of this Agreement with Professional, and in the event City and Professional fail to agree upon a modification to this Agreement, City shall have the option of terminating this Agreement and Professional's services hereunder at no additional cost other than the payment to Professional, in accordance with the terms of this Agreement, for the services performed according to the industry standard of care by Professional prior to such termination date.

C. Termination for Force Majeure. To the extent either Party of this agreement shall be wholly or partially prevented from the performance of the term specified, or of any obligation or duty 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 parties control and not attributable to its malfeasance, neglect or nonfeasance. In such event, the time for performance of such obligation or duty shall be suspended until such disability to perform is removed. In the event of any such disability, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the disability. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

Section 9. Insurance

A. Professional shall during the term hereof maintain in full force and effect the following insurance (unless otherwise agreed in writing by the Parties):

- (i) A commercial general liability policy of insurance for bodily injury, death and property damage insuring against all claims, or actions relating to the Professional's performance of services pursuant to this Agreement with a minimum combined single limit of \$1,000,000.00 per occurrence; \$2,000,000 per aggregate for injury to persons (including death), and for property damage;
- (ii) An automobile liability insurance policy covering any vehicles owned and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage;
- (iii) Statutory Worker's Compensation Insurance at the statutory limits and Employers' Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of \$1,000,000.00; and
- (iv) Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limit of \$1,000,000.00 per claim and \$1,000,000.00 in the aggregate.

B. All insurance and certificate(s) of insurance shall contain the following provisions:

- (i) Name the City, its officers, and employees as additional insureds as to all applicable coverage to the extent of the indemnities agreed between the parties in Section 12 of this Agreement. (not including the Workers Compensation Insurance and Professional Liability);
- (ii) Provide for at least thirty (30) days prior written notice to the City for cancellation or non-renewal of the insurance or reduction in coverage limits; and
- (iii) Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance (not including the Professional Liability Insurance).

C. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A-(minus)" by AM Best or other equivalent rating service.

D. A certificate of insurance evidencing the required insurance and all endorsements shall be delivered to City prior to commencement of services.

Section 12. Indemnification.

CITY SHALL NOT BE LIABLE FOR ANY THIRD PARTY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER CAUSING ANY BODILY INJURY TO PERSONS OR DAMAGE TO THIRD PARTY TANGIBLE PROPERTY ARISING FROM THE NEGLIGENT SERVICES OF PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY THIRD PARTY TANGIBLE PROPERTY OR BODILY INJURY TO, OR DEATH OF, ANY PERSON ARISING FROM PROFESSIONAL'S PERFORMANCE OF SERVICES AT ANY TIME THIS AGREEMENT IS IN EFFECT WHERE SAID HARM IS CAUSED BY PROFESSIONAL'S NEGLIGENCE. PROFESSIONAL SHALL NOT BE LIABLE FOR THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY INDEMNITEES FROM AND AGAINST ANY AND ALL THIRD PARTY TORT LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY THIRD PARTIES BY REASON OF BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY OF THIRD PARTIES TO THE EXTENT CAUSED BY THE NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEE ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 13. Assignment

Professional shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of City.

Section 14. Applicable Laws

Professional shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services as of

the effective date of this Agreement for services to be performed under this Agreement. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the state district court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court. The prevailing Party shall be entitled to recover its attorneys' fees, costs, and expenses.

Section 15. Default of Professional

In the event, Professional fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by City to Professional, City may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to Professional except for all work determined by City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Professional to and from meetings called by City at which Professional is required to attend, but shall not include any loss of profit of Professional. In the event of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by re-subletting to others.

B. City may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Professional.

Section 16. Adjustments in Services

No claims for extra services, additional services or changes in the services will be made by Professional without a written agreement with City prior to the performance of such services. Notwithstanding anything in this Agreement, Professional shall be entitled to an equitable adjustment in the Agreement price and project schedule for impacts to the Services resulting from events beyond Professional's control.

Section 17. Execution becomes Effective

This Agreement will be effective on the date when signed by authorized representatives of Professional and City ("the Effective Date").

Section 18. Agreement Amendments

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the Parties except as may be otherwise provided therein.

Section 19. Severability.

In the event 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 provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 20. Independent Contractor.

It is understood and agreed by and between the Parties that Professional in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with Professional's actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third party beneficiary to this Agreement.

Section 21. Right-Of-Access.

City will obtain and/or furnish right-of-access on any project site for Professional to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services.

Section 22. Notice.

Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to City: Wesley S. Pierson, City Manager
City of Town of Addison
5300 Belt Line Road
Town of Addison, Texas 75254

With copy to: Whitt Wyatt, City Attorney
3710 Rawlins St., Ste 1000
Dallas, Texas 75219

If to Professional: Mitchell McAnally, PE, PMP
Garver, LLC
3010 Gaylord Parkway, Suite 190
Frisco, Texas 75034

Section 23. Exhibits.

The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

Section 24. Survival of Obligations.

Any of the representations and obligations of the Parties, as well as any rights and benefits of the Parties pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 25. Counterparts.

This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties.

Section 26. Authorization.

Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

Section 27. Successors and Assigns.

Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

Section 28. Recitals.

The recitals to this Agreement are incorporated herein.

Section 29. Audits and Records.

Professional agrees that upon reasonable prior notice, during the term hereof, the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Professional's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the City or date of termination if sooner. Except as required under applicable law, in no event shall City be entitled to audit the proprietary makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

Section 30. Conflicts of Interests.

Professional represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

Section 31. [Intentionally Deleted]

Section 32. No Boycott Israel.

Pursuant to Texas Government Code Chapter 2270, Professional's execution of this Agreement shall serve as verification that Professional's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, Professional's execution of this Agreement shall further serve as verification that Professional does not current discriminate against firearm and ammunition industries and will not for the term of this Agreement. 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.

Section 33. Limitations of Liability.

33.1 Mutual Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, NEITHER PARTY (INCLUDING ITS SUBCONSULTANTS, AGENTS, ASSIGNEES, AFFILIATES AND VENDORS) SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND REGARDLESS OF THE CAUSE OR ACTION (INCLUDING NEGLIGENCE OF ANY KIND OR CHARACTER INCLUDING GROSS NEGLIGENCE). NOTWITHSTANDING THE FOREGOING, THIS CONSEQUENTIAL DAMAGES WAIVER SHALL NOT APPLY TO THE INDEMNITIES AGREED BETWEEN THE PARTIES IN SECTION 13 OF THIS AGREEMENT.

33.2 Limitation to Liability. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY HEREIN, PROFESSIONAL'S (INCLUDING ITS SUBCONSULTANTS, AGENTS, ASSIGNEES, AFFILIATES AND VENDORS) TOTAL AGGREGATE LIABILITY UNDER THE AGREEMENT SHALL BE LIMITED TO 100% OF THE COLLECTIBLE PROCEEDS OF THE INSURANCE LIMITS PROVIDED IN SECTION 9 OF THIS AGREEMENT, REGARDLESS OF THE CAUSE OR ACTION (INCLUDING NEGLIGENCE OF ANY KIND OR CHARACTER). NOTWITHSTANDING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO GROSS NEGLIGENCE OR INTENTIONAL ACTS, OR THE INDEMNITIES AGREED BETWEEN THE PARTIES IN SECTION 13 OF THIS AGREEMENT.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date of last execution hereof.

FOR CITY:

Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

ATTEST:

By: _____
Irma Parker, City Secretary

FOR PROFESSIONAL

Garver, LLC

By:  _____
Digitally signed by
Josh Crawford
Date: 2021.10.20
16:25:38-05'00'

Name: _____
Josh Crawford

Title: _____
Texas Aviation Director

Date: _____
10/20/2021

EXHIBIT "A"
SCOPE OF SERVICES

(attached)

Exhibit A – SCOPE OF SERVICES



3010 Gaylord Parkway
Suite 190
Frisco, TX 75034
TEL 972.377.7480
FAX 972.377.8380
www.GarverUSA.com

October 6, 2021

Janna Tidwell, PLA, LEED AP
Director of Parks and Recreation,
Town of Addison
16801 Westgrove Drive
Addison, TX 75001

Re: Town of Addison
Addison Athletic Club Renovations Project Management
Professional Services Proposal

Dear Ms. Tidwell,

Garver is pleased to submit this proposal to provide professional services relating to the improvements listed in "Exhibit A - Scope of Services" for the referenced project.

COMPENSATION

For the Town of Addison Athletic Club Renovations Project Management professional services, the not-to-exceed fee of \$69,950.00 is based upon the scope of services provided in Exhibit A for the 195-calendar day construction schedule. A detailed breakdown of the proposed fee is included in Exhibit B.

Table with 3 columns: Title II Services, FEE AMOUNT, FEE TYPE. Row 1: Project Management - Construction Phase Services, \$69,950.00, HOURLY. Row 2: Total (Title II Services), \$69,950.00, NOT-TO-EXCEED.

Garver is pleased to have this opportunity to submit this proposal and look forward to working with you on this project. If you have any questions or would like any additional information, please feel free to call me anytime at 214-619-9023.

Sincerely,

GARVER

Mitchell McAnally (handwritten signature)

Mitchell McAnally, PE, PMP
Senior Project Manager

Attachments: Exhibit A – Scope of Services
Exhibit B – Fee Spreadsheet

L:\2021\21A11115 - ADS Facility Bond PM\Contracts\Client\Draft\AAC\Addison Athletic Club PM - Garver Proposal - 2021-10-06.doc

SCOPE OF SERVICES

1. General

Generally, the scope of services includes construction project management for the renovations to the ***Town of Addison Athletic Club.***

2. Surveys

Survey is not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

3. Geotechnical Services

Geotechnical is not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

4. Coordination

Garver will attend coordination meetings with the Owner and other stakeholders as required. Garver will prepare exhibits for these meetings when appropriate. Utility Coordination is not anticipated for the completion of the project and is not included in the scope of services.

5. Quality Control

Garver will develop a project specific quality control plan. The quality control plan will include the project background and scope, stakeholder contact information, project team and roles, project schedule, and quality control procedures.

Quality control reviews will be completed by a project manager for each component included in the project.

6. Environmental Services

Environmental Services are not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.

7. Project Management - Construction Phase Services

During the construction phase of work, Garver will accomplish the following:

- A. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting. Garver will provide meeting minutes for submission to all parties at the conclusion of the meeting.
- B. Evaluate the final schedule for the project with contractor and Owner.
- C. Obtain from contractor all bonds, permits and other documentation needed.
- D. Attend progress/coordination meetings with the Owner/Contractor.
- E. Garver will evaluate and quality control review construction material submittals and shop drawings responses provided by the Owner's Architect. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute

approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

- F. Issue instructions to the Contractor and Architect on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.
- G. Maintain a material submittal and RFI log for the Owner.
- H. Schedule and conduct bi-weekly meetings to discuss progress and monitor the Contractor's schedule. Garver will analyze and report to the Owner any perceived delays to the Contractor's schedule to minimize risk of the project exceeding the construction contract time.
- I. The proposed fee is based on two (2) 4-hour site visits per month, during the one-hundred and ninety-five (195) construction contract performance time. If the construction time extends beyond the time established in this agreement or if the Owner wishes to increase the time or frequency of the site visits, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.
- J. Review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and will make a recommendation to the Owner regarding payment. Garver's recommendation for payment shall not be a representation that Garver has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.
- K. Garver will collect and distribute final record drawings provided by the Architect after project completion.
- L. When authorized by the Owner, Garver will prepare change orders or supplemental agreements for changes in the work from that originally provided for in the construction contract documents.
- M. Garver will participate in a pre-final walkthrough with the Owner. Garver will also participate in a final project inspection with the Owner and Contractor, review the punch list provided by the Architect, review final project closeout documents, and submit the final pay request.
- N. Assist in the close out process and verify all warranties, as-builts and other close out documents are secured.

The proposed fee for Construction Phase Services is based on a 6-month construction contract performance time. If the construction time extends beyond the time established in this agreement, and the Owner wants Garver to continue the applicable Project Management - Construction Phase Services, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.

Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

8. Project Deliverables

The following will be submitted to the Owner, or others as indicated, by Garver:

- A. Electronic files as requested.

9. Extra Work

The following items are not included under this agreement but will be considered as extra work:

- A. Surveying services.
- B. Geotechnical services.
- C. Utility Coordination
- D. Environmental services.
- E. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- F. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- G. Full building energy modeling.
- H. Commission of buildings/facilities.
- I. Pavement design.
- J. Electrical or Mechanical design of facilities not located on the roof or HVAC systems.
- K. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- L. Submittals or deliverables in addition to those listed herein.
- M. Design of any utility relocation.
- N. Engineering, architectural, or other professional services beyond those listed herein.
- O. Retaining walls or other significant structural design beyond that required for HVAC systems or roofing.
- P. Street lighting or other electrical design beyond that required for HVAC systems or filtration systems.
- Q. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to DEQ.
- R. On-Site Construction Observation and Construction Materials Testing.
- S. Services after construction, such as warranty follow-up, operations support, etc.
- T. LEED Implementation.
- U. Permitting services in addition to those listed herein.
- V. Permitting fees.
- W. Drainage study.
- X. Preparation or submittal of property acquisition documents.

Extra Work will be as directed by the Owner in writing for an addition fee as agreed upon by the Owner and Garver.

10. Schedule

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

Phase Description	Calendar Days
Project Management – Construction Phase Services	195 Calendar Days from Notice to Proceed given to Contractor

Scope of Services

AAC Project Management

3 of 3

21A11115

EXHIBIT "B"
FEE SCHEDULE

(attached)

Exhibit B

Town of Addison Addison Athletic Club Renovation

FEE SUMMARY

<u>Title II Service</u>	<u>Estimated Fees</u>
Construction Phase Services	\$ 69,950.00
Subtotal for Title II Service	\$ 69,950.00

Exhibit B

**Town of Addison
Addison Athletic Club Renovation**

CONSTRUCTION PHASE SERVICES

WORK TASK DESCRIPTION	E-5	X-3
	hr	hr
1. Project Management		
Administration	10	
Initial Project Coordination	8	32
Quality Control Plan Development	4	
Preconstruction Meeting	4	4
Town Permitting Coordination		16
Weekly Virtual Progress Meetings with Contractor/Town (Estimated 30 weeks)	15	30
Monthly Project Schedule Review		10
Monthly Pay Requests Review and Processing		10
Shop Drawings/Material Submittal/RFI QC		32
Stakeholder Coordination		60
On-Site Meetings (Bi-weekly)		60
Prepare Change Orders		24
Final Project Inspection		5
Project Closeout Documentation		24
Subtotal - Project Management	41	307

Hours **41** **307**

Salary Costs \$12,628.00 \$55,567.00

SUBTOTAL - SALARIES: **\$68,195.00**

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$235.00
Postage/Freight/Courier	\$45.00
Office Supplies/Equipment	\$75.00
Computer Modeling/Software Use	\$200.00
Travel Costs	\$1,200.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: **\$1,755.00**

SUBTOTAL: **\$69,950.00**

SUBCONSULTANTS FEE: **\$0.00**

TOTAL FEE: **\$69,950.00**

Exhibit B



Exhibit B
Town of Addison
Addison Athletic Club Renovation
Garver Hourly Rate Schedule: July 2022 - June 2023

Classification	Rates
Engineers / Architects	
E-1.....	\$ 153.00
E-2.....	\$ 181.00
E-3.....	\$ 213.00
E-4.....	\$ 251.00
E-5.....	\$ 308.00
E-6.....	\$ 381.00
E-7.....	\$ 426.00
Planners / Environmental Specialist	
P-1.....	\$ 186.00
P-2.....	\$ 220.00
P-3.....	\$ 250.00
P-4.....	\$ - P-
5.....	\$ - P-
6.....	\$ - P-
7.....	\$ -
Designers	
D-1.....	\$ 139.00
D-2.....	\$ 156.00
D-3.....	\$ 186.00
D-4.....	\$ 217.00
Technicians	
T-1.....	\$ 119.00
T-2.....	\$ 161.00
T-3.....	\$ 174.00
Surveyors	
S-1.....	\$ 74.00
S-2.....	\$ 89.00
S-3.....	\$ 122.00
S-4.....	\$ 167.00
S-5.....	\$ 220.00
S-6.....	\$ 256.00
2-Man Crew (Survey).....	\$ 208.00
3-Man Crew (Survey).....	\$ 259.00
2-Man Crew (GPS Survey).....	\$ 228.00
3-Man Crew (GPS Survey).....	\$ 279.00
Construction Observation	
C-1.....	\$ 130.00
C-2.....	\$ 165.00
C-3.....	\$ 198.00
C-4.....	\$ 256.00
C-5.....	\$ 294.40
Management/Administration	
M-1.....	\$ 426.00
X-1.....	\$ 90.00
X-2.....	\$ 114.00
X-3.....	\$ 181.00
X-4.....	\$ 214.00
X-5.....	\$ 225.00
X-6.....	\$ 267.00
X-7.....	\$ -
X-8.....	\$ -
X-9.....	\$ 433.00

Agreement for Professional Services
Addison Athletic Club Renovation

Garver Project No. XXXXXXX

Council Meeting

10.

Meeting Date: 10/26/2021

Department: Airport

Pillars: Excellence in Transportation Systems

Milestones: Leverage the use of the Airport to maximize business growth and expansion

AGENDA CAPTION:

Consider Action on a **Resolution Approving a Second Amendment to Ground Lease Between the Town of Addison and Duke's Ice House, LLC for Commercial Aviation and Restaurant use on Property Located at 16101 Addison Road, Addison Airport, and Authorizing the City Manager to Execute the Second Amendment.**

BACKGROUND:

Duke's Ice House, LLC, is the ground lease tenant at 16101 Addison Road at Addison Airport and is a tenant in good standing with the Town. The leasehold is located at the eastern-most end of Taxiway Tango fronting the northwest corner of the Addison Road/Keller Springs intersection. The building improvements consist of a restaurant (Austin's BBQ) and a long-established aircraft maintenance and repair facility servicing based and transient aircraft. The purpose of this action item is to approve a resolution consenting to the proposed Second Amendment to the Ground Lease, which is presently scheduled to expire February 28, 2025.

The proposed Second Amendment provides for:

- Extending the current lease term by 46-months to December 31, 2028;
- In consideration of this term extension, the Tenant agrees to pay an increased ground rental (currently \$0.71) of \$0.85 per gross square foot of the demised premises (\$8,014.20 increase annually) beginning January 1, 2022.

The 2016 Airport Master Plan contemplates redevelopment of Taxiway Tango. This new ground-lease expiration date better aligns with the lease expiration dates of adjacent leasehold properties, which supports the timing and planning of the redevelopment of Taxiway Tango. With regards to the Duke's Ice House leasehold, airport management has determined the optimum strategy is to extend the ground lease 46 months, encouraging the restaurant operator (under the same ownership as the Tenant) to remain over the extended term until the land is needed for redevelopment. The modified rental provided for in the Second Amendment is intended to compensate the Town for rents it might have

otherwise received for the hangar portion of the leased premises had the ground lease term not been extended.

The requested action is consistent with the 2013 Addison Airport Strategic Plan and the 2016 Airport Master Plan.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - 16101 Addison Road Second Amendment to Ground Lease

Aerial - Location Map 16101 Addison Rd

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A SECOND AMENDMENT TO GROUND LEASE BETWEEN THE TOWN OF ADDISON AND DUKE'S ICE HOUSE, LLC FOR COMMERCIAL AVIATION AND RESTAURANT USE ON PROPERTY LOCATED AT 16101 ADDISON ROAD, ADDISON AIRPORT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT.

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

SECTION 1. The Second Amendment to Ground Lease between the Town of Addison and Duke's Ice House, LLC a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the Second Amendment.

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 **26th** day of **OCTOBER 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

STATE OF TEXAS §
 § **SECOND AMENDMENT TO GROUND LEASE**
COUNTY OF DALLAS §

This Second Amendment to Ground Lease (hereinafter referred to as the "Second Amendment") is entered into and made effective as of _____ 2021, (the "Effective Date") at Addison, Texas, by and between the Town of Addison, Texas, a home-rule municipality (hereinafter sometimes referred to as the "Landlord" or the "City"), and Duke's Ice House, LLC, a Texas limited liability company ("Tenant") (Landlord and Tenant are sometimes referred to as the "parties" or "party").

WHEREAS, a Ground Lease was entered into on January 19, 1984, between the Town of Addison, Texas (the same being the Town of Addison, Texas, and sometimes referred to herein as the "City") and Addison Airport of Texas, Inc. ("AATI") as Landlord, and William R. White as Tenant by the terms of which certain real property located at 16101 Addison Road, Addison Airport, within the Town of Addison, Texas, and owned by the City, as described in Exhibit "B" attached hereto and made a part hereof, was leased to William R. White, as recorded in Volume 84227, Page 0026 of the Official Public Records of Dallas County, Texas (the "OPR") (the "Ground Lease" or "Lease,") a true and correct copy being attached hereto and made a part hereof as Exhibit "A"); and

WHEREAS, the Ground Lease was amended by that certain Amendment to Ground Lease dated November 30, 2001, as recorded in Volume 84227, Page 0021 of the OPR ("First Amendment") wherein Section 9.B. to the Ground Lease was modified; and

WHEREAS, the leasehold interest created under the Ground Lease was conveyed from William R. White to Great Escape Aviation, Inc. pursuant to that Special Warranty Deed with Vendor's Lien dated October 1, 2001, as recorded in Volume 2001232, Page 05145 of the OPR; and

WHEREAS, a Correction Special Warranty Deed with Vendor's Lien and Correction to Amendment to Ground Lease between the Town of Addison, Texas, William R. White, and Great Escape Aviation, Inc., was executed Effective October 1, 2001, which corrected references made in error in the November 30, 2001, Amendment referenced hereinabove, as recorded in the OPR as Document #200600013563; and

WHEREAS, the Ground Lease was transferred from Great Escape Aviation, Inc., as Grantor, to William R. White, as Grantee, by way of Deed in Lieu of Foreclosure effective July 1, 2011, as recorded in the OPR as Document No. 201100177110; and

WHEREAS, the leasehold interest created under the Ground Lease was conveyed from William R. White to Duke's Ice House, LLC by way of that Assignment of Ground Lease dated February 9, 2016, as recorded in the OPR as Document 201600052244; and

WHEREAS, by virtue of such assignments, amendments, and/or modifications made to the Ground Lease, Duke’s Ice House, LLC is the Tenant under the Ground Lease; and

WHEREAS, the Ground Lease provides that, upon the expiration or termination of that certain agreement referred to and defined in the Ground Lease as the “Base Lease” (and being an agreement for operation of the Addison Airport between the City and Addison Airport of Texas, Inc.), the City is entitled to all rights, benefits, and remedies, and will perform the duties, covenants, and obligations of the Landlord under the Ground Lease; and

WHEREAS, the said Base Lease has expired and the City is the sole Landlord under the Ground Lease.

WHEREAS, the Ground Lease is now due to expire February 28, 2025, unless otherwise earlier terminate as provided for in the Ground Lease (“Ground Lease Expiration Date”); and

WHEREAS, the parties hereby desire to further amend and/or modify the Ground Lease subject to the terms and conditions of this Second Amendment to Ground Lease as set forth below.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas, and Duke’s Ice House, LLC, do hereby agree as follows:

1. Incorporation of Premises. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof.

2. Amendments and Modifications to Ground Lease. The Ground Lease, as described in the above and foregoing recitals, is hereby amended as follows:

A. Section 3 - Term of the Ground Lease is hereby amended or modified in its entirety to reflect:

3. Term: The term hereof shall commence March 1, 1985 (hereinafter referred to as the “Commencement Date”) and shall expire December 31, 2028 (“Expiration Date”), subject to the termination provisions herein and of the Ground Lease, as amended and modified.

B. Section 4 – Rental of the Ground Lease is hereby amended to reflect:

4. Rental: As of the Effective Date of this Second Amendment, Landlord and Tenant agree Tenant is to pay Landlord rental for the demised premises as it has been adjusted over the Term, without offset or deduction the rate of Three Thousand Two Hundred and Seventy-Two and 12/100 Dollars (\$3,272.12) per month in advance. Notwithstanding the foregoing, beginning with the monthly rental installment due on or before January 1, 2022, Tenant hereby agrees to pay Landlord, without offset or deduction, rent for the Demised Premises at the rate of THREE THOUSAND NINE HUNDRED THIRTY-NINE and 97/100 Dollars (\$3,939.97) per month in advance (“Adjusted

Rental”), with a like installment due on or before the first day of each calendar month thereafter during the remaining Term hereof, subject to adjustment as provided for in Section 5 of the Ground Lease, as amended or modified.

C. Section 5 – Adjustment of Rental of the Ground Lease is hereby amended to reflect:

Rental Adjustment: Commencing on January 1, 2024, and on every bi-annual anniversary thereafter (hereinafter referred to as the "Adjustment Date"), the monthly rental due under Section 4 shall be adjusted as follows:

(i). Monthly rent shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas, Texas Metropolitan Area (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index for All Urban Consumers (CPJ-U)* for the Dallas-Fort Worth Consolidated Metropolitan Statistical Area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The basic index ("Basic Index") is the Consumer Price Index existing on January 1, 2022. The current index ("Current Index") is the Consumer Price Index in effect on the first day of the calendar month preceding the then applicable Adjustment Date.

(ii). Beginning with the first full month following the then applicable Adjustment Date, the monthly rent shall be adjusted so that it equals the product of the Base Amount multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Basic Index (the "Adjusted Rental"), but in no event shall such monthly rent ever be decreased below the Amended Rental set forth in Section 4, as amended.

(iii) In the event that the Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Price Index as closely as feasible (as determined by Landlord) shall be substituted therefor.

3. No Other Amendments. Except to the extent amended or modified herein, all other terms and obligations of the Ground Lease shall remain unchanged and in full force and effect.

4. Applicable Law; Venue. In the event of any action under this Second Amendment, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the state of Texas shall govern and apply to the interpretation, validity, and enforcement of this Second Amendment and, with respect to any conflict of law provisions, the parties hereto agree that such conflict of law provisions shall not affect the application of the law of the state of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity, and enforcement of this Second Amendment. All obligations of the parties hereto are performable in Dallas County, Texas.


5. No Third-Party Beneficiaries. This Second Amendment and each of its provisions are solely for the benefit of the parties hereto and are not intended to, and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

6. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Second Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the undersigned parties execute this Second Amendment this _____ day of _____, 2021.

TENANT:

DUKE'S ICE HOUSE, LLC

By:  _____
Mohsen Heidari, Member

LANDLORD:

TOWN OF ADDISON, TEXAS

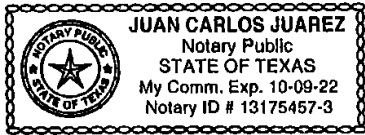
By: _____
Wesley S. Pierson, City Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Mohsen Heidari, Member of Duke's Ice House, LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this 21 day of September, 2021.



[Handwritten Signature]

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Wesley S. Pierson, City Manager of the Town of Addison, a home-rule municipality, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this _____ day of _____, 2021.

Notary Public, State of Texas

EXHIBIT "A"

COPY OF GROUND LEASE AS AMENDED AND MODIFIED

66

This Ground Lease (hereinafter referred to as the "Lease") is made and entered into as of January 19, 1984, by and among the City of Addison, Texas, a municipal corporation (hereinafter sometimes referred to as the "City"), Addison Airport of Texas, Inc., a Texas Corporation (hereinafter sometimes referred to as "AATI") and WILLIAM R. WHITE (hereinafter referred to as "Tenant").

WITNESSETH:

WHEREAS, AATI leases that certain real property (hereinafter referred to as the "demised premises") described in attached Exhibit A from the City pursuant to that certain instrument captioned Agreement for Operation of the Addison Airport (hereinafter referred to as the "Base Lease") between the City and Addison Airport, Inc. (predecessor to AATI); and

WHEREAS, the demised premises are situated at Addison Airport (hereinafter referred to as the "Airport") in Dallas County, Texas, the Airport being delineated in a plat attached hereto as Exhibit B; and

WHEREAS, the City and AATI hereby lease and demise the demised premises to Tenant, and Tenant hereby leases and takes the demised premises from the City and AATI, upon the terms and conditions set forth herein;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

1. **Base Lease:** All of the terms and conditions of the Base Lease are incorporated into this Lease by reference as if written verbatim herein, and Tenant by Tenant's execution hereof acknowledges that AATI has furnished Tenant with a copy of the Base Lease. Tenant agrees to fully comply at all times and in all respects with the terms and conditions of the Base Lease insofar as the same relate to the demised premises and/or the use and operation thereof, except that Tenant shall not be responsible for the payment of any rental due under the Base Lease which shall be paid by AATI.

2. **Definition of Landlord and Effect of Default under the Base Lease:** The term "Landlord" as hereinafter used in this Lease shall mean either AATI or the City. So long as the Base Lease is in effect, AATI shall be entitled to all of the rights, benefits and remedies of the Landlord under this Lease, and shall perform all of the duties, covenants and obligations of the Landlord under this Lease. Upon the expiration or termination of the Base Lease, the City shall be entitled to all of the rights, benefits and remedies of the Landlord under this Lease, and shall perform all of the duties, covenants and obligations of the Landlord under this Lease. The City agrees that (i) until such time as the City notifies Tenant to the contrary in writing, Tenant is fully authorized to make all payments due under this Lease to AATI, and (ii) that default by AATI under the Base Lease shall have no effect on this Lease so long as Tenant pays and performs its duties, covenants and obligations under this Lease.

3. **Term:** The term hereof shall commence on the earlier of March 1, 1984, or the first day of the first calendar month after Tenant completes the construction hereinbelow described and opens for business at the demised premises (the applicable date being hereinafter referred to as the "Commencement Date"), and shall end four hundred eighty (480) months thereafter; provided, however, that any entry upon the demised premises by Tenant prior to the Commencement Date shall be subject to all of the terms and conditions hereof except that rental shall not accrue.

4. **Rental:** Subject to adjustment as hereinbelow provided, Tenant agrees to pay to Landlord, without offset or deduction, rent for the demised premises at the rate of THIRTEEN HUNDRED SIXTY-FIVE AND 34/100 per month in advance. The first of such monthly installment shall be due and payable on or before the Commencement Date, and a like installment shall be due and payable on or before the first day of each calendar month thereafter during the term hereof.

5. **Adjustment of Rental:** Commencing on the second anniversary of the Commencement Date and on every bi-annual anniversary thereafter (hereinafter referred to as the "Adjustment Date"), the monthly rental due under paragraph 4 shall be adjusted as follows:

(i) A comparison shall be made between the Consumers' price Index-All Items for the Dallas, Texas Metropolitan Area (hereinafter referred to as the "Price Index") as it existed on the Commencement Date and as it exists on the first day of the calendar month preceding the then applicable Adjustment Date.

(ii) The monthly rental for the two (2) year period beginning with and following the then applicable Adjustment Date shall be either increased or decreased, as the case may be, by the percentage of increase or decrease in the Price Index between the Commencement Date and the then applicable Adjustment Date, but in no event shall such monthly rental ever be decreased below the monthly rental set forth in paragraph 4.

(iii) In the event that the Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Price Index as closely as feasible shall be substituted therefor.

6. **Use of Demised Premises and Construction of Improvements.** The demised premises shall be used and occupied by Tenant only for the following purposes: sale of aircraft and aircraft parts; aircraft maintenance and repair; aircraft storage; aircraft training; aircraft charter; and aircraft rentals; and not otherwise without the prior written consent of Landlord.

In connection with such use and occupancy, Tenant intends to construct upon the demised premises the improvements depicted in the plans and specifications.

1 - Metal hangar 120' x 80' with 2-story office 25' x 80' and 50' x 80' attached restaurant. Aircraft ramp and vehicle parking.

All construction shall be strictly in accordance with such plans and specifications, and such construction shall be performed in a first class, workmanlike manner. Tenant agrees to promptly pay and discharge all costs, expenses, claims for damages, liens and any and all other liabilities and obligations which arise in connection with such construction.

7. **Acceptance of Demised Premises.** Tenant acknowledges that Tenant has fully inspected the demised premises and accepts the demised premises as suitable for the purpose for which the same are leased in their present condition.

8. **Securing Governmental Approvals and Compliance with Law.** Tenant at Tenant's sole cost and expense shall obtain any and all governmental licenses, permits and approvals necessary for the construction of improvements and for the use and occupancy of the demised premises. Tenant shall comply at all times with all governmental laws, ordinances and regulations applicable to the use of the demised premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in or upon, or connected with the demised premises, all at Tenant's sole cost and expense.

9. **Assignment, Subletting and Mortgaging of Leasehold Estate:**

A. Without the prior written consent of Landlord, Tenant may not assign this Lease or any rights of Tenant hereunder (except to a leasehold mortgagee as hereinbelow provided) or sublet the whole or any part of the demised premises. Any assignment or subletting shall be expressly subject to all the terms and provisions of this Lease, including the provisions of paragraph 8 pertaining to the use of the demised premises. In the event of any assignment or subletting, Tenant shall not assign Tenant's rights hereunder or sublet the demised premises without first obtaining a written agreement from each such assignee or sublessee whereby each such assignee or sublessee agrees to be bound by the terms and provisions of this Lease. No such assignment or subletting shall constitute a novation. In the event of the occurrence of an event of default while the demised premises are assigned or sublet, Landlord, in addition to any other remedies provided herein or by law, may at Landlord's option, collect directly from such assignee or subtenant all rents becoming due under such assignment or subletting and apply such rent against any sums due to Landlord hereunder. No direct collection by Landlord from any such assignee or subtenant shall release Tenant from the payment or performance of Tenant's obligations hereunder.

B. Tenant shall have the right to mortgage the leasehold estate of Tenant created hereby in order to secure a mortgage loan for the purpose of obtaining funds for the construction of the improvements described in paragraph 6 or for other construction upon the demised premises approved from time to time by Landlord in writing. In the event that Tenant pursuant to mortgages or deeds of trust mortgages the leasehold estate of Tenant created hereby, the leasehold mortgagee shall in no event become personally liable to perform the obligations of Tenant under this Lease unless and until said mortgagee become the owner of the leasehold estate pursuant to foreclosure, transfer in lieu of foreclosure, or otherwise, and thereafter said leasehold mortgagee shall remain liable for such obligations only so long as such mortgagee remains the owner of the leasehold estate. Notwithstanding the foregoing, it is specifically understood and agreed that no such mortgaging by Tenant and/or any actions taken pursuant to the terms of such mortgage shall ever relieve Tenant of Tenant's obligation to pay the rental due hereunder and otherwise fully perform the terms and conditions of this Lease.

All mortgagee or deeds of trust hereby Tenant mortgagee the leasehold estate of Tenant created hereby shall contain provisions to accelerating the debt of Tenant to such mortgagee or deeds of trust, to accelerating the debt of Tenant to such mortgagee or deeds of trust, and (ii) allowing Landlord during such fifteen day notice period to cure Tenant's default and prevent said acceleration and/or foreclosure proceedings, and thereafter at Landlord's option to assume Tenant's position under said mortgages or deeds of trust.

D. Landlord agrees, if and so long as the leasehold estate of Tenant is encumbered by a leasehold mortgage and written notice of such effect has been given to Landlord, to give the holder of such leasehold mortgage at such address or addresses as may be specified in such written notice to Landlord for the giving of notices to the leasehold mortgagee, or as otherwise may be specified by the leasehold mortgagee to Landlord in writing, written notice of any default hereunder by Tenant, simultaneously with the giving of such notice to Tenant, and the holder of any such leasehold mortgage shall have the right, for a period of fifteen (15) days after its receipt of such notice or within any longer period of time specified in such notice, to take such action or to make payment as may be necessary or appropriate to cure any such default so specified, if being the intention of the parties hereto that Landlord shall not exercise Landlord's right to terminate this Lease without first giving any such leasehold mortgagee the notice provided for herein and affording any such leasehold mortgagee the right to cure such default as provided for herein.

E. Landlord further agrees to execute and deliver to any proposed leasehold mortgagee of Tenant a "Non-Disturbance Agreement" wherein Landlord agrees that Landlord will (i) recognize such mortgagee and its successors and assigns after foreclosure, or transfer in lieu of foreclosure, as Tenant hereunder, and (ii) continue to perform all of Landlord's obligations hereunder so long as such mortgagee or its successors and assigns performs all of the obligations of Tenant hereunder. Landlord also agrees to execute and deliver to such proposed leasehold mortgagee any other documents which such proposed leasehold mortgagee may reasonably request concerning the mortgaging by Tenant of the leasehold estate created hereby; provided, however, that Landlord shall never be required to subordinate Landlord's interest in the demised premises to the mortgage of such proposed leasehold mortgagee.

10. **Property Taxes and Assessments:** Tenant shall pay any and all property taxes or assessments levied or assessed on the improvements on the demised premises, the personal property and fixtures on the demised premises, and, if applicable, upon the leasehold estate of Tenant created hereby. Upon the request of Landlord, Tenant shall from time to time furnish to Landlord's "paid receipts" or other written evidence that all such taxes have been paid by Tenant.

11. Maintenance and Repair of Demised Premises:

A. Tenant shall, throughout the term hereof, maintain in good repair and condition all the demised premises and all fixtures, equipment and personal property on the demised premises and keep them free from waste or nuisance and, at the expiration or termination of this Lease, deliver up the demised premises clean and free of trash and in good repair and condition, with all fixtures and equipment situated in the demised premises in working order, reasonable wear and tear excepted.

B. In the event Tenant shall fail to so maintain the demised premises and the fixtures, equipment and personal property situated thereon, Landlord shall have the right (but not the obligation) to cause all repairs or other maintenance to be made and the reasonable costs therefor expended by Landlord plus interest thereon as provided in paragraph 37 shall be paid by Tenant on demand.

12. **Alterations, Additions and Improvement.** After completion of the improvements described in paragraph 6, Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions or improvements to the demised premises without the prior written consent of Landlord. Consent for non-structural alterations, additions or improvements shall not be unreasonably withheld by Landlord. Tenant shall have the right to erect or install shelves, bins, machinery, air conditioning or heating equipment and trade fixtures, provided that Tenant complies with all applicable governmental laws, ordinances and regulations.

All alterations, additions and improvements in and to the demised premises shall be performed in a first class, workmanlike manner, and Tenant shall promptly pay and discharge all costs, expenses, claims for damages, liens and any and all other liabilities and obligations which arise in connection therewith.

13. **Insurance.** Tenant shall during the term hereof maintain at Tenant's sole cost and expense insurance relating to the demised premises as follows:

(i) Insurance against loss or damage to improvements by fire, lightning, and other risks from time to time included under standard extended coverage policies, and sprinkler, vandalism and malicious mischief, all in amounts sufficient to prevent Landlord or Tenant from becoming co-insurers of any loss under the applicable policies but in any event in amounts not less than eighty percent (80%) of the full insurable value of the demised premises. The term "full insurable value" as used herein means actual replacement value at the time of such loss. Upon request, such replacement value shall be determined by a qualified appraiser, a copy of whose findings shall be submitted to Landlord, and, therefore, proper adjustment in the limits of insurance coverage shall be effected.

(ii) General public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the demised premises, such insurance to afford protection to Landlord of not less than \$500,000.00 with respect to any one person, \$1,000,000.00 with respect to any one accident and not less than \$200,000.00 with respect to property damage.

(iii) Workmen's compensation insurance covering all persons employed by Tenant in connection with any work done on or about the demised premises with respect to which claims for death or bodily injury could be asserted against Landlord or the demised premises, or in lieu of such workmen's compensation insurance, a program of self-insurance complying with the rules, regulations and requirements of the appropriate state agency of the State of Texas.

(iv) If applicable, boiler and pressure vessel insurance on all steam boilers, parts thereof and appurtenances attached or connected thereto which by reason of their use or existence are capable of bursting, erupting, collapsing, imploding or exploding, in the minimum amount of \$100,000.00 for damage to property resulting from such perils.

(v) Such other insurance on improvements in such amounts and against such other insurable hazard which at the time are commonly obtained in the case of property similar to such improvements.

(vi) Hangar keeper's liability insurance providing for coverage in the following limits: \$200,000.00 per aircraft and \$400,000.00 per occurrence on property damage to aircraft in the care, custody or control of Tenant.

(vii) During any period of construction, a Builder's Risk Completed Value policy with an all risks endorsement.

All such policies of insurance (i) shall be issued by insurance companies acceptable to Landlord, (ii) shall name Landlord as an additional insured or loss payee, as the case may be, and (iii) shall provide for at least ten (10) days written notice to Landlord prior to cancellation or modification. Tenant shall provide Landlord with duplicate originals of all insurance policies required by this paragraph.

14. Casually Damage or Destruction:

A. In case of any damage to or destruction of the buildings, structures and equipment on the demised premises, or any part thereof, Tenant will promptly give written notice thereof to Landlord, generally describing the nature and extent of such damage and/or destruction.

B. In case of any damage to or destruction of the buildings, structures and equipment on the demised premises, or any part thereof, Tenant, whether or not the insurance proceeds, if any, payable on account of such damage and/or destruction shall be sufficient for such purpose, at Tenant's sole cost, risk and expense will promptly commence and complete the restoration, repair and replacement of said buildings, structures and equipment as nearly as possible to their value, condition and character immediately prior to such damage and/or destruction, with such alterations in and additions thereto as may be approved in writing by Landlord (hereinafter sometimes referred to as the "Restoration").

C. All insurance proceeds, if any, payable on account of such damage to or destruction of the buildings, structures and equipment on the demised premises shall be held by Landlord. Landlord shall be protected in acting upon any certificate believed by Landlord to be genuine and to have been executed by the proper party and shall receive such certificate as conclusive evidence of any fact or as to any matter therein set forth. Such certificate shall be full warranty, authority and protection to Landlord in acting thereon, and Landlord shall be under no duty to take any action other than as set forth in this paragraph 14.

D. Insurance proceeds received by Landlord on account of any damage to or destruction of the buildings, structures and equipment on the demised premises, or any part thereof (less the costs, fees and expenses incurred by Landlord and Tenant in the collection thereof, including, without limitation, adjuster's and attorney's fees and expenses) shall be applied as follows:

(i) Net insurance proceeds as above defined shall be paid to Tenant or as Tenant may direct from time to time as Restoration progresses to pay (or reimburse Tenant for) the cost of Restoration, upon written request of Tenant to Landlord accompanied by (a) certificate of a supervising architect or engineer approved by Landlord, describing in reasonable detail the work and material in question and the cost thereof, stating that the same were necessary or appropriate to the Restoration and constitute a complete part thereof, and that no part of the cost thereof has theretofore been reimbursed, and specifying the additional amount, if any, necessary to complete the Restoration, and (b) an opinion of counsel satisfactory to Landlord that there exist no mechanics', materialmen's or similar liens for labor or materials except such, if any, as are discharged by the payment of the amount requested.

(ii) Upon receipt by Landlord of evidence of the character required by the foregoing clauses (i)(a) and (b) that Restoration has been completed and the cost thereof paid in full, and that there are no mechanics', materialmen's or similar liens for labor or materials supplied in connection therewith, the balance, if any, of such proceeds shall be paid to Tenant or as Tenant may direct.

E. In the event that Tenant does not promptly commence Restoration, or after commencement Tenant does not diligently proceed to the completion of same, Landlord shall have the right to commence or complete Restoration after Landlord has given Tenant thirty (30) days prior written notice requesting the commencement of Restoration or that Tenant diligently proceeds to the completion of same. If Tenant during such thirty (30) day period does not so commence or proceed to diligently complete Restoration, in such event, Landlord shall retain the insurance proceeds, and Tenant shall pay any deficiency if such proceeds are not sufficient for Restoration.

15. Condemnation:

A. If during the term hereof, any part of the demised premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, or are sold to a condemning authority under threat of condemnation, and after such taking by or sale to said condemning authority the remainder of the demised premises is not susceptible to efficient and economic occupation and operation by Tenant, this Lease shall automatically terminate as of the date that said condemning authority takes possession of the demised premises, and Landlord shall refund to Tenant any prepaid but unaccrued rental less any sum then owing by Tenant to Landlord.

B. If after such taking by or sale to said condemning authority the remainder of the demised premises is susceptible to efficient and economic occupation and operation by Tenant, this Lease shall not terminate but the rental due hereunder shall be adjusted so that Tenant shall be required to pay for the remainder of the term hereof the sum obtained by multiplying each monthly rental installment due hereunder, as adjusted from time to time pursuant to paragraph 5, by a fraction, the numerator of which shall be the number of square feet remaining in the demised premises after the taking by or sale to said condemning authority and denominator of which shall be the square footage originally contained in the demised premises. The rental adjustment called for herein shall not commence until said condemning authority actually takes possession of the condemned portion of the demised premises.

C. If this Lease is not terminated pursuant to Section A, Tenant shall promptly restore the improvements on the demised premises, and the condemnation proceeds to which Landlord and Tenant are entitled shall be awarded and paid first to cover the costs and expenses for restoring the remaining portion of the demised premises to a condition susceptible to efficient and economic occupation and operation by Tenant, and any remaining proceeds to which Landlord and Tenant are entitled shall be awarded and paid to Landlord and Tenant, as their interest may appear. If this Lease is terminated pursuant to Section A, condemnation proceeds to which Landlord and Tenant are entitled shall be awarded and paid to Landlord and Tenant as their interests may appear.

16. **Utilities.** Tenant shall be responsible as Tenant's sole cost and expense for obtaining all utility connections at or for the demised premises and Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, tap-in fees and services furnished to the demised premises during the term hereof. Landlord shall in no event be liable or responsible for any cessation or interruption in any such utility services.

17. **Common Facilities.** Tenant and Tenant's employees, agents, servants, customers and other invitees shall have the non-exclusive right to use all common facilities, improvements, equipment and services which may now exist or which may hereafter be provided by Landlord for the accommodation and convenience of Landlord's customers and tenants, including landing and takeoff facilities, means of ingress and egress to the demised premises, other airport installations, and all other reasonable services which may be provided without charge from time to time by Landlord in operating the Airport. All such common facilities shall at all times be under the exclusive control and management of Landlord and may be rearranged, modified, changed or terminated from time to time at Landlord's sole discretion.

18. **Rules and Regulations.** Landlord has adopted Rules and Regulations (hereinafter referred to as the "Rules and Regulations") which shall govern Tenant in the use of the demised premises and all common facilities, a copy of which has been furnished to Tenant. The Rules and Regulations are incorporated by reference as if written verbatim herein, and Tenant agrees to comply fully at all times with the Rules and Regulations. Landlord shall have the right to amend, notify and alter the Rules and Regulations from time to time in a reasonable manner for the purpose of assuring the safety, welfare and convenience of Landlord, Tenant and all other Tenants and customers of the Airport.

19. **Signs and Equipment.** After first securing Landlord's approval which will not be unreasonably withheld, Tenant shall have the right from time to time to install and operate advertising signs and radio, communications, meteorological, aerial navigation and other equipment and facilities in or on the demised premises that may be reasonably necessary for the operation of Tenant's business.

20. **Landlord's Right of Entry.** Landlord and Landlord's authorized representatives shall have the right, during the normal business hours, to enter the demised premises (i) to inspect the general condition and state of repair thereof, (ii) to make repairs permitted under this Lease, (iii) to show the demised premises to any prospective tenant or purchaser or (iv) for any other reasonable and lawful purpose.

During the final one hundred eighty (180) days of the term hereof, Landlord and Landlord's authorized representatives shall have the right to erect and maintain on or about the demised premises customary signs advertising the demised premises for lease or for sale.

21. Indemnity and Exculpation:

A. Landlord shall not be liable to Tenant or to Tenant's employees, agents, servants, customers, invitees, or to any other person whatsoever, for any injury to persons or damage to property on or about the demised premises or any adjacent area owned by Landlord caused by the negligence or misconduct of Tenant, Tenant's employees, servants, customers, invitees, subtenants, licensees or concessionaires or any other person entering the demised premises under express or implied invitation of Tenant, or arising out of the use of the demised premises by Tenant and the conduct of Tenant's business thereon, or arising out of any breach or default by Tenant in the performance of Tenant's obligations hereunder; and Tenant hereby agrees to indemnify Landlord and hold Landlord harmless from any loss, expense or claims arising out of such damage or injury.

B. Landlord and Landlord's agents and employees shall not be liable to Tenant for any injury to persons or damage to property resulting from the demised premises becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the demised premises, regardless of the source, or dampness or by fire, explosion, falling plaster or ceiling or for any other reason whatsoever. Landlord shall not be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of Landlord or caused by operations in construction of any private, public or quasi-public work, or of any other persons whatsoever, excepting only duly authorized agents and employees of Landlord.

22. Default by Tenant. The following events shall be deemed to be events of default by Tenant under this Lease:

A. Failure of Tenant to pay any installment of rent or any other sum payable to Landlord hereunder on the date that same is due and such failure shall continue for a period of ten (10) days.

B. Failure of Tenant to comply with any term, condition or covenant of this Lease, other than the payment of rent or other sum of money, and such failure shall not be cured within thirty (30) days after written notice thereof to Tenant.

C. Insolvency, the making of a transfer in fraud of creditors, or the making of an assignment for the benefit of creditors by Tenant or any guarantor of Tenant's obligations.

D. Filing of a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any State thereof by Tenant or any guarantor of Tenant's obligations, or adjudication as a bankrupt or insolvent in proceedings filed against Tenant or such guarantor.

E. Appointment of a receiver or trustee for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations.

F. Abandonment by Tenant of any substantial portion of the demised premises or cessation of use of the demised premises for the purpose leased.

23. **Remedies of Landlord.** Upon the occurrence of any of the events of default listed in paragraph 22, Landlord shall have the option to pursue any one or more of the following remedies without the notice or demand whatsoever:

A. Terminate this Lease, in which event Tenant shall immediately surrender the demised premises to Landlord. If Tenant fails to so surrender the demised premises, Landlord may, without prejudice to any other remedy which Landlord may have for possession of the demised premises or arrearages in rent, enter upon and take possession of the demised premises and expel or remove Tenant and any other person who may be occupying the demised premises or any part thereof, without being liable for prosecution or any claim for damages therefor. Tenant shall pay to Landlord on demand the amount of all loss and damages which Landlord may suffer by reason of such termination, whether through inability to relet the demised premises on satisfactory terms or otherwise.

B. Terminate this Lease, in which event Tenant shall immediately surrender the demised premises to Landlord. If Tenant fails to so surrender the demised premises, Landlord may, without prejudice to any other remedy which Landlord may have for possession of the demised premises or arrearages in rent, enter upon and take possession of the demised premises and expel or remove Tenant and any other person who may be occupying the demised premises or any part thereof, without being liable for prosecution or any claim for damages therefor. Tenant shall pay to Landlord on the date of such termination damages in any amount equal to the excess, if any, of the total amount of all monthly rental and other amounts to be paid by Tenant to Landlord hereunder for the period which would otherwise have constituted the unexpired portion of the term of this Lease over the then fair market rental value of the demised premises for such unexpired portion of the term of this Lease.

C. Enter upon and take possession of the demised premises without terminating this Lease and without being liable for prosecution or for any claim for damages therefor, and expel or remove Tenant and any other person who may be occupying the demised premises or any part thereof. Landlord may relet the demised premises and receive the rent therefor. Tenant agrees to pay to Landlord monthly or on

demanded from time to time any deficiency that may arise by reason of any such relating. In determining the amount of such deficiency, brokerage commissions, attorneys' fees, remodeling expenses and other costs of relief, shall be subtracted from the amount of rent received under such relating.

D. Enter upon the demised premises without terminating this Lease and without being liable for prosecution or for any claim for damages therefor, and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to pay Landlord on demand for expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, together with interest thereon at the rate of ten percent (10%) per annum from the date expended until paid. Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by negligence of Landlord or otherwise.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions and covenants herein contained.

24. **Default by Landlord.** No default by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the demised premises or render Landlord liable for damages or entitle Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay rent) or grant Tenant any right of deduction, abatement, set-off or recoupment or entitle Tenant to take any action whatsoever with regard to the demised premises or Landlord until thirty (30) days after Tenant has given Landlord written notice specifically setting forth such default by Landlord, and Landlord has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period then within an additional reasonable period of time so long as Landlord has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default. In the event that Landlord fails to cure such default within said thirty (30) day period, or within said additional reasonable period of time, Tenant shall have the right to:

(i) Proceed to cure such default and deduct the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum from the next succeeding rental installment(s) due by Tenant to Landlord hereunder; or

(ii) Proceed to cure such default and bring suit against Landlord for the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum.

If any mortgagee of Landlord has given Tenant its address for notices and specifically requests such notice, Tenant agrees to give the notice required hereinabove to such mortgagee at the time Tenant gives same to Landlord, and to accept curative action, if any, undertaken by such mortgagee as if such curative action had been taken by Landlord.

25. **Waiver of Subrogation.** Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during the term of this Lease for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of, the demised premises, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

26. **Title to Improvements.** Any and all improvements on the demised premises shall become the property of Landlord upon the expiration or termination of this Lease; provided, however: (i) If Tenant is not then in default hereunder, Tenant shall have the right to remove all personal property and trade fixtures owned by Tenant from the demised premises, but Tenant shall be required to repair any damage to the demised premises caused by such removal in a good and workmanlike manner and at Tenant's sole cost and expense; and (ii) Landlord may elect to require Tenant to remove all improvements from the demised premises and restore the demised premises to the condition in which the same existed on the date hereof, in which event Tenant shall promptly perform such removal and restoration in a good and workmanlike manner and at Tenant's sole cost and expense.

27. **Mechanics' and Materialmen's Liens.** Tenant agrees to indemnify and hold Landlord harmless of and from all liability arising out of the filing of any mechanics' or materialmen's liens against the demised premises by reason of any act or omission of Tenant or anyone claiming under Tenant, and Landlord, at Landlord's option, may satisfy such liens and collect the amount expended from Tenant together with interest thereon as provided in paragraph 37 as additional rent; provided, however, that Landlord shall not so satisfy such liens until fifteen (15) days after written notification to Tenant of Landlord's intention to do so and Tenant's failure during such fifteen (15) day period to bond such liens or escrow funds with appropriate parties to protect Landlord's interest in the demised premises.

28. **Title.** Tenant accepts the demised premises subject to: (i) the Base Lease; (ii) the Rules and Regulations; (iii) easements and rights-of-way and (iv) zoning ordinances and other ordinances, laws, statutes or regulations now in effect or hereafter promulgated by any governmental authority having jurisdiction over the demised premises.

29. **Quiet Enjoyment and Subordination.** Landlord covenants, represents and warrants that Landlord has full right and power to execute and perform this Lease and to grant the estate demised herein, and that Tenant, upon payment of the rents herein reserved, and performance of the terms, conditions, covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the demised premises during the full term of this Lease; provided, however, that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust or other lien presently existing upon the demised premises. Landlord further is hereby irrevocably vested with full power and authority by Tenant to subordinate Tenant's interest hereunder to any mortgage, deed of trust or other lien now existing or hereafter placed on the demised premises or to declare this Lease prior and superior to any mortgage, deed of trust or other lien now existing or hereafter placed on the demised premises; provided, however, any such subordination shall be upon the express conditions that (i) this Lease shall be recognized by the mortgagee and that all of the rights of Tenant shall remain in full force and effect during the full term of this Lease on condition that Tenant attorn to the mortgagee, its successors and assigns, and perform all of the covenants and conditions required by the terms of this lease, and (ii) in the event of foreclosure or any enforcement of any such mortgage, the rights of Tenant hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect so long as Tenant shall fully perform all Tenant's obligations hereunder and attorn to the purchaser. Tenant also agrees upon demand to execute further instruments declaring this Lease prior and superior to any mortgage, deed of trust or other lien and specifically providing that this Lease shall survive the foreclosure of such mortgage, deed of trust or other lien.

30. **Rent on Net Return Basis.** Except for the rental due under the Base Lease during the time that AATI is the Landlord hereunder, it is intended that the rent provided for in this Lease shall be an absolutely net return to Landlord for the term of this Lease, free of any loss, expenses or charges with respect to the demised premises, including, without limitation, maintenance, repairs, replacement, insurance, taxes and assessments, and this Lease shall be construed in accordance with and to effectuate such intention.

31. **Holding Over.** Should Tenant, or any of Tenant's successors in interest fail to surrender the demised premises, or any part thereof, on the expiration of the term of this Lease, such holding over shall constitute a tenancy from month to month only terminable at any time by either Landlord or Tenant after thirty (30) days prior written notice to the other, at a monthly rental equal to two hundred percent (200%) of the rent paid for the last month of the term of this Lease.

32. **Waiver of Default.** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

33. **Release of Landlord Upon Transfer.** All of Landlord's personal liability for the performance of the terms and provisions of this Lease (except for any liability accruing prior to such transfer) shall terminate upon a transfer of the demised premises by Landlord, provided that the obligations of Landlord under this Lease are covenants running with the land and shall be binding upon the transferee of Landlord's interest in this Lease and the demised premises.

34. **Attorneys' Fees.** If, on account of any breach or default by Landlord or Tenant of their respective obligations under this Lease, it shall become necessary for the other to employ an attorney to enforce or defend any of such party's rights or remedies hereunder, and should such party prevail, such party shall be entitled to collect reasonable attorneys' fees incurred in such connection from the other party.

35. **Financial Information.** Tenant agrees that Tenant will from time to time upon the written request of Landlord during the term of this Lease furnish to Landlord such credit and banking references as Landlord may reasonably request.

36. **Estoppel Certificates.** Tenant agrees that from time to time, upon not less than ten (10) days' prior written request by Landlord, Tenant will deliver to Landlord a statement in writing certifying that:

A. This Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications).

B. The dates to which rent and other charges have been paid.

C. Landlord is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

D. If requested by Landlord, Tenant will not pay rent for more than one (1) month in advance and that this Lease will not be amended without notice to Landlord's mortgagee and that the same will not be terminated without the same notice required by the Lease to be

furnished to Landlord also being furnished to Landlord's mortgagee and Landlord's mortgagee fails to cure such default within the curative period allowed Landlord under this Lease.

Landlord agrees that from time to time, upon not less than ten (10) days' prior written request by Tenant, Landlord will deliver to Tenant a statement in writing certifying that:

A. This Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease as modified is in full force and effect and stating the modifications).

B. The dates to which rent and other charges have been paid.

C. Tenant is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

37. **Interest on Tenant's Obligations and Manner of Payment.** All monetary obligations of Tenant to Landlord under this Lease remaining unpaid ten (10) days after the due date of the same (if no due date has been established under other provisions hereof, the "due date" shall be the date upon which Landlord demands payment from Tenant in writing) shall bear interest at the rate of ten percent (10%) per annum from and after said tenth (10th) day until paid. If more than twice during the term of the Lease Tenant's personal or corporate check is not paid by the bank on which it is drawn for whatever reason, Landlord may require by giving written notice to Tenant that the payment of all future monetary obligations of Tenant under this Lease are to be made on or before the due date by cash, cashier's check, certified check or money order, and the delivery of Tenant's personal or corporate check will no longer constitute payment of such monetary obligations. Any acceptance by Landlord of a personal or corporate check after such notice shall not be deemed or construed as a waiver or estoppel of Landlord to require other payments as required by said notice.

38. **Independent Contractor.** It is understood and agreed that in leasing and operating the demised premises, Tenant is acting as an independent contractor and is not acting as agent, partner, joint venturer or employee of Landlord.

39. **Force Majeure.** In the event performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or hindered.

40. **Exhibits.** All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

41. **Use of Language.** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

42. **Captions.** The captions or headings or paragraphs in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

43. **Successors.** The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of Landlord under this Lease, including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder, may, at Landlord's option, be exercised or performed by Landlord's agent or attorney.

44. **Severability.** If any provision in this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

45. **Notices.** Any notice or document required or permitted to be delivered hereunder may be delivered in person or shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at the addresses indicated below, or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

LANDLORD:

Addison Airport of Texas, Inc.
P. O. Box 34067
Dallas, Texas 75234

City of Addison, Texas

P. O. Box 144

Addison, Texas 75001

TENANT:

William R. White
P. O. Box 825
Addison, Texas 75001

46. **Fees or Commissions.** Each party hereto hereby covenants and agrees with the other that such party shall be solely responsible for the payment of any brokers', agents' or finders' fees or commissions agreed to by such party arising from the execution of this Lease or the performance of the terms and provisions contained herein, and such party agrees to indemnify and hold the other party harmless from the payment of any such fees or commissions.

47. **Counterparts.** This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

48. **Governing Law and Venue.** This Lease and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas, and Landlord and Tenant both irrevocably agree that venue for any dispute concerning this Lease or any of the transactions contemplated herein shall be in any court of competent jurisdiction in Dallas County, Texas.

49. **Entire Agreement and Amendments.** This Lease, consisting of forty-nine (49) paragraphs and Exhibits A through B attached hereto, embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or in behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

EXECUTED as of the day month and year first above written.

LANDLORD:

ADDISON AIRPORT OF TEXAS, INC.

By: 

Its: 

CITY OF ADDISON, TEXAS

By: 

Its: 

TENANT:

By: 

Its: 

5

STATE OF TEXAS }
COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Henry Stuart
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same
for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 25 day of January, 19 84.

Dorothy L. James
Notary Public
Dallas
County, Texas

STATE OF TEXAS }
COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Wm R White
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same
for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 25 day of January, 19 84.

Dorothy L. James
Notary Public
Dallas
County, Texas

STATE OF TEXAS }
COUNTY OF DALLAS

BEFORE ME, the undersigned authority, on this day personally appeared Jerry Riddling
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same
for the purposes and considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of April, 19 84.

Jacquie Sharp
Notary Public
Dallas
County, Texas



STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AMENDMENT TO GROUND LEASE

This Amendment to Ground Lease (hereinafter referred to as the "Amendment") is entered into and effective as of November 30, 2001 by and between the Town of Addison, Texas (the "City"), a Texas home rule municipality ("Landlord") and William R. White ("Tenant").

WHEREAS, the Town of Addison, Texas is the owner of the Addison Airport located within the Town of Addison; and

WHEREAS, Landlord and Tenant entered into that certain Ground Lease dated January 19, 1984 (hereinafter referred to as the "Ground Lease"), a true and correct copy of which is attached hereto as Exhibit A (as amended by that Amendment to Ground Lease dated January 12, 1984, a copy of which is attached hereto as Exhibit B), which leased to Tenant a certain 1.276 acre tract of land (the "Demised Premises") located within the Addison Airport and more particularly described in Exhibit C attached hereto and incorporated herein (and being generally located at 16111 Addison Road, Addison, Texas 75001 and generally described as Building #33 at Addison Airport); and

This amendment is intended to be a public record that affects the public good.

WHEREAS, Tenant desires to transfer and assign Tenant's interest in the Ground Lease to Great Escape Aviation, Inc., a Wyoming corporation, ("Purchaser") and, in connection with the said transfer and assignment, Purchaser desires to secure a loan from Tenant unrelated to construction on the Demised Premises (as defined in the Ground Lease) in which Purchaser will grant to Tenant a lien against the leasehold interest in the Ground Lease to serve as security for a portion of the purchase price of Tenant's leasehold interest in the Ground Lease; and

WHEREAS, in order to secure the said loan, Tenant has requested that the Ground Lease be amended as set forth below, and Landlord has agreed to the said amendment.

NOW, THEREFORE, for an in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

Section 1. Amendment to Section 9. Section 9, subparagraph B. of the Ground Lease is hereby amended so that it shall hereafter read as follows:

"B. Tenant shall have the right to mortgage the leasehold estate of Tenant created hereby in order to secure a mortgage loan for the purpose of (i) obtaining funds for the construction of the improvements described in paragraph 6, or (ii) for other construction upon the demised premises approved from time to time by Landlord in writing, or (iii) for other purposes which may be approved from time to time by Landlord in writing. In the event that Tenant, pursuant to mortgages or deeds of trust, mortgages the leasehold estate of Tenant created hereby, the leasehold mortgagee shall in no event become personally liable to perform the obligations of Tenant under this Lease unless and until said mortgagee becomes the owner of the leasehold estate pursuant to foreclosure, transfer in lieu of foreclosure, or otherwise, and thereafter said leasehold mortgagee shall remain liable for such obligations only

so long as such mortgage remains the owner of the leasehold estate. Notwithstanding the foregoing, it is specifically understood and agreed that no such mortgaging by Tenant and/or any actions taken pursuant to the terms of such mortgage shall ever relieve Tenant of Tenant's obligation to pay the rental due hereunder and otherwise fully perform the terms and conditions of this Lease."

Section 2. No Other Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Ground Lease shall remain unchanged and in full force and effect. Notwithstanding the amendment to the Ground Lease set forth in Section 1 hereof, in the event that the Tenant's interest in the Ground Lease is not transferred and assigned to Purchaser as set forth above on or before December 31, 2001, the amendment described in Section 1 shall be null and void as if no amendment had been made.

Section 3. Applicable Law; Venue. This Amendment shall be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the parties created by this Amendment are performable in Dallas County, Texas. Venue for any action under this Amendment shall be in Dallas County, Texas.

Section 4. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the undersigned parties execute this Agreement this 15th day of November, ~~2001~~ 2004

LANDLORD:

TOWN OF ADDISON, TEXAS

By: Ron Whitehead
Ron Whitehead, City Manager

TENANT:

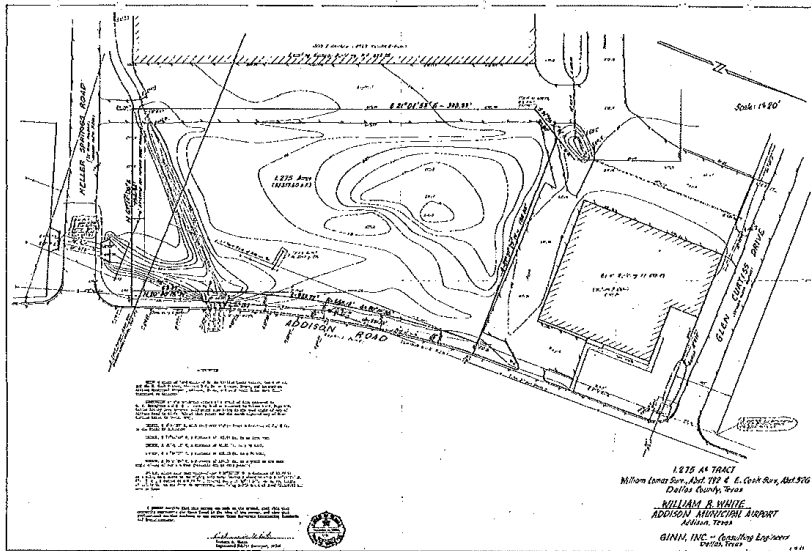
WILLIAM R. WHITE

By: W.R. White
WILLIAM R. WHITE

[ADD ACKNOWLEDGMENTS]

EXHIBIT "B"

**PROPERTY SURVEY AND LEGAL DESCRIPTION
OF DEMISED PREMISES**



Aerial View: 16101 Addison Road, Addison Airport
Subject Site: Duke's Ice House, LLC Ground Leasehold



Council Meeting

11.

Meeting Date: 10/26/2021

Department: Airport

Pillars: Excellence in Transportation Systems

AGENDA CAPTION:

Present, Discuss, and Consider Action on a **Resolution Approving a Commercial Lease Between the Town of Addison and Jani-King International, Inc. for The Cavanaugh Flight Museum's Use on Property Located at 4572 Claire Chennault Drive, Addison Airport, and Authorizing the City Manager to Execute the Commercial Lease.**

BACKGROUND:

Jani-King International, Inc. ("Jani-King") is the ground tenant of a certain leasehold located at 4572 Claire Chennault Drive at Addison Airport. On the leased premises, Jani-King operates Cavanaugh Flight Museum, a 501c3 non-profit educational museum devoted to promoting aviation studies and perpetuating America's aviation heritage. The ground lease is scheduled to expire November 29, 2021, at which time, pursuant to the terms of the ground lease, Jani-King is to vacate the premises and the ownership of the building improvements and leasehold interests shall revert to the Town. Jani-King desires to continue to use and occupy the premises for the purpose of operating Cavanaugh Flight Museum, subject to the terms and conditions of a proposed Conventional Hangar Lease for Commercial Aviation Use agreement.

Among other things, the proposed Conventional Hangar Lease for Commercial Aviation Use agreement provides for:

- i. The agreement to commence on November 30, 2021, immediately upon the expiration of the ground lease without interruption.
- ii. A Lease Term of 3-years with the right to early terminate the agreement by either party with six months advance written notice after the second year of the term;
- iii. Tenant shall pay a commercial market Base Rental of \$7,084.00 per month for the demised premises beginning November 30, 2021;

Should the Conventional Hangar Lease for Commercial Aviation Use not be granted by the Town, Jani-King would be required to vacate the premises upon the expiration of the ground lease.

The requested action is consistent with the 2013 Addison Airport Strategic Plan and the 2016 Airport Master Plan.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Commercial Lease 4572 Claire Chennault

Aerial Location Map

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, APPROVING A CONVENTIONAL HANGAR LEASE FOR COMMERCIAL AVIATION USE BETWEEN THE TOWN OF ADDISON AND JANI-KING INTERNATIONAL, INC. FOR THE PROPERTY LOCATED A 4572 CLAIRE CHENNAULT DRIVE, ADDISON AIRPORT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COMMERCIAL LEASE.

WHEREAS, Jani-King, International, Inc., a Texas corporation (“Jani-King”), holds the leasehold interests of a certain ground lease located at 4572 Claire Chennault Drive at Addison Airport, which said ground lease is due to expire on November 29, 2021.

WHEREAS, Jani-King is requesting the Town of Addison to approve a three-year Conventional Hangar Lease for Commercial Aviation Use to commence immediately upon the expiration of the Jani-King ground lease without interruption.

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

Section 1. The proposed Jani-King, International, Inc. Conventional Hangar Lease for Commercial Aviation Use affecting the property located at 4572 Claire Chennault Drive at Addison Airport, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved and the City Manager is authorized to execute this lease.

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas, this the **26th** day of **OCTOBER 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

“EXHIBIT A”

STATE OF TEXAS §
§
COUNTY OF DALLAS §

**ADDISON AIRPORT
CONVENTIONAL HANGAR LEASE
FOR COMMERCIAL AVIATION USE**

This Addison Airport Conventional Hangar Lease For Commercial Aviation Use (hereinafter referred to as the "Hangar Lease," "Lease," or "Agreement") is made and entered into this 16th day of September, 2021 (the "Effective Date"), by and between the Town of Addison, Texas, a home-rule municipality (hereinafter referred to as the "City" or "Landlord") and Jani-King International, Inc., a Texas corporation ("Tenant"); Landlord and Tenant are sometimes referred to herein together as the "parties" and individually as a "party".

WITNESSETH:

WHEREAS, Landlord is the owner of the Addison Airport (hereinafter referred to as the "Airport") located in Dallas County, Texas; and

WHEREAS, the Airport is operated and managed for and on behalf of the City by the Airport Manager (hereinafter referred to as "Airport Manager" or "Manager"); and

WHEREAS, as of the Effective Date first given above, Jani-King, International Inc. owns the leasehold interests of the Premises (defined hereinbelow) subject to a certain ground lease, which commenced November 30, 1981, by and between Burns Petroleum as tenant and Addison Airport of Texas, Inc. and the City of Addison, and thereafter assigned to Jani-King International, Inc. on April 8, 1993 ("Ground Lease"); and

WHEREAS, the Ground Lease is due to expire November 29, 2021, and upon its expiration, pursuant to Section 26 of the Ground Lease, the ownership and title to all building improvements made to the Demised Premises shall merge with the real property and become solely the property of the City, free and clear of all claims, liens, and encumbrances; and

WHEREAS, immediately upon the expiration of the Ground Lease, without interruption, Tenant desires to lease and continue to occupy that certain hangar located within the Airport known as Bldg. #U5 with the public address known as 4572 Claire Chennault Drive, Addison, Texas 75001 (hereinafter referred to as the "Premises" and more fully described in Exhibits "A" and "B" attached hereto and made a part hereof) and Landlord desires to lease the same to Tenant for the Term as defined below; and

WHEREAS, Landlord and Tenant hereby agree to enter this Hangar Lease under the terms and conditions set forth hereinbelow.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, Landlord and Tenant hereby agree as follows:

1. Lease Grant. Subject to the terms of this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord.

This Hangar Lease is given and entered into subject to (i) all federal, state, and local laws, statutes, constitutional provisions, charters (including the City Charter), ordinances, codes (including building and building-related codes), rules, regulations, directives, policies, permits, standards, zoning requirements, orders, grant assurances, grant agreements, court orders, opinions and decisions, and all interpretations of the foregoing, of and/or by any governmental authority, entity, department, branch, or agency (including, without limitation, the Town of Addison, Texas, the State of Texas, the Federal Aviation Administration, the Texas Department of Transportation, the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality, and any successor entities thereto), that are applicable, imposed upon, or related to, whether directly or indirectly, this Lease, the Airport, the Premises, and the use and occupancy thereof, as the same are existing or as they may be amended, modified, enacted,

adopted, imposed, or superseded, and including, without limitation, any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed (collectively, "Laws," and "Law" means any of the foregoing), (ii) all restrictive covenants affecting the Premises, (iii) all restrictions, mortgages, deeds of trust, liens, easements, licenses, leases, and any other encumbrance on or matter affecting the Premises, whether recorded or not, and (iv) and all of the terms, conditions, and provisions of this Hangar Lease.

2. **Term:** The Term hereof shall commence November 30, 2021 ("Commencement Date") immediately upon the expiration of the Ground Lease without interruption, and shall end on November 30, 2024, unless otherwise terminated as provided for herein (the "Term").

A. Effective December 1, 2023, or any time thereafter, either party may terminate this Lease by providing at least a six-month advance written Move-Out Notice to the other party. Such Lease termination shall be effective the last day of the sixth full calendar month following the delivery of the Move-Out Notice as required under Paragraph 52 below.

B. For the purposes of this Lease, the term "month" means a period extending from a date in any one calendar month to the date immediately preceding the corresponding date in the following calendar month, both dates inclusive. The term "calendar month" means a period extending from the first day to the last day, both days inclusive, of any one of the 12 calendar months of the year.

3. **Rental & Security Deposit:**

A. **Base Rent:** Tenant agrees to pay to Landlord without notice, demand, offset, or deduction, an annual Base Rent of \$85,008.00, payable in monthly installments of \$7,084.00. The first such monthly installment shall be due and payable on or before December 1, 2021, and each monthly installment thereafter shall be due and payable on or before the first day of each calendar month throughout the Term.

B. **Prorated Rent:** If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord a prorated amount of Base Rent equal to the product of the monthly installment of Base Rent multiplied by a fraction, the (i) numerator of which is the number of days from (and including) the Commencement Date through (and including) the last day of the month that includes the Commencement Date and the (ii) denominator of which is the number of days in that month. The prorated portion of the Base Rent is due on or before the Commencement Date. Payment of Base Rent for any fractional calendar month at the end of the Term shall be similarly prorated.

C. **Additional Rent:** In addition to the Base Rent, Tenant will pay Landlord, as Additional Rent, the amounts set forth in the Utility Expense Reimbursement Addendum attached hereto and incorporated herein as Exhibit D.

D. **Rent:** For purposes of this Lease, "Rent" means Base Rent, Additional Rent, and all other sums that Tenant may owe to Landlord or otherwise be required to pay under this Lease. Landlord shall have the same rights and remedies for non-payment of any Rent as for non-payment of Base Rent. The obligations of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations.

E. **Place of Payment:** Tenant shall deliver all amounts due Landlord under this Lease to the following address or to such other person or place as Landlord may designate in writing:

Addison Airport
c/o Asst. Airport Director – Real Estate
4545 Jimmy Doolittle Drive, Suite 200
Addison, Texas 75001

F. **Method of Payment:** Tenant must pay all Rent timely and without demand, notice, deduction, or offset, except as required by Law or as otherwise provided by this Lease. Tenant shall make payment of all Rent owed by personal or corporate check made payable to "Addison Airport" (or by credit card, electronic transfer or ACH (Automatic Clearing House), if acceptable to Landlord). Cash is not an acceptable form of payment of Rent. If Tenant fails to timely pay any amounts due under this Lease, or if any check of Tenant is returned to Landlord by the institution

on which it was drawn for insufficient funds or for any other reason, or if Tenant's credit card is denied more than three times in any twelve-month period (if Landlord authorizes payment by credit card), Landlord, after providing written notice to Tenant, may require Tenant to pay subsequent amounts that become due under this Lease by cashier's check or money order only. Rent, and any other sums or amounts to be paid by Tenant to Landlord under this Lease, shall be deemed to have been paid when Landlord has received the negotiable payment.

G. **Late Charges:** If Landlord does not actually receive payment of Rent or any other sums due at the designated place of payment within ten (10) days after the date it is due, Tenant shall pay to Landlord a Late Charge equal to 5% of the amount due to reimburse Landlord for Landlord's cost and inconvenience incurred because of Tenant's delinquency. The Late Charge is a cost associated with the collection of Rent and Landlord's acceptance of a Late Charge does not waive Landlord's right to exercise its rights and remedies, including those under Paragraph 24 (Remedies of Landlord) herein.

If Tenant fails to pay (i) any monthly installment of Base Rent due under this Lease by the 10th day of the month when due, or (ii) or any other component of Rent within 10 days after the same is due as specified in this Lease, more than once in any consecutive three (3) month period, Tenant, upon the delivery of written notice to Tenant by Landlord ("Additional Deposit Notice"), shall pay to Landlord an amount equal to the then-current monthly installment of Base Rent (the "Additional Deposit") to be held and applied by Landlord as an addition to the Security Deposit delivered by Tenant and held on account by Landlord upon Tenant's execution of this Lease pursuant to subparagraph 3.H, below. Landlord's requirement of any Additional Deposit shall be in addition to all other rights and remedies available to Landlord under this Lease. If Tenant does not deliver the Additional Deposit to Landlord within ten (10) days after the delivery of the Additional Deposit Notice, such failure shall be an event of default under this Lease.

H. **Security Deposit:** Tenant shall deposit with Landlord, upon Tenant's execution of this Lease, the sum of \$7,084.00, to be held by Landlord as Tenant's "Security Deposit." Such Security Deposit shall be equal to one monthly installment of Base Rent unless otherwise adjusted as provided for in 3.G. above.

1. If at any time during this Agreement the Security Deposit then held on account by Landlord becomes less than the prevailing monthly installment of Base Rent, Tenant will make an additional payment to Landlord so that the Security Deposit held by Landlord is increased to equal one monthly installment of Base Rent, unless otherwise adjusted as provided for in 3.G. above.

2. Landlord shall hold such Security Deposit without interest as security for the performance by Tenant of Tenant's covenants and obligations under this Lease. Landlord may commingle the Security Deposit with Landlord's other funds, and no trust relationship is created with respect to the Security Deposit. Tenant shall not assign, otherwise transfer, or encumber or attempt to assign, otherwise transfer, or encumber the Security Deposit, and Landlord and its successors and assigns shall not be bound by any actual or attempted assignment, other transfer, or encumbrance. Regardless of any assignment, other transfer, or encumbrance of the Security Deposit by Tenant, Landlord may return the Security Deposit to the Tenant.

3. The Security Deposit is not an advance payment of Rent or a measure of liquidated damages in case of default by Tenant. Upon the occurrence of any event of default, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by Law, use the Security Deposit to the extent necessary to make good any arrearages of Rent and any other damage, injury, expense, or liability caused to Landlord by such event of default. Following any such application of the Security Deposit, Tenant shall pay to Landlord, on demand, the amount so applied to fully restore the Security Deposit to its required amount.

4. If Tenant is not then in default hereunder, such Security Deposit, less any lawful deductions by Landlord, shall be returned by Landlord to Tenant with an accounting of said deductions taken no later than thirty (30) days following the termination or expiration of this Hangar Lease. Permitted deductions from the Security Deposit may include but not be limited to: unpaid Base Rent; unpaid utility charges incurred by Tenant; unpaid service charges; damages by Tenant to the Premises (beyond normal wear and tear) or repairs by Landlord; replacement cost of Landlord's property that was in or attached to the Premises and is missing; cost to replace unreturned keys; agreed reletting charges; Landlord's cost of cleaning the Premises to a broom-swept condition if required; Landlord's cost of removal of any trash or debris left in the Premises; Landlord's cost of the removal and storage of Tenant's personal property left or abandoned by Tenant or otherwise disposed of by Landlord; Landlord's cost of removal of unauthorized vehicles or aircraft left on the Premises; government fees or fines against Landlord because of Tenant; late fees and other costs of collection incurred by

Landlord in connection with this Lease; interest that would have been earned by Landlord on unpaid balances; attorneys' fees, court costs and filing fees.

4. Adjustment of Rental: Effective on each anniversary of the Commencement Date and each anniversary thereafter over the Term (hereinafter referred to as the "Adjustment Date"), the Base Rent due under Paragraph 3.A above shall be adjusted as follows:

A. The Base Rent shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas-Fort Worth, Texas (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index - All Urban Consumers (CPI-U)* for the Dallas-Fort Worth, Texas area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The base index is the Consumer Price Index existing on the Commencement Date ("Base Index"). The current index is the Consumer Price Index on the first day of the calendar month preceding the then applicable Adjustment Date (the "Current Index").

B. Beginning with the year that includes the then applicable Adjustment Date, the Base Rent shall be adjusted so that it equals the product of the Base Rent during the first year of this Lease multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index, but in no event shall Base Rent ever be decreased below the Base Rent set forth in Paragraph 3.A.

C. If the Consumer Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Consumer Price Index as closely as feasible (as reasonably determined by Landlord) shall be substituted therefor.

5. Permitted Use of Premises: The Premises shall be used and occupied by Tenant only for Commercial Aviation Use limited to the following (the "Permitted Use"):

A. Tenant's use of the Premises shall be limited to the storage of aircraft owned by, or under the direct care, custody, and operational control (as the term is recognized by the FAA) of the Tenant and related aeronautical tools, equipment, parts, and supplies and for no other purpose without the Landlord's prior written consent.

B. Light maintenance, repair, and restoration of Tenant's aircraft.

C. To operate a non-profit 501(c)(3) educational organization devoted to promoting aviation studies, aviation history, and the display of historically significant, vintage aircraft and materials related to the history of aviation.

D. To operate as an event venue for various public and/or private events for hire, subject to the prevailing Airport Rules & Regulations and Town of Addison Code of Ordinances including, but not limited to, the timely application and issuance of an Airport Special Events Permit when required.

E. To operate and offer to the public for-hire Living History Flight Experiences (LHFE) and to conduct flight experiences under FAA 91.147 flight programs.

For purposes hereof, "Commercial Aviation Use" means the operation of a business enterprise providing aviation-related goods, services, or facilities for a commercial purpose (including, without limitation, any activity by the Tenant securing earning, income, compensation, [including exchange or barter of goods, and services], and/or profit from said activities, whether such objectives are accomplished). Tenant shall occupy and use the Premises only for the Permitted Use and shall comply with all Laws relating to the use, condition, access to, and occupancy of the Premises.

Any use or occupancy of the Premises other than for the purposes set forth above is not permitted at any time without the prior written consent of Landlord.

The Premises shall not be used or occupied for any concession for the sale or distribution of tobacco products, oil, gas, petroleum products or any activity of a similar character. Tenant agrees that no aircraft, vehicle or other equipment will be left unattended at any time outside the boundaries of the Premises or within any common area of the Airport ("common area" having the meaning set forth in Chapter 14 of the City's Code of Ordinances), including the safety areas, operating areas and/or non-obstruction areas of the Airport without the prior written consent of the Airport Manager. Tenant further agrees to cooperate and coordinate with adjacent tenants and the Airport Manager, when

necessary (as determined by Landlord), to facilitate and not to obstruct aircraft movement along nearby taxilanes, especially during periods of construction, maintenance, and repair of Airport facilities.

The Premises shall not be used for any purpose or activity that (i) constitutes a violation of any Laws; (ii) in Landlord's opinion, creates or would create a nuisance or waste or unreasonably disturb, annoy, or interfere with other tenants or users of the Airport; or (iii) increases insurance costs for Landlord.

Tenant acknowledges that Landlord is bound by, and this Lease is subject to, the terms and conditions of all Federal Aviation Administration, Texas Department of Transportation, and other grant agreements, grant assurances and regulations regarding the Airport, including, without limitation, any grant, loan, regulation, or agreement under Section 22.055 of the Texas Transportation Code, as amended or superseded, whether now existing or made in the future. Tenant agrees not to act or fail to act in any way or manner that would cause Landlord to be in violation of any of the foregoing.

6. Acceptance of Premises: Tenant acknowledges that Tenant has fully inspected the Premises and accepts the Premises as suitable for the purposes for which the same are leased in their present condition, "AS IS, WHERE IS, WITH ALL FAULTS AND PATENT AND LATENT DEFECTS". Without limiting anything in the foregoing, LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS, AND THERE ARE NO, REPRESENTATIONS, PROMISES, COVENANTS, AGREEMENTS, GUARANTYS OR WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, OF OR AS TO THE CONDITION, QUALITY, QUANTITY, SUITABILITY, MERCHANTABILITY, HABITABILITY OR FITNESS OF THE PREMISES FOR ANY PARTICULAR PURPOSE WHATSOEVER GIVEN IN CONNECTION WITH THIS LEASE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS OR ANY OTHER LAWS.

TENANT ALSO ACKNOWLEDGES AND AGREES THAT TENANT'S INSPECTION AND INVESTIGATION OF THE PREMISES HAVE BEEN ADEQUATE TO ENABLE TENANT TO MAKE TENANT'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PREMISES, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER LAWS.

TENANT ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6 ARE AN INTEGRAL PORTION OF THIS LEASE AND THAT LANDLORD WOULD NOT AGREE TO LEASE THE PREMISES TO TENANT AS SET FORTH HEREIN WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6. TENANT FURTHER ACKNOWLEDGES THAT TENANT IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO LANDLORD. TENANT ACKNOWLEDGES AND AGREES FURTHER THAT THIS LEASE IS SUBJECT TO ANY AND ALL CURRENTLY EXISTING TITLE EXCEPTIONS OR OTHER MATTERS OF RECORD OR VISIBLE OR APPARENT FROM AN INSPECTION AFFECTING THE PREMISES.

7. Securing Governmental Approvals and Compliance with Law; Noise Abatement:

A. Tenant, at Tenant's sole cost and expense, shall obtain all governmental licenses, permits and approvals required for the use and occupancy of the Premises, as set forth in Paragraph 5 above, including but not limited to the issuance of a valid Certificate of Occupancy prior to Tenant occupying the Premises pursuant to Paragraph 44 hereinbelow.

B. Tenant shall promptly comply with all governmental orders and directives and all other Laws for the correction, prevention and abatement of nuisances caused by Tenant and arising out of the use and occupancy of the Premises, as set forth in Paragraph 5 above.

C. Tenant shall comply with noise abatement standards at the Airport and shall notify any aircraft operator using the Premises of such standards.

8. Assignment and Subletting:

A. Without the prior written consent of Landlord, Tenant shall have no power to and shall not, either voluntarily or involuntarily, by operation of law or otherwise, assign, sell, pledge, encumber, mortgage, license, transfer, or otherwise convey (together, "assign" or "assignment," and any person or entity to whom an assignment is made being an "assignee") this Lease or any rights or obligations of Tenant hereunder, or sublet the whole or any part of the Premises. Any such assignment or any subletting, without the prior written consent of Landlord, shall be null and void and may be deemed by Landlord (in Landlord's sole discretion) an event of default under Paragraph 23 (Default by Tenant) of this Lease. For the purposes hereof, an assignment will be deemed to have also occurred if the person(s) who owns or has voting control of 51% or more of Tenant on the Effective Date of this Hangar Lease ceases to own or have voting control of 51% or more of Tenant at any time during the term of the Hangar Lease. From time to time as requested by Landlord, Tenant shall provide to Landlord, in a form acceptable to Landlord, a written certification as to the ownership of voting securities or voting control of Subtenant. For the purposes hereof, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

Any assignment or subletting shall be expressly subject to all the terms and provisions of this Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any Landlord-approved assignment or subletting, Tenant shall not assign this Lease or sublet the Premises without first obtaining a written agreement from each such assignee or sublessee whereby each such assignee or sublessee agrees to be bound by the terms and provisions of this Hangar Lease. No such assignment or subletting shall constitute a novation. In the event of the occurrence of an event of default while the Premises are assigned or sublet, Landlord, in addition to any other remedies provided herein or by Law, may, at Landlord's option, collect directly from such assignee or subtenant all rents becoming due under such assignment or subletting and apply such rent against any sums due to Landlord hereunder. No direct collection by Landlord from any such assignee or subtenant shall release Tenant from the payment or performance of Tenant's obligations hereunder. Landlord's consent to any assignment or subletting will not waive its rights or remedies, and it will not stop Landlord from exercising its rights or remedies, with respect to any other actual or proposed assignment or subletting, and Landlord's consent to any assignment or subletting will not relieve Tenant or any guarantor of Tenant hereunder of any liability to Landlord under this Lease or otherwise.

B. Notwithstanding the foregoing, Landlord hereby acknowledges and consents to Tenant's subletting of the Premises for the purpose of renting hangar space for aircraft storage only, provided that each sublease is 1) made available for Landlord's review and inspection during Tenant's normal business hours upon Landlord's written request, and 2) evidenced by written agreement, signed, and executed by Tenant and the subtenant, and has incorporated therein and fairly states that:

1. each subtenant agrees to be bound by the terms and provisions of this Hangar Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any conflict between the terms of this Hangar Lease and the terms of the sublease, the terms of the Hangar Lease shall control;
2. no such subletting shall constitute a novation.
3. in the event of occurrence of an event of default while the Premises are sublet, Landlord, in addition to any other rights or remedies provided herein or by Law, in equity, or otherwise, may, at Landlord's option, collect directly from such subtenant all rents becoming due under such subletting and apply such rent against any sums due to Landlord under this Lease;
4. subtenant shall be obligated to obtain Landlord's consent to any action as to which Tenant is obligated to obtain such consent under this Hangar Lease;
5. any such sublease is to automatically terminate upon termination of this Hangar Lease notwithstanding any other provision of the sublease to the contrary;
6. Landlord shall have no responsibility or obligation for the performance by subtenant of its obligations under the sublease; and
7. neither this consent, the exercise by Landlord of its rights and/or remedies hereunder, nor the sublease or any other instrument shall give subtenant any rights, directly or indirectly, against Landlord or create or impose any obligation, duty, responsibility, or liability of Landlord in favor of or for the benefit of subtenant.

Further, Tenant agrees that in no way does any sublease release Tenant from any of its covenants, agreements, liabilities and duties under this Hangar Lease; that this consent does not constitute approval by Landlord of the terms of any such sublease; that nothing herein contained shall be deemed a waiver or release of any of the Landlord's rights under this Hangar Lease; that Tenant shall remain fully liable for the performance of each and every term, provision, covenant, duty and obligation of the Tenant under this Hangar Lease including, without limitation, the duty to make any and all payments of Rent. Any violation of any terms and conditions of this Hangar Lease by a subtenant will constitute a default by Tenant under this Hangar Lease.

Upon Landlord's written request, Tenant shall provide to Landlord the names and addresses of any subtenants, and the make, model, aircraft type and "N" number of any aircraft stored or located on or in the Premises by Tenant or any subtenant.

9. Property Taxes and Assessments: Tenant shall pay, before they become delinquent, all property taxes or assessments, and any other governmental charges, fees, or expenses, levied or assessed on: (i) all improvements, fixtures, equipment or personal property comprising a part of or located upon the Premises; and (ii), the leasehold estate of Tenant created hereby (hereinafter referred to as "Tenant's Taxes"). Upon the request of Landlord, Tenant shall, from time to time, furnish to Landlord "paid receipts" or other written evidence that all of Tenant's Taxes have been paid by Tenant. If any of Tenant's Taxes are included in tax notices and, or statements delivered to Landlord, Tenant has the right to legally protest or appeal, as provided for by Law, any tax levy or assessment of Tenant's Taxes provided Landlord has not already filed or does not intend to file such protest or appeal of (i) the appropriateness of such tax and, or (ii) the taxable value as assessed by the respective taxing authority. If any of Tenant's Taxes are included in tax statements delivered to Landlord, Tenant shall pay to Landlord that portion representing Tenant's Taxes within ten (10) days after Tenant's receipt of an invoice from Landlord accompanied by evidence of Landlord's computation of the portion thereof representing Tenant's Taxes. In the event Tenant fails to pay any Tenant's Taxes, Landlord shall have the right (but not the obligation) to pay or cause to be paid such Tenant's Taxes, and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant on demand.

10. Maintenance and Repair of Premises:

A. Landlord shall, throughout the term hereof, except as otherwise expressly provided in this Lease and so long as Tenant is not in default of this Agreement beyond any applicable cure period, be responsible for those areas, items and matters identified in the "Landlord" column as set forth in Exhibit E - Maintenance and Repair Responsibilities, which exhibit is attached hereto and incorporated herein by reference. Landlord shall not be responsible for Tenant or any third party's equipment, fixtures, or personal property comprising a part of or located upon the Premises.

B. Except as provided by subparagraph A. of this Paragraph 10, Tenant shall, to the Landlord's satisfaction, maintain the Premises in good order, condition, and repair throughout the term of this Lease including, but not limited to, those areas, items and matters identified under the "Tenant" column set forth in the attached Exhibit E to this Agreement. Tenant shall be responsible for any alterations, additions or improvements made by Tenant to the Premises and/or any improvements thereon or therein. Tenant shall, throughout the term hereof, be responsible for all consumable supplies and repair of plumbing and water damage caused because of Tenant's failure to reasonably protect water pipes from freezing temperatures or misuse by Tenant or by Tenant's owners, employees, agents, contractors, guests or invitees. Tenant shall be responsible for keeping the Premises free from waste and nuisance and shall, upon the expiration of the Lease Term, or any earlier termination of this Lease or any repossession of the Premises by Landlord, deliver the Premises clean and free of trash and in good condition and repair, with all fixtures and equipment situated in or upon the Premises in the same condition as same existed on the Commencement Date, with reasonable wear and tear excepted.

Notwithstanding anything in this Lease to the contrary, Tenant shall bear the risk of complying with the Americans with Disabilities Act of 1990, any other federal or any state laws governing access to the disabled, or architectural barriers, and all rules, regulations, and guidelines promulgated under such Laws, as amended from time to time, in or pertaining to the Premises.

C. In the event Tenant fails to so maintain or repair the Premises and/or the improvements, fixtures, equipment and personal property comprising a part of or located upon the Premises, and/or otherwise fails to comply

with any of the provisions of subparagraph B. or D. of this Paragraph or any other provision of this Lease requiring Tenant to maintain or repair the Premises or keep them in a particular condition, Landlord shall have the right (but not the obligation) to cause all such repairs or other maintenance or work to be made, and the reasonable costs therefor expended by Landlord plus interest thereon as provided in Paragraph 40 shall be paid by Tenant to Landlord on demand.

D. If Tenant handles or stores flammable materials on the Premises, Tenant agrees to maintain proper safeguards with respect thereto and to comply with all requirements of Landlord's and Tenant's insurance companies and/or governmental authorities with respect to the storage, use and disposal of such materials, and with all applicable Laws.

11. Alterations, Additions, and Improvements: Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions, or improvements to the Premises, without the prior written consent of Landlord. Landlord shall not unreasonably withhold its consent for non-structural alterations, additions, or improvements. Tenant shall have the right to erect or install shelves, bins, machinery, and trade fixtures, if Tenant complies with all applicable Laws in connection therewith. All alterations, additions, and improvements in and to the Premises shall be performed in accordance with the terms and provisions of this Lease, with all Laws, and in a first-class, workmanlike manner, and Tenant shall promptly pay and discharge all costs, expenses, claims for damages, liens and all other liabilities and obligations which arise in connection therewith.

12. Insurance:

A. Tenant shall procure and maintain throughout the Term, without interruption, a policy or policies of insurance, at Tenant's sole cost and expense, to meet or exceed the insurance requirements specified in the then prevailing Addison Airport Minimum Standards and Requirements for Commercial Aeronautical Service Providers (the "Airport Minimum Standards") which may be amended or modified by the City from time to time. At any time over the Term the Airport Minimum Standards are either suspended, repealed, or otherwise modified to the extent Tenant's use and occupancy of the Premises no longer require such insurance policies under the Airport Minimum Standards, Tenant shall procure and maintain throughout the Term, without interruption, the following insurance policies:

1. Commercial General Liability insurance against claims for bodily injury, death or property damage or destruction occurring on, in or about the Premises, with limits of liability of not less than \$1,000,000 for each occurrence, CSL/\$1,000,000 general aggregate. Coverage shall include blanket contractual liability for liability assumed under this Lease.
2. Workers Compensation insurance and employer's liability with limits of liability of not less than \$1,000,000.
3. Hangar keepers Legal Liability insurance at limits of \$1,000,000 per occurrence is required if Tenant is engaged in maintenance, repair or servicing of aircraft belonging to any third party, or if Tenant is otherwise involved in any operation in which Tenant has care, custody or control of an aircraft that belongs to a third party.
4. Aircraft Liability insurance for all Tenant-owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 and \$1,000,000 for personal and advertising injury.

B. All insurance policies required under this Paragraph 12 shall be endorsed to provide the following, as applicable: (i) in all liability policies, name as additional insureds the Town of Addison, Texas, and its respective officials, officers, agents, and employees; (ii) in all liability policies, provide that such policies are primary insurance regardless of the application of any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted under this Lease, and that insurance applies separately to each insured against whom a claim is made or suit is brought; and (iii) a waiver of subrogation in favor of the Town of Addison, Texas, and its respective officials, officers, agents, and employees, must be included in all liability and Workers Compensation policies. All such policies shall be issued by an insurance company authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance, if required, and shall be endorsed to provide for at least 30 days' advance written notice to Landlord of a material change in, non-renewal, or cancellation of a policy. Certificates of insurance, satisfactory to Landlord, evidencing all coverage above, shall be furnished to Landlord prior to the Commencement Date, with

complete copies of policies furnished to the Landlord upon request. Landlord reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

13. Casualty Damage or Destruction:

A. In case of any damage to or destruction of the buildings, structures, fixtures and equipment, or any other improvements, on or at the Premises, or any part thereof, Tenant shall promptly give written notice thereof to Landlord, generally describing the nature and extent of such damage and/or destruction.

B. If the Premises (the hangar building or structure, excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any assignee, subtenant or other occupant of the Premises) should be substantially, totally, or partially destroyed or damaged by fire, tornado or other casualty, this Lease shall not terminate, but Landlord may, at Landlord's sole option and at Landlord's sole cost, expense and risk, proceed forthwith and use reasonable diligence to rebuild or repair the Premises (the hangar building or structure, but excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant or user of the Premises) to substantially the condition in which it existed prior to such destruction or damage; provided, however, that if Landlord elects not to rebuild or repair such damage or destruction and notifies Tenant in writing of such election, then this Lease shall terminate and rent shall be abated for the unexpired portion of this Lease, effective from the date of actual receipt by Landlord of the written notification of the damage or destruction from Tenant. If Landlord elects to rebuild or repair the Premises and the Premises are untenantable in whole or in part following such destruction or damage, during the period of such rebuilding or repair the Rent payable hereunder shall be equitably adjusted for that period during which the Premises are untenantable. However, if the destruction or damage was caused by the negligence, gross negligence, or willful or wanton act or omission of Tenant, or any of Tenant's officers, employees, agents, subtenants, licensees, contractors, subcontractors, or invitees, or any other person for whom Tenant is responsible, Rent shall not be abated and Tenant shall have the continuing obligation to pay Rent during the period of such rebuilding or repair.

If Landlord elects to rebuild or repair the Premises (the hangar building or structure) as set forth above, Tenant shall, immediately upon notice from Landlord, remove from the Premises its equipment and property as reasonably required by Landlord to complete such rebuilding or repair. Upon the completion of such rebuilding or repair, Tenant shall restore the Premises and Tenant's property and promptly reopen for business. Tenant shall use the proceeds from Tenant's insurance policies for restoration of improvements made by Tenant to the Premises, for restoration and/or replacement of Tenant's equipment, trade fixtures, and inventory, and to cover any business interruption loss.

C. Landlord's election to pay for the cost of the repair or rebuilding of the Premises (the hangar building or structure) or any part thereof may, at Landlord's option, not extend beyond or exceed the proceeds of any casualty or property damage insurance payable and collected in connection with such damage or destruction. All insurance proceeds, if any, payable on account of such damage or destruction shall be held and retained by Landlord (whether such repair or rebuilding occurs, or this Lease terminates).

14. Condemnation:

A. If, during the term hereof, any part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, or is sold to a condemning authority under threat of condemnation, and after such taking by or sale to said condemning authority the remainder of the Premises is not susceptible to efficient and economic occupation and operation by Tenant, this Lease shall automatically terminate as of the date said condemning authority takes possession of the Premises, and Landlord shall refund to Tenant any prepaid but unaccrued rental less any sum then owing by Tenant to Landlord.

B. If, after such taking by or sale to said condemning authority, the remainder of the Premises is susceptible to efficient and economic occupation and operation by Tenant, this Lease shall not terminate but the Base Rent due hereunder shall be adjusted so that Tenant shall be required to pay for the remainder of the Term hereof the sum obtained by multiplying each monthly Base Rent installment due hereunder (as adjusted from time to time pursuant to Paragraph 4, above) by a fraction, the numerator of which shall be the number of square feet remaining in the Premises after the taking by or sale to said condemning authority and the denominator of which shall be the square footage originally contained in the Premises. The Base Rent adjustment called for herein shall either not commence or be

suspended until said condemning authority takes possession of the condemned portion of the Premises. All other terms and provisions shall remain unchanged unless otherwise provided for herein.

C. Landlord shall receive the entire award or payment from any condemnation and Tenant shall have no claim to that award or for the value to Landlord of any unexpired term of this Lease; provided, however, that Tenant shall have the right to appear in any condemnation proceeding or action to negotiate, prosecute and adjust any claim attributable to loss or damage to Tenant's trade fixtures and removable personal property, removal or relocation costs, and any loss to Tenant resulting from the unexpired portion of the Lease Term. If this Lease is not terminated pursuant to subparagraph A of this Paragraph, Landlord shall repair damage to the Premises caused by the condemnation (excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant of the Premises), except that (i) Landlord shall not be obligated to repair any damage for which Tenant has been reimbursed by the condemning authority; and (ii) if the condemnation damages or payments received by Landlord are not sufficient to pay for such repair, Landlord shall have the right to terminate this Lease.

15. Utilities: Except where provided to the contrary below, Tenant shall be responsible, at Tenant's sole cost and expense, for obtaining all utility connections at or for the Premises and Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, impact fees, tap-in fees and services furnished to the Premises during the term hereof. Tenant agrees to contact all utility service providers prior to any excavation or digging on the Premises or the premises in and around the Premises. Landlord shall in no event be liable or responsible for any cessation or interruption in any such utility services.

A. Notwithstanding the foregoing, Landlord and Tenant hereby acknowledge and agree to the terms and conditions contained in Exhibit D – Utility Expense Reimbursement Addendum attached hereto and incorporated herein by reference wherein it sets forth which utility services, if any, will be provided and paid for by the Landlord and subsequently reimbursed by Tenant upon demand.

B. If Tenant is the responsible party for obtaining any of the utility connections at or for the Premises, any access or alterations to the Premises or to the Airport necessary to obtain any of such utility connections may be made only with Landlord's prior consent and at Tenant's sole expense.

C. In the event Tenant fails to pay any utility or connection charges for which Tenant is responsible, Landlord shall have the right (but not the obligation) to pay or cause to be paid such charges, fees or expenses, incurred by Tenant and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant upon written demand.

D. Prior to executing this Lease Tenant acknowledges that it has, at its sole costs and expense, determined that all necessary utilities are available to the Premises and are adequate for Tenant's intended commercial use, and that there are no other utility services needed or required by Tenant at the Premises in connection herewith.

E. Landlord shall in no event be liable or responsible for any cessation or interruption in any utility services to the Premises.

16. Common Facilities and Easements:

A. **Common Facilities:** So long as Tenant is not in default hereunder beyond any applicable cure period, Tenant and Tenant's owners, employees, agents, servants, customers and other invitees shall have the non-exclusive right to use all common facilities, improvements, equipment and services which may now exist or which may hereafter be provided by Landlord at the Airport for the accommodation and convenience of Landlord's customers and tenants, including landing and takeoff facilities, means of ingress and egress to the Premises, other Airport installations, and all other reasonable services which may be provided without charge from time to time by Landlord in operating the Airport ("Common Facilities"). All such Common Facilities shall always be under the exclusive control and management of Landlord and may be rearranged, modified, changed, restricted, closed, or terminated from time to time at Landlord's sole discretion.

B. **Granting of Right of Way:** Given the existing aircraft ramp/apron configuration of the Premises and the abutting ramp/aprons associated with 4570, 4574, and 4576 Claire Chennault properties ("Adjacent Properties"),

Tenant, for itself and its successors and assigns, hereby grants a non-exclusive right-of-way easement to the owner, occupant and/or tenant (together with their guests and invitees) of the Adjacent Properties across and over a portion of the aircraft ramp/apron within the Premises expressly for the purpose of aircraft, vehicle, and pedestrian ingress and egress to and from their respective premises to the airport Common Facilities. The attached aerial attached hereto and incorporated by reference as **Exhibit C** depicts the proximity of the aircraft ramp/apron on the Premises subject to this Paragraph 16.B ("Shared Ramp"). Tenant (a) shall not leave unattended aircraft, vehicles, equipment, or other personal property on the Shared Ramp at any time with the exception of conducting proper pre- or post-flight operations on the shared ramp; (b) shall refrain from utilizing, encroaching, or otherwise interfering or obstructing the Adjacent Properties' aircraft ramp/apron except by express permission or by way of a reciprocal right-of-way easement similar hereto; and (c) agrees to be respectful of adjacent tenants' right of quiet use and enjoyment of their leased premises without interference by Tenant.

17. Special Events: Landlord may sponsor or hold certain special events, including, but not limited to, air shows and fireworks displays to be conducted on portions of the Airport, which may limit or obstruct access to the Premises and/or to the Airport ("Special Events"). As a material inducement to Landlord to enter this Lease, and notwithstanding anything to the contrary contained herein, Tenant, on behalf of Tenant and on behalf of all directors, officers, shareholders, partners, principals, employees, agents, contractors, subtenants, licensees or concessionaires of Tenant, and on behalf of any other party claiming any right to use the Leased Premises by, through or under Tenant, hereby: (i) agrees that Landlord has the right to sponsor any or all Special Events and to allow use of portions of the Airport therefor even if the same limit or obstruct access to the Premises and/or to the Airport; (ii) releases, waives and discharges Landlord and Manager, and their respective officials, officers, employees and agents, from all liability for any loss, damage, cost, expense or claim arising or resulting from or pertaining to the limitation or obstruction of access to the Premises and/or to the Airport from the conduct of Special Events and/or activities relating or pertaining thereto, including, without limitation, death, injury to person or property or loss of business or revenue (the "Released Claims"); (iii) covenants not to sue the Landlord or Manager or their respective officials, officers, employees and agents (whether in their official or private capacities) for any Released Claims; (iv) agrees that the terms contained in this Paragraph are intended and shall be construed to be as broad and inclusive as possible under Law; and (v) agrees that if any portion of this Paragraph is held to be invalid or unenforceable, the remainder of this Paragraph shall not be affected thereby, but shall continue in full force and effect.

18. Rules and Regulations: Landlord has adopted the Airport Minimum Standards (as defined in Paragraph 12.A., above) and the "Addison Airport Rules and Regulations" (the "Rules and Regulations") which shall govern Tenant's use of and conduct on the Premises and all Common Facilities, a copy of which has been or will be furnished to Tenant. The Airport Minimum Standards and the Rules and Regulations are incorporated by reference as if written verbatim herein, and Tenant agrees to always comply fully with them. Landlord shall have and reserves the right, in its sole discretion, to discontinue, amend, modify and alter the Airport Minimum Standards and the Rules and Regulations from time to time, and to adopt other rules, standards, or regulations applicable to the Airport, the Premises and Tenant as Landlord may deem necessary or appropriate, in its sole discretion, including for the purpose of assuring the safety, welfare and convenience of Landlord, Tenant and all other tenants, users, and customers of the Airport.

19. Signs and Equipment: After first securing Landlord's approval, Tenant shall have the right from time to time to install signs depicting Tenant's name and to operate radio, communications, meteorological, aerial navigation and other equipment and facilities in or on the Premises that may be reasonably necessary for the operation of Tenant's business, provided such signs and equipment are installed and maintained in compliance with all applicable governmental Laws, and all changes to such Laws, including the Town of Addison's sign ordinance, with the Airport Minimum Standards and the Rules and Regulations, with all provisions of this Lease, and do not interfere with the operation of any navigation facilities or Airport communications (including, without limitation, navigation facilities or Airport communications used or operated by the Federal Aviation Administration).

20. Landlord's Right of Entry: Landlord and Landlord's authorized representatives shall have the right, during normal business hours, to enter the Premises: (i) to inspect the general condition and state of repair thereof, (ii) to make repairs permitted under this Lease, (iii) to show the Premises to any prospective tenant, purchaser, or lender, or (iv) for any other reasonable and lawful purpose. Landlord and Landlord's authorized representatives have the right to enter the Premises at any time in the event of an emergency pertaining to the Premises. During the final one hundred eighty (180) days of the term hereof, Landlord and Landlord's authorized representatives shall have the right to erect and maintain on or about the Premises customary signs advertising the Premises for lease.

21. Indemnity and Exculpation and Release:

A. Exculpation. The Town of Addison, Texas and all other Addison Persons and the Manager Persons (for purposes of this subparagraph A, as the terms "Addison Persons" and "Manager Persons" are defined in subparagraph B below), shall not be liable to Tenant or to any Tenant Persons (for purposes of this subparagraph A, as the term "Tenant Persons" is defined in subparagraph B below), or to any other person whomsoever, for any death or injury to persons or damage to or destruction of property or any other harm on or about the Premises or any adjacent area owned by Landlord caused by or resulting from any act or omission of Tenant or any Tenant Persons or any other person entering the Premises under express or implied invitation of Tenant or any Tenant Persons, or arising out of the use or occupation of the Premises by Tenant or by any Tenant Persons, in the performance of Tenant's obligations hereunder.

B. Tenant's Indemnity Obligation. TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY AND HOLD HARMLESS (I) THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS EACH BEING AN "ADDISON PERSON" AND COLLECTIVELY THE "ADDISON PERSONS") AND (II) AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS (AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS EACH BEING A "MANAGER PERSON" AND COLLECTIVELY THE "MANAGER PERSONS"), FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, PROCEEDINGS, CAUSES OF ACTION, DEMANDS, LOSSES, LIENS, HARM, DAMAGES, PENALTIES, FINES, LIABILITIES, EXPENSES, LAWSUITS, JUDGMENTS, COSTS, AND FEES (INCLUDING REASONABLE ATTORNEY FEES AND COURT COSTS) OF ANY KIND AND NATURE WHATSOEVER MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, (COLLECTIVELY FOR PURPOSES OF THIS SUBPARAGRAPH B, "DAMAGES"), THAT RESULT FROM, RELATE TO, OR ARISE OUT OF, IN WHOLE OR IN PART, (I) ANY CONDITION OF THE PREMISES CAUSED IN WHOLE OR IN PART BY TENANT OR BY ANY OF TENANT'S OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MANAGERS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, CONCESSIONAIRES, OR ANY OTHER PERSON OR ENTITY FOR WHOM TENANT IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, AND CONCESSIONAIRES, OR ANY OTHER PERSON ACTING BY OR UNDER THE AUTHORITY OR WITH THE PERMISSION OF TENANT, TENANT'S TENANTS, OR ANY OTHER PERSON ENTERING THE PREMISES UNDER EXPRESS OR IMPLIED INVITATION OF TENANT DURING THE LEASE TERM (COLLECTIVELY, "TENANT PERSONS"), (II) ANY CONSTRUCTION ON OR REPAIR TO THE PREMISES, OR THE PREMISES BECOMING OUT OF REPAIR DUE TO THE FAULT OF TENANT OR ANY TENANT PERSONS, FOR ANY REASON INCLUDING BY FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNES OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING, (III) REPRESENTATIONS OR WARRANTIES BY TENANT UNDER THIS LEASE, AND/OR (IV) ANY ACT OR OMISSION OF TENANT OR ANY TENANT PERSONS UNDER, IN CONNECTION WITH, OR IN THE PERFORMANCE OF, THIS LEASE. SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON, OR BY ANY ACT OR OMISSION BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT SHALL PROMPTLY ADVISE LANDLORD IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE TOWN OF ADDISON, ANY OTHER ADDISON PERSON, ANY MANAGER PERSON, OR TENANT OR ANY TENANT PERSON RELATED TO OR ARISING OUT OF TENANT'S ACTIVITIES UNDER THIS LEASE AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT TENANT'S SOLE COST AND EXPENSE. THE ADDISON PERSONS AND MANAGER PERSONS, AS THE CASE MAY BE, SHALL HAVE THE RIGHT, AT THE ADDISON PERSONS' OR MANAGER PERSONS' (AS THE CASE MAY BE) OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING TENANT OF ANY OF ITS OBLIGATIONS HEREUNDER.

C. **Release.** TENANT HEREBY RELEASES THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FROM, AND AGREES THAT THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS, AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS, SHALL NOT BE LIABLE TO TENANT OR ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FOR (I) ANY DEATH OR INJURY TO ANY PERSON OR PERSONS OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY KIND RESULTING FROM THE PREMISES BECOMING OUT OF REPAIR OR BY DEFECT IN OR FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNES OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING OR FOR ANY OTHER REASON WHATSOEVER, AND FOR (II) ANY LOSS OR DAMAGE THAT MAY BE OCCASIONED BY OR THROUGH THE ACTS OR OMISSIONS OF OTHER TENANTS OF LANDLORD OR CAUSED BY OPERATIONS IN CONSTRUCTION OF ANY PRIVATE, PUBLIC OR QUASI-PUBLIC WORK.

D. **THE PROVISIONS OF THIS PARAGRAPH 21 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE AGREEMENT.**

22. Environmental Compliance:

A. **No Storage or Disposal:** Tenant shall not install, store, use, treat, transport, discharge or dispose (or permit, allow, or acquiesce in the installation, storage, use, treatment, transportation, discharge or disposal by Tenant or by any Tenant Persons) on the Premises or any portion of the Common Facilities, any: (a) asbestos in any form; (b) urea formaldehyde foam insulation; (c) transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or (d) any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq., as amended or superseded), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §9601 et seq., as amended or superseded), the Hazardous Materials Transportation Act (49 U.S.C. §5101 et seq., as amended or superseded), the Toxic Substances Control Act (15 U.S.C. §2601 et seq., as amended or superseded), the Clean Air Act (42 U.S.C. §7401 et seq., as amended or superseded), and/or the Clean Water Act (33 U.S.C. §1251 et seq., as amended or superseded) (and any regulations promulgated pursuant to the foregoing Laws), or any other federal, state, county, regional, local or other governmental Laws, or which, even if not so regulated may or could pose a hazard to the health and safety of the occupants of the Premises and/or any portions of the Common Facilities, and which is either: (i) in amounts in excess of that permitted or deemed safe under applicable Law; or (ii) in any manner which is prohibited or deemed unsafe under applicable Law. (The substances referred to in the foregoing (a), (b), (c) or (d) are collectively referred to hereinafter as "Hazardous Materials").

B. Cleanup Laws; Tenant's Indemnity Obligation:

1. Tenant shall, at Tenant's sole cost and expense, comply with any presently existing or hereafter enacted Laws (including all rules, standards, regulations, or policies relating to Hazardous Materials (collectively, "Cleanup Laws"). In furtherance and not in limitation of the foregoing, Tenant shall, at Tenant's sole cost and expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the Premises and/or any portion of the Common Facilities by (i) Tenant, or by (ii) any of Tenant's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and/or their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires, or by (iii) any person acting by or under the authority or with the permission of Tenant, Tenant's tenants, or any other person entering the Premises under express or implied invitation of Tenant during the Term of this Lease, Tenant shall, at Tenant's own cost and expense, prepare and submit the required plans and financial assurances and carry out the approved plans in accordance

with such Cleanup Laws and to Landlord's satisfaction. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord for preparation of affidavits or other documents required by Landlord to determine the applicability of the Cleanup Laws to the Premises and/or any portion of the Common Facilities, as the case may be, and shall sign the affidavits promptly when requested to do so by Landlord.

2. **Tenant's Indemnity Obligation.** WITHOUT LIMITING ANY OTHER INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATION OF TENANT SET FORTH IN THIS LEASE, TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY, AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), AND THE MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), FROM AND AGAINST, AND REIMBURSE THE TOWN OF ADDISON, TEXAS, ALL OTHER ADDISON PERSONS, THE AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE CASE MAY BE) FOR, ANY AND ALL OBLIGATIONS, DAMAGES, INJUNCTIONS, FINES, PENALTIES, DEMANDS, CLAIMS, COSTS, FEES, CHARGES, EXPENSES, ACTIONS, CAUSES OF ACTION, JUDGMENTS, LIABILITIES, SUITS, PROCEEDINGS, HARM, AND LOSSES OF WHATEVER KIND OR NATURE (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS), AND ALL CLEANUP OR REMOVAL COSTS AND ALL ACTIONS OF ANY KIND, MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE INSTALLATION, STORAGE, USE, TREATMENT, TRANSPORTING, DISPOSAL OR DISCHARGE OF HAZARDOUS MATERIALS IN, ON, UNDER, ABOVE, OR TO THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES BY TENANT OR BY ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE); AND FROM ALL FINES, PENALTIES, SUITS, JUDGMENTS, PROCEDURES, PROCEEDINGS, CLAIMS, ACTIONS, AND CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING OUT OF TENANT'S OR ANY OF TENANT PERSONS' FAILURE TO PROVIDE ALL INFORMATION, MAKE ALL SUBMISSIONS AND TAKE ALL STEPS REQUIRED BY THE AUTHORITY UNDER THE CLEANUP LAWS OR ANY OTHER LAW, RULES, REGULATION, STANDARD, ORDER, OR POLICY (ENVIRONMENTAL OR OTHERWISE). SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS, OR BY ANY ACT OR OMISSION OF OR BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT'S OBLIGATIONS AND LIABILITIES UNDER THIS SUBPARAGRAPH SHALL CONTINUE (AND SURVIVE THE TERMINATION OR EXPIRATION OF THIS LEASE) SO LONG AS THERE MAY BE HAZARDOUS MATERIALS AT THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES, THAT WERE INSTALLED, STORED, USED, TREATED, TRANSPORTED, DISPOSED OF OR DISCHARGED DURING THE LEASE TERM BY TENANT OR ANY OF TENANT PERSONS. IN ADDITION TO AND NOT IN LIMITATION OF LANDLORD'S OTHER RIGHTS AND REMEDIES, TENANT'S FAILURE TO ABIDE BY THE TERMS OF THIS PARAGRAPH 22 SHALL BE RESTRAINABLE BY INJUNCTION.

C. **Environmental Notices:** Tenant shall promptly supply Landlord and Airport Manager with copies of any notices, correspondence and submissions made by Tenant to or received by Tenant from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the FAA, TxDOT, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

D. **Survival:** Tenant's obligations and liability pursuant to the terms of this Paragraph 22 shall survive the expiration or earlier termination of this Lease.

23. **Default by Tenant:** Each of the following shall be deemed to be an event of default by Tenant under this Lease:

A. Failure of Tenant to pay any installment of Rent, or to pay or cause to be paid taxes (to the extent Tenant is obligated to pay or cause same to be paid), utilities, insurance premiums, or any other sum payable to Landlord hereunder, on the date that same is due, and such failure shall continue thereafter for a period of ten (10) days (the "10-day Grace Period") and such failure shall not be cured within ten (10) days after written notice thereof (the "Cure Period") to Tenant (which Cure Period may overlap, in whole or in part, the 10 day Grace Period).

B. Failure of Tenant to comply with any term, condition, or covenant of this Lease (other than the payment of Rent or other sum of money, or the payment of taxes, utilities or insurance premiums, or other payments Tenant is to make under this Lease), and such failure shall not be cured within thirty (30) days after written notice thereof to Tenant.

C. Tenant shall fail to deliver the Additional Deposit to Landlord within ten (10) days after the delivery by Landlord to Tenant of the Additional Deposit Notice.

D. Tenant, or any guarantor of Tenant hereunder, (i) becomes or is declared insolvent according to any Law, (ii) makes a transfer in fraud of creditors according to any applicable Law, or (iii) assigns or conveys all or a substantial portion of its property for the benefit of creditors.

E. Tenant or any guarantor of Tenant hereunder, files a petition for relief, or is the subject of an order for relief, under the United States Bankruptcy Code, as amended, or any other present or future federal or state insolvency, bankruptcy, or similar Laws (collectively "Applicable Bankruptcy Law").

F. Appointment of a receiver or trustee for Tenant (or any guarantor of Tenant hereunder) or Tenant's (or any such guarantor's) property; or the interest of Tenant (or any such guarantor) under this Lease is levied on under execution or under other legal process; or any involuntary petition is filed against Tenant (or any such guarantor) under Applicable Bankruptcy Law (provided, however, that no action described in this subparagraph F. or in subparagraphs D. or E. shall constitute a default by Tenant if Tenant (or any guarantor of Tenant hereunder) shall vigorously contest the action by appropriate proceedings and shall remove, vacate or terminate the action within sixty (60) days after the date of its inception.).

G. Abandonment by Tenant of any substantial portion of the Premises or cessation of use of the Premises for the purposes leased.

H. Tenant is in default of any other lease or agreement with, or any permit or license issued by, the Town of Addison, Texas.

24. Remedies of Landlord: Upon the occurrence of any of the events of default listed in Paragraph 23, Landlord, without prejudice to any legal, equitable, or other (including contractual) right or remedy to which it may be entitled, shall have the option to pursue any one or more of the following remedies without notice or demand whatsoever (and using lawful force if necessary or appropriate after providing written notice thereof, if any is required):

A. Terminate this Lease or any of Tenant's rights under this Lease, with or without reentering or repossessing the Premises.

B. Terminate Tenant's right to occupy all or any part of the Premises without terminating this Lease and with or without reentering or repossessing the Premises.

C. Recover unpaid rent and any Breach Damages (as "Breach Damages" are defined in this Paragraph 24, below).

D. Change or pick the locks, access codes, or other access control devices, and take any other self-help or judicial action to exclude Tenant and other occupants from the Premises.

E. Remove and store (at Tenant's sole cost) any property on the Premises at Tenant's sole cost.

F. Sue for eviction, specific enforcement, equitable relief, rent, damages, or any other available remedy.

G. Apply the Security Deposit in any manner permitted by this Lease, and/or increase the amount of the Security Deposit.

H. Cure Tenant's default, and if Landlord so elects, Tenant must reimburse Landlord within thirty (30) days after Landlord delivers an invoice for the cure amounts paid or to be paid plus any reasonable expenses Landlord incurred effecting compliance with Tenant's obligations.

I. Withhold or suspend any payment that this Lease would otherwise require Landlord to make.

J. Charge interest on any amount not paid when due through the date of its payment at the Default Interest Rate (as set forth in Paragraph 40).

K. Recover, but only if Tenant fails to pay Rent and Landlord terminates this Lease or Tenant's right of possession with more than twelve (12) months remaining in the Term of this Lease, liquidated rental damages for the period after any such termination equal to twelve (12) times the monthly Rent due at the time of termination in lieu of any other contractual or legal measure of damages (including re-letting costs) for Tenant's non-payment of Rent, and the parties agree this is a reasonable estimate of Landlord's damages for such a breach given the uncertainty of future market rental rates and of the duration of any vacancy.

L. Exercise all other remedies available to Landlord at Law, in equity, or otherwise (including, without limitation, injunctive relief and any other remedy available under applicable Law).

For purposes of this Paragraph 24, "Breach Damages" means and includes, without limitation, all actual, incidental, and consequential damages, court costs, interest, and attorneys' fees arising from Tenant's breach or default of this Lease, including, without limitation, the cost to or incurred by Landlord of (a) recovering possession of the Premises, (b) removing and storing the property of Tenant and any other occupant or user of the Premises, (c) re-letting of the Premises (including, without limitation, the costs of brokerage commissions and cleaning, decorating, repairing, or altering the Premises for a substitute tenant or tenants), (d) collecting any money owed by Tenant or a substitute tenant, (e) repairing any damage to the Premises caused by any Tenant or other occupant or user of the Premises, (f) performing any obligation of Tenant under this Lease, (g) any other loss or cost reasonably incurred by Landlord as a result of, or arising from, Tenant's breach of this Lease or Landlord's exercise of its rights and remedies for such breach, (h) any contractual or liquidated type or measure of damages, including but not limited to Rental Deficiency as such is defined below; and (i) any other type or measure of damages recoverable for any particular breach under applicable Law.

For purposes of this Paragraph 24, "Rental Deficiency" means a contractual measure of Breach Damages for Tenant's non-payment of Rent measured by either the (a) actual Rental Deficiency, which is the difference (never less than zero) between (i) the Rent due for, and other Rent allocable under this Lease to, each month beginning with the first month with respect to which Landlord receives Rent from re-letting the Premises, and (ii) the proceeds, if any, that Landlord actually collects from any substitute tenant for any part of the Premises in each corresponding month in which the Term and the term of the substitute tenant's lease overlap; or (b) market Rental Deficiency, which is the present value, discounted at 6% simple annual interest, of the difference (never less than zero) between (i) the rent otherwise due under this Lease during any period after Tenant's breach in which Landlord may elect to recover this damage measure, and (ii) the fair rental value of the Premises during that period, *plus* any costs incurred in connection with any actual or attempted re-letting and any other Breach Damages.

In determining the market Rental Deficiency, the fair rental value will be the total rent that a comparable tenant would pay for comparable space in a building of substantially equivalent quality, size, condition, and location, considering rental rates and concessions then prevalent in the marketplace, the remaining lease term, the expected vacancy, and any other relevant factors. An independent MAI appraiser selected by Landlord will determine the fair rental value of the Premises, and that determination will conclusively bind the parties in any computation of the market Rental Deficiency.

Unless Landlord delivers signed, written notice thereof to Tenant, no act or omission by Landlord or Airport Manager or their respective officials, officers, employees, or agents will constitute Landlord's acceptance of surrender of the Premises, termination of this Lease, or an actual or constructive eviction of Tenant (including, without limitation, Tenant's delivery of keys to any of Landlord's or Airport Manager's officials, officers, employees, or agents or Landlord's repossession, reentry, or re-letting of the Leased Premises).

Pursuit of any of the foregoing remedies or rights shall not preclude pursuit of any of the other remedies or rights herein provided or any other remedies or rights provided by Law, in equity, or otherwise; nor shall pursuit of any remedy or right herein provided constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions and covenants herein contained. If any of Tenant's property ("Tenant Property") remains upon the Premises upon the expiration of the Lease term or any earlier termination of this Lease or any repossession of the Premises by Landlord because of Tenant's default under this Lease, Landlord shall have the right to remove such Tenant Property from the Premises and store such Tenant Property, and Tenant shall be obligated to reimburse Landlord for all of the costs incurred by Landlord in removing and storing such Tenant Property. Landlord shall not be required to release any Tenant Property to Tenant until Tenant has paid Landlord all costs incurred by Landlord in removing and storing such Tenant Property and all other amounts owed by Tenant to Landlord pursuant to this Lease, including, without limitation, unpaid rental and costs incurred by Landlord to repair the Premises.

25. Default by Landlord: No default by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or render Landlord liable for damages, of any kind or nature, or entitle Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay Rent) or grant Tenant any right of deduction, abatement, set-off or recoupment, or entitle Tenant to take any action whatsoever with regard to the Premises or Landlord, until thirty (30) days after Tenant has given Landlord written notice specifically setting forth such default by Landlord, and Landlord has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period, then within an additional reasonable period of time so long as Landlord has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default.

If Landlord fails to cure such default within the said thirty (30) day period, or within said additional reasonable period, Tenant shall have the right, as its sole and exclusive remedy, to proceed to cure such default and deduct the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum from the next succeeding Base Rent installment(s) due by Tenant to Landlord hereunder.

If any mortgagee of Landlord has given Tenant its address for notices and specifically requests such notice, Tenant agrees to give the notice required hereinabove to such mortgagee at the time Tenant gives same to Landlord, and to accept curative action, if any, undertaken by such mortgagee as if such curative action had been taken by Landlord.

The liability of Landlord (and all other Addison Persons and all Manager Persons) for any default by Landlord under this Lease shall be limited to an amount equal to twelve (12) months of Base Rent (the amount of such Base Rent being the amount in effect at the time of such default), and Landlord (and all other Addison Persons and all Manager Persons) shall not be otherwise or personally liable for any deficiency, claim, harm, loss, judgment, liability, or for any other matter whatsoever, and Tenant (for itself and all Tenant Persons) fully waives all other rights of recovery against Landlord (and all other Addison Persons and all Manager Persons) and any assets of Landlord (and all other Addison Persons and all Manager Persons).

26. Mitigation of Damages:

A. Landlord and Tenant agree to the following criteria in connection with Landlord's mitigation of damages after a default by Tenant and abandonment of the Premises by Tenant under this Lease (such mitigation, being by means of marketing the Premises for lease, to commence not more than sixty (60) days after Tenant physically vacates the Premises and to continue until the Premises have been relet):

1. Landlord will have no obligation to solicit or entertain negotiations with any other prospective tenant of the Premises until and unless Landlord obtains full and complete possession of the Premises, including without limitation, the final and non-appealable legal right to relet the Premises free of any claim of Tenant.

2. Landlord will not be obligated to offer the Premises to a prospective tenant when other premises suitable for that prospective tenant's use are (or soon will be) available in any other premises located at Addison Airport.

3. Landlord will not have any obligation to lease the Premises for any rental less than the current rate then prevailing for similar space at Addison Airport (or if no similar space is available, the current fair market rental then prevailing for similar space in comparable buildings in the same market area as the Premises) nor shall Landlord be obligated to enter a new lease under any terms or conditions that are unacceptable to Landlord.

4. Landlord will not be obligated to enter any lease with any prospective tenant whose reputation is not acceptable to Landlord, in Landlord's sole judgment and opinion.

5. Landlord will not be obligated to enter a lease with any prospective tenant: (i) which does not have, in Landlord's sole judgment and opinion, sufficient financial resources and operating experience to occupy and operate the Premises in a first-class manner and meet its financial obligations; or (ii) whose proposed use of the Premises is not a permitted use under the terms of this Lease.

6. Landlord will not be required to expend any amount of money to alter, remodel or otherwise make the Premises suitable for use by any prospective tenant.

If Landlord makes the Premises available for reletting under the criteria set forth hereinabove, Landlord will be deemed to have fully satisfied Landlord's obligation to mitigate damages under this Lease and under any Law or judicial ruling in effect on the date of this Lease or at the time of Tenant's default, and Tenant hereby waives and releases, to the fullest extent legally permissible, any right to assert, in any action by Landlord to enforce the terms of this Lease, any defense, counterclaim, or rights of setoff or recoupment respecting the mitigation of damages by Landlord (or alleged failure by Landlord to adequately mitigate its damages), unless and to the extent Landlord maliciously or in bad faith fails to act in accordance with the requirements of this Paragraph.

No rent collected from a substitute tenant for any month more than the Rent due under the Lease for that month will be credited or offset against unpaid Rent for any other month or any other Breach Damages. Tenant stipulates that the mitigation requirements expressed in this Paragraph are objectively reasonable. **TO THE FULLEST EXTENT PERMITTED BY LAW, TENANT WAIVES ANY OTHER OBLIGATION BY LANDLORD TO MITIGATE ITS DAMAGES AFTER TENANT VACATES OR ABANDONS THE PREMISES.**

B. Tenant's right to seek damages because of a default by Landlord under this Lease shall be conditioned on Tenant taking all actions reasonably required, under the circumstances, to minimize any loss or damage to Tenant's property or business, or to any of Tenant's officials, officers, employees, agents, invitees, or other third parties that may be caused by any such default of Landlord.

27. **Waiver of Subrogation:** Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during the term of this Lease for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of the Premises, which loss or damage is covered by valid and collectible casualty, fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of casualty, fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

28. **Title to Improvements:** The Town of Addison, Texas, is the sole owner of the Premises. Any and all improvements made to the Premises by Tenant shall become the property of Landlord upon the expiration or termination of this Lease; provided, however: (i) if Tenant is not then in default hereunder, Tenant shall have the right to remove all personal property, equipment, or removable trade fixtures owned by Tenant from the Premises, but Tenant shall be required to repair any damage to the Premises caused by such removal in a good and workmanlike manner and at Tenant's sole cost and expense; and (ii) Landlord may elect to require Tenant to remove all improvements made to the Premises by Tenant and restore the Premises to the condition in which the same existed on the Commencement Date hereof, in which event Tenant shall promptly perform such removal and restoration in a good and workmanlike manner and at Tenant's sole cost and expense. If Tenant fails or refuses to remove any or all of Tenant's personal property,

equipment, and trade fixtures from the Premises on or before the date of the termination of this Lease, the items which Tenant has failed or refused to remove: (i) shall be considered abandoned by Tenant, (ii) shall become the property of Landlord, and (iii) may be disposed of by Landlord in any manner desired by Landlord in Landlord's unfettered discretion.

29. Mechanics' and Materialmen's Liens: TENANT AGREES TO DEFEND, INDEMNIFY AND HOLD LANDLORD HARMLESS OF AND FROM ALL LIABILITY ARISING OUT OF THE FILING OF ANY MECHANICS' OR MATERIALMEN'S LIENS AGAINST THE PREMISES BY REASON OF ANY ACT OR OMISSION OF TENANT OR ANYONE CLAIMING BY, THROUGH, OR UNDER TENANT; AND LANDLORD, AT LANDLORD'S OPTION, MAY SATISFY SUCH LIENS AND COLLECT THE AMOUNT EXPENDED FROM TENANT TOGETHER WITH INTEREST THEREON AS PROVIDED IN PARAGRAPH 40 AS ADDITIONAL RENT; PROVIDED, HOWEVER, THAT LANDLORD SHALL NOT SO SATISFY SUCH LIENS UNTIL THIRTY (30) DAYS AFTER WRITTEN NOTIFICATION TO TENANT OF LANDLORD'S INTENTION TO DO SO AND TENANT'S FAILURE DURING SUCH THIRTY (30) DAY PERIOD TO BOND SUCH LIENS OR ESCROW FUNDS WITH APPROPRIATE PARTIES TO PROTECT LANDLORD'S INTEREST IN THE PREMISES.

30. Title: Tenant enters this Lease and accepts the Premises subject to: (i) the Airport Minimum Standards and the Rules and Regulations as amended or modified from time to time; (ii) easements, rights-of-way, and other interests in or encumbrances on Property (whether or not recorded) that may affect the Premises; (iii) all Laws promulgated by any governmental authority having jurisdiction over the Premises, and (iv) all of the terms, conditions, and provisions of this Lease.

31. Quiet Enjoyment and Subordination: Landlord represents that Tenant, upon Tenant's payment of the Rent and other payments herein required and provided for, and Tenant's performance of the terms, conditions, covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the Premises during the full Term of this Lease; provided, however, that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust or other lien presently existing upon, or to any other matter affecting, the Premises. Landlord further is hereby irrevocably vested with full power and authority by Tenant to subordinate Tenant's interest hereunder to any mortgage, deed of trust, ground or other lease ("ground lease"), or other lien now existing or hereafter placed on the Premises or to declare this Lease prior and superior to any mortgage, ground lease, deed of trust or other lien now existing or hereafter placed on the Premises (and Tenant agrees upon demand to execute such further instruments subordinating this Lease as Landlord may request), provided such subordination shall be upon the express conditions that (i) this Lease shall be recognized by the mortgagee (or ground lessor or holder of such other lien or interest) and that all of the rights of Tenant shall remain in full force and effect during the full term of this Lease so long as Tenant attorns to the mortgagee, its successor and assigns (or ground lessor or holder of such other lien or interest, their successors and assigns) and pays timely all Rent and other payments due hereunder and performs all of the duties and obligations of Tenant under this Lease; and (ii) in the event of foreclosure or any enforcement of any such mortgage, deed of trust, ground lease, or other lien, the rights of Tenant hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect so long as Tenant shall fully perform all Tenant's obligations under this Lease and attorn to the mortgagee, its successor and assigns (or ground lessor or holder of such other lien or interest, their successors and assigns). Tenant also agrees upon demand to execute further instruments declaring this Lease prior and superior to any mortgage, deed of trust, ground lease, or other lien and specifically providing that this Lease shall survive any foreclosure of such mortgage, deed of trust or other lien, or action to terminate a ground lease affecting the Premises. Upon any foreclosure of any mortgage, deed of trust or other lien now existing or hereafter placed on the Premises (or any sale in lieu thereof), or upon termination of a ground lease affecting the Premises, Tenant agrees to attorn to and recognize as landlord hereunder, the purchaser of Landlord's interest in the Premises at any foreclosure sale (or sale in lieu thereof) pursuant to any such mortgage, deed of trust or other lien, or the ground lessor (in the event of termination of a ground lease), if Tenant is required to do so by the applicable party (and Tenant agrees to execute an instrument to that effect as may be provided by such applicable party).

32. Access and Egress: Landlord reserves, and Tenant hereby grants to Landlord, the full and unrestricted access to and egress from that portion of the Premises on which buildings or improvements are not located for Landlord, its tenants, employees, guests, patrons, invitees, contractors, suppliers of materials, furnishers of services, its or their equipment, vehicles, machinery and other property, and Manager, its officers, employees and agents, without charge to Landlord or to said persons or entities.

33. **Rent on Net Return Basis:** It is intended that the rent provided for in this Lease shall be a net return to Landlord for the term of this Lease, free of any loss, expenses, or charges with respect to the Premises including, without limitation, maintenance, repairs, replacement, insurance, taxes and assessments, and this Lease shall be construed in accordance with such intention.

34. **Holding Over:** Should Tenant, or any of Tenant's successors in interest fail to surrender the Premises, or any part thereof, on the expiration of the term of this Lease, such holding over shall constitute a tenancy from month to month only terminable at any time by either Landlord or Tenant after thirty (30) days' prior written notice to the other, at a monthly rental equal to one hundred fifty percent (150%) of the Base Rent paid for the last month of the Term of this Lease.

35. **Waiver of Default:** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein. Landlord will not be deemed to have waived any right or remedy, or Tenant's breach of any obligation under this Lease, unless Landlord delivers a signed writing, addressed to Tenant and explicitly relinquishing that right, remedy or breach. No custom or practice arising during the Term of this Lease will waive, or diminish, Landlord's right to insist upon strict performance of Tenant's obligations. No restrictive endorsement or other statement on or accompanying any check or payment will be deemed an accord and satisfaction or novation, and Landlord will be entitled to accept any such check or payment, without prejudice, to Landlord's rights to recover the full amount due and to exercise its other remedies.

36. **Release of Landlord Upon Transfer:** All of Landlord's personal liability for the performance of the terms and provisions of this Lease (except for any liability accruing prior to such transfer) shall terminate upon a transfer of the Premises by Landlord, provided that the obligations of Landlord under this Lease are covenants running with the land and shall be binding upon the transferee of Landlord's interest in this Lease and the Premises.

37. **Attorneys' Fees:** If, on account of any breach or default by Landlord or Tenant of their respective obligations under this Lease, it shall become necessary for the other to employ an attorney to enforce or defend any of such party's rights or remedies hereunder, and should such party prevail, such party shall be entitled to collect reasonable attorneys' fees incurred in such connection from the other party.

38. **Financial Information:** Tenant agrees that Tenant will from time to time, upon the written request of Landlord during the term of this Lease furnish to Landlord such credit and banking references as Landlord may reasonably request.

39. **Estoppel Certificates:**

A. Tenant agrees that from time to time, upon not less than thirty (30) days' prior written request by Landlord, Tenant will deliver to Landlord a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which rent and other charges have been paid; (iii) Landlord is not in default under any term or provision of this Lease or, if then in default, the nature thereof in detail in accordance with an exhibit attached thereto; (iv) that, if requested by Landlord, Tenant will not pay Rent more than one (1) month in advance, (v) that this Lease will not be amended without notice to Landlord's mortgagee (or such other person as Landlord may identify), and (vi) that this Lease will not be terminated by Tenant without the same notice required by this Lease to be furnished by Tenant to Landlord also being furnished by Tenant to Landlord's mortgagee (or such other person as Landlord may identify), and Landlord's mortgagee (or such other person as Landlord may identify) shall have the same opportunity to cure such default within the curative period as allowed Landlord under this Lease; and (vii) any other information pertaining to Landlord, Tenant, this Lease or the Premises reasonably requested by Landlord.

B. Landlord agrees that from time to time, upon not less than thirty (30) days' prior written request by Tenant, Landlord will deliver to Tenant a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which Rent and other charges have been paid; and/or (iii) Tenant is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

40. Interest on Tenant's Obligations and Manner of Payment: All monetary obligations of Tenant to Landlord under this Lease remaining unpaid ten (10) days after the due date of the same (if no due date has been established under other provisions hereof, the "due date" shall be the date upon which Landlord demands payment from Tenant in writing) shall bear interest per annum at the lesser of ten percent (10%) or the highest non-usurious rate then allowed by Law (the "Default Interest Rate"), from and after said tenth (10th) day until paid. If more than twice during the term of the Lease Tenant's personal or corporate check is not paid by the bank on which it is drawn for whatever reason, Landlord may require by giving written notice to Tenant that the payment of all future monetary obligations of Tenant under this Lease are to be made on or before the due date by cashier's check, certified check or money order, and the delivery of Tenant's personal or corporate check will no longer constitute payment of such monetary obligations. Any acceptance by Landlord of a personal or corporate check after such notice shall not be deemed or construed as a waiver or estoppel of Landlord to require other payments as required by said notice.

41. Landlord's Lien: In addition to the constitutional and statutory Landlord's liens, **TENANT HEREBY GRANTS TO LANDLORD A SECURITY INTEREST TO SECURE PAYMENT OF ALL RENT DUE HEREUNDER FROM TENANT, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE AND OTHER PERSONAL PROPERTY OWNED BY TENANT AND SITUATED IN OR UPON THE PREMISES, TOGETHER WITH THE PROCEEDS FROM THE SALE OR LEASE THEREOF.**

Such property shall not be removed without the consent of Landlord until all arrearages in rent then due to Landlord hereunder shall have been paid and discharged. Upon Tenant's failure to pay rent due within ten (10) days after the due date, Landlord may, in addition to any other remedies provided herein or by Law, enter upon the Premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property owned by Tenant and situated on the Premises without liability for trespass or conversion, and sell the same at public or private sale with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any such sale. Landlord has no right to and has no security interest in and may not take possession of any property which may be situated on the Premises, but which is not owned by Tenant, including but not limited to property which may be owned by another and leased and/or loaned to Tenant. Unless otherwise required by Law, notice to Tenant of such sale shall be deemed sufficient if given in the manner prescribed in this Lease at least thirty (30) days before the time of the sale. Any public sale made under this Paragraph shall be deemed to have been conducted in a commercially reasonable manner if held in the Premises or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Dallas County, Texas, for five (5) consecutive days before the date of the sale. Landlord or Landlord's assigns may purchase at a public sale and, unless prohibited by Law, at a private sale. The proceeds from any disposition dealt with in this paragraph, less all expenses connected with the taking of possession, holding and selling of the property including reasonable attorneys' fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted herein. Any surplus shall be paid to Tenant or as otherwise required by Law, and Tenant shall pay any deficiency forthwith.

Upon request by Landlord, Tenant agrees to execute, as debtor, and deliver to Landlord financing statements in form sufficient as may be necessary to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Texas Business and Commerce Code. Landlord may at its election at any time file in the appropriate County records a copy of this Lease as a Financing Statement. Landlord, as Secured Party, has all the rights and remedies afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the landlord's liens and rights provided by Law or by the other terms and provisions of this Lease. The constitutional and statutory liens for rent are expressly reserved; the security interest herein granted is in addition and supplementary thereto.

42. Corporate Execution: If Tenant is a corporation or if this Lease shall be assigned by Tenant to a corporation or if Tenant sublets all or a portion of the Premises to a corporation, such corporation hereby agrees to execute and deliver to Landlord from time to time during the Term of this Lease such instruments as Landlord may reasonably request to evidence: (i) the authority of such corporation to transact business good standing with the State of Texas; and (ii) the authority of the officers of such corporation to execute this Lease or other documents in connection with this Lease.

43. Joint and Several Liability: If more than one person or entity is defined as Tenant in this Lease, all the duties, obligations, promises, covenants, and agreements contained in this Lease to be paid and performed by Tenant shall be the joint and several obligations of all persons or entities defined as Tenant. Each person or entity defined as Tenant agrees that Landlord, in Landlord's sole discretion, may: (i) institute or bring suit against them, jointly and

severally, or against any one or more of them; (ii) compromise or settle with any one or more of them for such consideration as Landlord may deem proper; and (iii) release one or more of them from liability hereunder, and that no such action by Landlord shall impair or affect Landlord's rights to collect costs, expenses, losses or damages incurred or suffered by Landlord from the other persons or entities defined as Tenant, or any of them, not so sued, compromised, settled with or released.

44. Certificate of Occupancy: Tenant may take possession of the Premises pursuant to the terms and conditions of this Hangar Lease; however, Tenant may not occupy the Premises without first being issued a valid Certificate of Occupancy pursuant to the Town of Addison, Texas Code of Ordinances, Part II, Chapter 18, Article II, Division 2, Section 18-53. Tenant may apply for a Certificate of Occupancy any time after the Effective Date of this Agreement. If for any reason, beyond the reasonable control of Tenant, Tenant is unable to secure a Certificate of Occupancy within thirty (30) days prior to the Commencement Date, Tenant may terminate this Lease provided Tenant has given Landlord written notice of all deficiencies preventing the issuance of said Certificate of Occupancy in favor of Tenant and Landlord fails to cure or otherwise resolve the deficiency(ies) within ten (10) business days of Landlord's receipt of Tenant's written notice. Nothing herein contained shall obligate Landlord to install any additional electrical wiring, plumbing or plumbing fixtures, or other fixtures or equipment or any other improvements whatsoever which are not presently existing in the Premises, or which have not been expressly agreed upon by Landlord in writing.

45. Independent Contractor: It is understood and agreed that in leasing, occupying, and operating the Premises, Tenant is acting as an independent contractor and is not acting as agent, partner, joint venturer, or employee of Landlord.

46. Force Majeure: In the event performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by an Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or hindered.

47. Exhibits: All exhibits, attachments, annexed instruments, and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

48. Use of Language; No Third-Party Beneficiaries: Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires. For purposes of this Lease, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration and use of the terms does not create a presumption that components not expressed are excluded.

Where Landlord consent or approval is required in this Lease, such consent or approval may be given by the City Council of the Town of Addison, Texas or by the City Manager of the Town of Addison.

Except as otherwise set forth in this Lease, this Lease and each of its provisions are solely for the benefit of the parties hereto and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

49. Captions: The captions or headings or paragraphs in this Lease are inserted for convenience only and shall not be considered in construing the provisions hereof if any question of intent should arise.

50. Successors: The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities, and duties of Landlord under this Lease including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder may, at Landlord's option, be exercised or performed by Landlord's agent or attorney.

51. Severability: The terms and provisions of this Lease are severable, and if any term or provision in this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby, and the invalid or unenforceable term or provision will be reformed to fully give effect to the parties' intentions in a manner that is legal, valid, and enforceable. It is the parties' intent that the term of this

Lease does not exceed any statutory limit; if it should be determined that the term of this Lease exceeds such period, the term hereof shall be reformed to make the term hereof not exceed such period.

52. **Notices:** Any notice or document required to be delivered or given hereunder may be delivered in person or shall be deemed to be delivered, whether received or not, when deposited in the United States mail, postage prepaid as registered or certified mail (return receipt requested is optional by sender), addressed to the parties at the addresses indicated below, or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

TO LANDLORD:

Town of Addison, Texas
c/o Airport Manager
4545 Jimmy Doolittle Drive, Suite 200
Addison, Texas 75001
Attn: Asst. Airport Director – Real Estate

~ and ~

Town of Addison, Texas
P.O. Box 9010
5300 Beltline Road
Dallas, TX 75001-9010

TO TENANT:

Jani-King International, Inc.
4572 Claire Chennault Drive
Addison, TX 75001
Attn: Perry White, Director of Special Projects

53. **Fees or Commissions:** Each party hereto hereby covenants and agrees with the other that such party shall be solely responsible for the payment of any brokers', agents' or finders' fees or commissions agreed to by such party arising from the execution of this Lease or the performance of the terms and provisions contained herein, **AND THE TENANT AGREES TO INDEMNIFY AND HOLD THE CITY AND/LANDLORD HARMLESS FROM THE PAYMENT OF ANY SUCH FEES OR COMMISSIONS.**

54. **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

55. **Governing Law and Venue:** This Lease and all of the transactions contemplated herein shall be governed by and construed in accordance with the Laws of the State of Texas, without regard to conflict of Law provisions of any jurisdiction; and Landlord and Tenant both irrevocably agree that venue for any dispute concerning this Lease or any of the transactions contemplated herein shall be in any court of competent jurisdiction in Dallas County, Texas, and the parties submit themselves to the jurisdiction of such courts.

56. **No Recording:** Tenant agrees that Tenant will not record this Lease in the real property records of Dallas County, Texas, without first securing the prior written consent of Landlord, which may be withheld at Landlord's sole discretion. However, Tenant agrees upon the written request of Landlord to execute, acknowledge, and deliver to Landlord a short-form lease in recordable form.

57. **Diagram:** The diagram of the Premises attached hereto as **Exhibit B** merely evidences existing or contemplated improvements. By attaching such diagram as an exhibit to this Lease, Landlord is in no way contracting or bound to maintain or construct improvements exactly as shown thereon or prohibited from making additional or different improvements.

58. **Time of Essence:** Time is of the essence in the payment and performance of the duties and obligations imposed upon Tenant by the terms and conditions of this Lease.

59. **Survival:** All duties and obligations imposed upon Tenant by the terms and conditions of this Lease shall survive the termination or expiration of this Lease until paid or performed.

60. **Special Conditions:**

A. This Hangar Lease shall supersede the Ground Lease defined above. Under the terms and conditions of the Ground Lease, Tenant is obligated to maintain the improvements made to the Demised Premises in good repair

and condition over the duration of the ground-lease term. Landlord provided Tenant notice of needed repairs to the Demises Premises that were included in Property Condition Report (“PCA”) dated February 10, 2021, prepared by Partner Engineering and Science, Inc., which report was also provided to Tenant. Items needing attention are described below and referenced in Table 1 of the PCA (the “PCA Repairs”).

1. Section 3.2.2 - Clean and seal cracks and joints at the concrete pavement. Perform limited sectional concrete repairs at the southwest drive lane.
2. Section 4.3.1 – Clean and repoint masonry brick, perform miscellaneous brick repairs where needed.
3. Section 4.3.2 – Remove and replace window sealant and gaskets.
4. Section 4.4.1 – Perform selective re-coating of the stucco entrance canopy, where existing paint is deteriorated; allowance for sealant touch-up at metal panel fasteners/laps/joints and miscellaneous repairs as needed.
5. Section 5.3 – Install GFCI outlet circuits at restrooms.
6. Section 5.5.1 – Inspected and test fire extinguishers
7. Section 7.0 – Provide a complaint curb ramp at the main entry; ADA modifications to the restrooms including replacing door hardware, sink fixtures, cabinetry fixtures, and rehangng of door to swing outward; provide one additional ADA-designated parking space with required vertical and horizontal signage.

As an inducement for Landlord to enter this Hangar Lease, and as a condition precedent to this Hangar Lease commencing and allowing Tenant to retain occupancy and possession of the Premises, the above-referenced PCA Repairs must be completed to Landlord’s satisfaction no later than thirty (30) days prior to the expiration of the Ground Lease. If the above-referenced PCA Repairs are not completed to Landlord’s satisfaction prior to the expiration of the Ground Lease, this Hangar Lease shall automatically terminate no later than November 30, 2021, *ab inito* with no further duty or obligation by either party to the other except for Tenant’s obligations pertaining to vacating the Premises pursuant to the Ground Lease. Notwithstanding the foregoing, this Lease does not in any way release or waive any rights, duties, or obligations of either party under the Ground Lease, while the Ground Lease remains in full force and effect.

B. Regarding the ground lease with Jani-King International, Inc. for the property located at 4574 Claire Chennault Drive, which ground lease is set to expire November 30, 2022, should Landlord and Tenant enter into a Conventional Hangar Lease for that property upon the ground lease expiration, the lease term shall be coterminous with this Hangar Lease Term, and will include an early termination clause similar to what is described in Section 2A above.

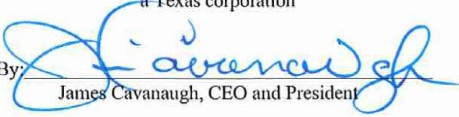
61. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Lease on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

62. Entire Agreement and Amendments: This Lease, consisting of sixty-two (62) paragraphs and Exhibits A through E attached hereto and made a part hereof, together with the premises and recitals to this Lease set forth above which are incorporated herein, and any other documents incorporated herein (including, without limitation, the Rules and Regulations), embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge, or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or on behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

EXECUTED as of the day, month, and year first above written.

TENANT:

JANI-KING INTERNATIONAL, INC.
a Texas corporation

By: 
James Cavanaugh, CEO and President

LANDLORD:

TOWN OF ADDISON, TEXAS
a home-rule municipality

By: _____
Wesley S. Pierson, City Manager

EXHIBIT "A"

Property Survey and Legal Description of the Premises

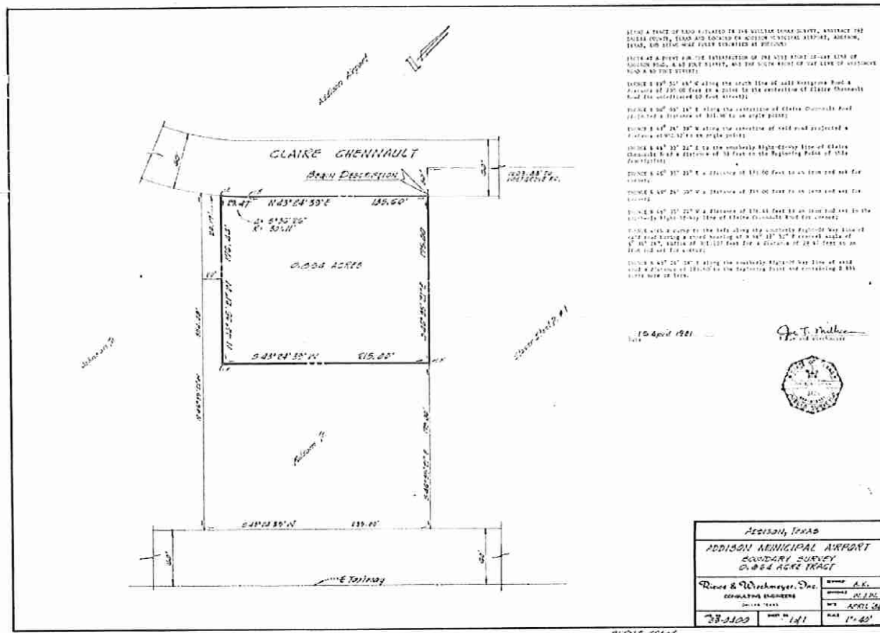


EXHIBIT "B"

Aerial Depiction of the Premises

Below is a depiction of the proximity of the Premises for informational purposes only and is not to be construed as accurate in area or dimension.



EXHIBIT "C"

Shared Ramp Subject to Right-of-Way Easement
(See Paragraph 16.B)



EXHIBIT "D"

Utility Expense Reimbursements

Conventional Hangar Lease for Commercial Aviation Use Effective November 30, 2021, concerning the Premises located at 4572 Claire Chennault Drive, Addison Airport, Addison, Dallas County, Texas 75001

A. The party designated below will pay for the following utility charges serving the Premises including any related connection/disconnection charges assessed by the service provided:

(Check or mark once per line. Note: if a check or mark is omitted or not made for any line item or if more than one check or mark is made on any line item, Tenant is the responsible party to procure and pay for such service).

(1)	(2) N/A	(3) Landlord	(4) Provided by Landlord & Reimbursed by Tenant	(5) Tenant	(6) Further Description If Any
1. Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	Water Meter # _____
2. Sewer	<input type="checkbox"/>		<input type="checkbox"/>	√	
3. Electric	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	Electric Meter # _____
4. Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	if available to the Premises - Meter # _____
5. Telephone/Data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
6. Trash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
7. Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
8. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

The responsible party so designated above (i) may select or change the utility service provider from time to time over the term of the Lease, and (ii) shall be responsible, at its sole cost and expense, for obtaining and maintaining said utility connections at or for the Premises.

B. All utilities to be provided by Landlord and reimbursed by Tenant as indicated above (Column 5) shall be paid as follows:

- In addition to the Base Rent, Tenant will pay Landlord as Additional Rent the costs for the utility services indicated herein and directly attributable or reasonably allocable to the Premises and associated with the referenced accounts (where each account is an account of or for Landlord).

2. Each month Landlord shall submit to Tenant an invoice for all such utility costs, including taxes, fees, and other related costs, billed to Landlord for the preceding billing cycle. Tenant shall pay, as Additional Rent, the amount of each such invoice no later than the first day of the month following the date of the invoice (and the obligation to pay the invoice for the last month (or partial month) of this Hangar Lease shall survive the expiration or termination of this Hangar Lease). Landlord agrees to reasonably cooperate with Tenant in the event Tenant, at Tenant's sole cost, should desire to inquire about, or to protest or appeal, the charges being assessed by the utility service provider. To this end, Tenant shall give Landlord prior written notice of any such protest or appeal, and resolution thereof.

3. Landlord agrees not to assess any rebilling or administrative service fees for utility costs covered under this addendum.

4. Tenant's failure to timely pay said utility costs as Additional Rent shall be deemed to be an event of default by Tenant under the Lease. Landlord reserves all rights and remedies available to it under the Lease and by Law to collect all Rent due.

EXHIBIT "E"

Maintenance and Repair Responsibilities

Conventional Hangar Lease for Commercial Aviation Use Effective November 30, 2021, concerning the Premises located at 4572 Claire Chennault Drive, Addison Airport, Addison, Dallas County, Texas 75001

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Ground Maintenance			
Building & Gate Locksmithing & Security	Maintains all public access gates. Main entry gate to property is Landlord's responsibility to maintain and repair unless abuse by Tenant or its invitees.	All, as required by Tenant's use and all Laws, including ordinances, rules and regulations. All doors and gates leading to Airport Operations Area are to be kept always secured.	
Fencing	Landlord maintains Airport perimeter fence (damage to such fence caused by or resulting from any of Tenant's, or its guests' and invitees, acts or omissions shall be paid for by Tenant)	All other fencing upon the Premises, <i>if any</i> ; is Tenant's responsibility.	
Landscape & Lawn Care		All turf, beds and planters within the Premises	
Landscape Irrigation		Minimum requirements by City ordinance	
Pavement - Parking	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use or required by ordinance or otherwise by Landlord with Landlord's prior written consent.	
Pavement - Ramp	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use, safe operations or as required by Landlord and with Landlord's prior written consent.	

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Trash Dumpster	Dumpster location or location changes at the sole discretion and direction of the Landlord. Change of service provider at sole discretion of Landlord.	Tenant to manage and maintain and to be provided at Tenant's sole cost and expense. Must be kept on Premises unless otherwise approved in advance by Landlord	Trash service is a shared service with 4551 & 4553 Glenn Curtiss Drive. Paid by Landlord and assessed 50%/50% between tenants.
Trash Dumpster screening, if required		Maintained at Tenant's sole cost and expense.	
Building Shell			
Garage Overhead & Service Doors	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance and basic service and repair. Examples of general preventive maintenance and basic service and repair would be servicing, maintaining or repairing springs, cables, rollers, latch & lock...	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Doors	Major repairs and replacement if required at sole discretion of Landlord	General preventive maintenance and basic service – including cleaning floor tracks.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Floor	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, sweeping, cleaning and safety markings as required by Landlord. Examples include cleaning floors of oils and chemical materials that may cause permanent damage to floor surface such as stains or peeling of floor coating.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Building & Hangar Insulation, if existing	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Painting and cleaning of building exterior	Performed by Landlord at Landlord's sole expense and discretion.	General preventive maintenance, repair and replacement where required.	by Tenant. Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Repairs to exterior siding building, fascia, trim, etc.	Performed by Landlord at Landlord's sole expense and discretion	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Window and Glass Curtain Walls	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Roof	Major repairs and replacement when required at sole discretion of Landlord.	No penetrations without Landlord's prior written approval.	
Roof rain-gutters and downspouts	Major repair and replace as required.	General preventive maintenance, repair and replacement where required.	
Interior - Finish-out			
Interior Doors	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
All Interior and Exterior door locks (electronic or keyed)	Any lock changes or lock system changes must be approved by Landlord in advance. Maintain copies of access keys provided by Tenant. Landlord must be given 24-hour access to building due to fire alarm system and reset.	General preventive maintenance, repair and replacement where required. Copies of access keys to be provided to Landlord with instruction and codes provided for any electronic locking systems.	by Tenant. Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Office/shop space flooring and floor cover	Major repairs and replacement at sole discretion of Landlord.	Major repair and replacement with Landlord's prior consent. General preventive maintenance, cleaning of all floor surfaces (carpet, tile and tile grout...) repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior – Office and shop space		Repainting like existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior – Hangar space	Repainting like existing condition at sole discretion of the Landlord.	Any change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Walls & Ceilings	Major repairs and replacement at sole discretion of Landlord.	Repainting or repairing like existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required. Applicable to office area only.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Building Systems			
Air Compressor		Tenant's full responsibility.	
Electrical Systems	Major repairs, replacement or modifications at sole discretion of Landlord. General maintenance and repair.	Replacement or material change only with Landlord's prior written consent. Inform Landlord of any electrical issues or needed modifications.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Door Motors	General maintenance and repairs and replacement at sole discretion of Landlord. General preventive maintenance and basic service.	Replacement or material change only with Landlord's prior written consent.	
Exterior Lighting & maintenance	Major repairs and replacement at sole discretion of Landlord. Landlord to replace bulbs as necessary.	Replacement or material change only with Landlord's prior written consent.	
Office and interior lighting	Major repairs and replacement of fixtures at sole discretion of Landlord.	Tenant to replace bulbs and lamps as necessary with similar bulb and lamp types.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar light repair and replacement	Major repairs and replacement at sole discretion of Landlord.	Replacement or material change only with Landlord's prior written consent. Tenant to replace bulbs as necessary.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
HVAC	Major repairs and replacement at sole discretion of Landlord. Filter changes and major repair of equipment.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent. Examples of general maintenance and repair are: routine services, preventative maintenance, thermostat battery replacement and	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Window a/c units if any		additional refrigerant as needed.	by Tenant.
	Major repairs and replacement at sole discretion of Landlord.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Plumbing systems	Major repairs and replacement at sole discretion of Landlord.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Water heater	Replacement at Landlord's sole discretion.	General maintenance and repair. Replacement with Landlord's prior written consent.	
Storm water drains	Major repairs and replacement and general maintenance.	Damage caused by or resulting from acts of Tenant, Tenant's employees, guests or invitees shall be paid for by Tenant.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Grease Traps	Landlord to have inspected and serviced upon tenant move-in.	Tenant's full responsibility.	If any
Fire Alarm Systems		Tenant to perform day-to-day minor maintenance and notify landlord or any known conditions needing attention. Tenant shall not obstruct, alter, impair, or prevent, in any way, the efficiency of fire alarm systems. Tenant to maintain and monitor and provide routine inspections.	The active alarm monitoring and inspections are shared expenses with 4551 & 4553 Glenn Curtiss Drive and treated by landlord as a shared pass-thru expense on a 50%/50% basis.

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Tapping into Fire Main for fire suppression systems	Must be approved by Landlord in advance.	Tenant's full responsibility with Landlord's prior written consent.	
Fire Extinguishers		Tenant's full responsibility to supply and maintain required fire extinguishers to meet all applicable fire and building codes. Tenant is responsible for all periodic inspections of fire extinguishers to meet all applicable fire and building codes	

**Aerial Location of Subject Property
4572 Claire Chennault Drive
at Addison Airport**



Council Meeting

12.

Meeting Date: 10/26/2021

Department: Airport

Pillars: Excellence in Transportation Systems

AGENDA CAPTION:

Present, Discuss, and Consider Action on a **Resolution Approving a Commercial Lease Between the Town of Addison and Jani-King International, Inc. for The Cavanaugh Flight Museum's Use on Property Located at 4570 Claire Chennault Drive, Addison Airport, and Authorizing the City Manager to Execute the Commercial Lease.**

BACKGROUND:

Jani-King International, Inc. ("Jani-King") is the ground tenant of a certain leasehold located at 4570 Claire Chennault Drive at Addison Airport. On the leased premises, Jani-King operates Cavanaugh Flight Museum, a 501c3 non-profit educational museum devoted to promoting aviation studies and perpetuating America's aviation heritage. The ground lease is scheduled to expire November 29, 2021, at which time, pursuant to the terms of the ground lease, Jani-King is to vacate the premises and the ownership of the building improvements and leasehold interests shall revert to the Town. Jani-King desires to continue to use and occupy the premises for the purpose of operating Cavanaugh Flight Museum subject to the terms and conditions of a proposed Conventional Hangar Lease for Commercial Aviation Use agreement.

Among other things, the proposed Conventional Hangar Lease for Commercial Aviation Use agreement provides for:

- i. The agreement to commence on November 30, 2021, immediately upon the expiration of the ground lease without interruption.
- ii. A Lease Term of 3-years with the right to early terminate the agreement by either party with six months advance written notice after the 2nd-year of the term;
- iii. Tenant shall pay a commercial market Base Rental of \$7,814.33 per month for the demised premises beginning November 30, 2021;

Should the Conventional Hangar Lease for Commercial Aviation Use not be granted by the Town, Jani-King would be required to vacate the premises upon the expiration of the ground lease.

The requested action is consistent with the 2013 Addison Airport Strategic Plan

and the 2016 Airport Master Plan.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Commercial Lease 4570 Claire Chennault

Aerial Location Map

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, APPROVING A CONVENTIONAL HANGAR LEASE FOR COMMERCIAL AVIATION USE BETWEEN THE TOWN OF ADDISON AND JANI-KING INTERNATIONAL, INC. FOR THE PROPERTY LOCATED A 4570 CLAIRE CHENNAULT DRIVE, ADDISON AIRPORT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COMMERCIAL LEASE.

WHEREAS, Jani-King, International, Inc., a Texas corporation (“Jani-King”), holds the leasehold interests of a certain ground lease located at 4570 Claire Chennault Drive at Addison Airport, which said ground lease is due to expire on November 29, 2021.

WHEREAS, Jani-King is requesting the Town of Addison to approve a three-year Conventional Hangar Lease for Commercial Aviation Use to commence immediately upon the expiration of the Jani-King ground lease without interruption.

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

Section 1. The proposed Jani-King, International, Inc. Conventional Hangar Lease for Commercial Aviation Use affecting the property located at 4570 Claire Chennault Drive at Addison Airport, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved and the City Manager is authorized to execute this lease.

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas, this the **26th** day of **OCTOBER 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

“EXHIBIT A”

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

**ADDISON AIRPORT
CONVENTIONAL HANGAR LEASE
FOR COMMERCIAL AVIATION USE**

This Addison Airport Conventional Hangar Lease For Commercial Aviation Use (hereinafter referred to as the "Hangar Lease," "Lease," or "Agreement") is made and entered into this 16th day of September, 2021 (the "Effective Date"), by and between the Town of Addison, Texas, a home-rule municipality (hereinafter referred to as the "City" or "Landlord") and Jani-King International, Inc., a Texas corporation ("Tenant"); Landlord and Tenant are sometimes referred to herein together as the "parties" and individually as a "party".

WITNESSETH:

WHEREAS, Landlord is the owner of the Addison Airport (hereinafter referred to as the "Airport") located in Dallas County, Texas; and

WHEREAS, the Airport is operated and managed for and on behalf of the City by the Airport Manager (hereinafter referred to as "Airport Manager" or "Manager"); and

WHEREAS, as of the Effective Date first given above, Jani-King, International Inc. owns the leasehold interests of the Premises (defined hereinbelow) subject to a certain ground lease, which commenced November 30, 1981, by and between Folsom Investments, Inc., a Texas corporation, and Max Williams, as tenant, and Addison Airport of Texas, Inc. and the City of Addison, and thereafter assigned to Jani-King International, Inc. on or about May 20, 1991 ("Ground Lease"); and

WHEREAS, the Ground Lease is due to expire November 29, 2021, and upon its expiration, pursuant to Section 26 of the Ground Lease, the ownership and title to all building improvements made to the Demised Premises shall merge with the real property and become solely the property of the City, free and clear of all claims, liens, and encumbrances; and

WHEREAS, immediately upon the expiration of the Ground Lease, without interruption, Tenant desires to lease and continue to occupy that certain hangar located within the Airport known as Bldg. #U3 with the public address known as 4570 Claire Chennault Drive, Addison, Texas 75001 (hereinafter referred to as the "Premises" and more fully described in Exhibits "A" and "B" attached hereto and made a part hereof) and Landlord desires to lease the same to Tenant for the Term as defined below; and

WHEREAS, Landlord and Tenant hereby agree to enter this Hangar Lease under the terms and conditions set forth hereinbelow.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, Landlord and Tenant hereby agree as follows:

1. Lease Grant. Subject to the terms of this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord.

This Hangar Lease is given and entered into subject to (i) all federal, state, and local laws, statutes, constitutional provisions, charters (including the City Charter), ordinances, codes (including building and building-related codes), rules, regulations, directives, policies, permits, standards, zoning requirements, orders, grant assurances, grant agreements, court orders, opinions and decisions, and all interpretations of the foregoing, of and/or by any governmental authority, entity, department, branch, or agency (including, without limitation, the Town of Addison, Texas, the State of Texas, the Federal Aviation Administration, the Texas Department of Transportation, the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality, and any successor entities thereto), that are applicable, imposed upon, or related to, whether directly or indirectly, this Lease, the Airport, the Premises, and the use and occupancy thereof, as the same are existing or as they may be amended, modified, enacted,

adopted, imposed, or superseded, and including, without limitation, any and all grant agreements or grant assurances now existing or as hereafter agreed to, adopted or imposed (collectively, "Laws," and "Law" means any of the foregoing), (ii) all restrictive covenants affecting the Premises, (iii) all restrictions, mortgages, deeds of trust, liens, easements, licenses, leases, and any other encumbrance on or matter affecting the Premises, whether recorded or not, and (iv) and all of the terms, conditions, and provisions of this Hangar Lease.

2. **Term:** The Term hereof shall commence November 30, 2021 ("Commencement Date") immediately upon the expiration of the Ground Lease without interruption, and shall end on November 30, 2024, unless otherwise terminated as provided for herein (the "Term").

A. Effective December 1, 2023, or any time thereafter, either party may terminate this Lease by providing at least a six-month advance written Move-Out Notice to the other party. Such Lease termination shall be effective the last day of the sixth full calendar month following the delivery of the Move-Out Notice as required by under Paragraph 52 below.

B. For the purposes of this Lease, the term "month" means a period extending from a date in any one calendar month to the date immediately preceding the corresponding date in the following calendar month, both dates inclusive. The term "calendar month" means a period extending from the first day to the last day, both days inclusive, of any one of the 12 calendar months of the year.

3. **Rental & Security Deposit:**

A. **Base Rent:** Tenant agrees to pay to Landlord without notice, demand, offset, or deduction, an annual Base Rent of \$93,771.96, payable in monthly installments of \$7,814.33. The first such monthly installment shall be due and payable on or before December 1, 2021, and each monthly installment thereafter shall be due and payable on or before the first day of each calendar month throughout the Term.

B. **Prorated Rent:** If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord a prorated amount of Base Rent equal to the product of the monthly installment of Base Rent multiplied by a fraction, the (i) numerator of which is the number of days from (and including) the Commencement Date through (and including) the last day of the month that includes the Commencement Date and the (ii) denominator of which is the number of days in that month. The prorated portion of the Base Rent is due on or before the Commencement Date. Payment of Base Rent for any fractional calendar month at the end of the Term shall be similarly prorated.

C. **Additional Rent:** In addition to the Base Rent, Tenant will pay Landlord, as Additional Rent, the amounts set forth in the Utility Expense Reimbursement Addendum attached hereto and incorporated herein as Exhibit D.

D. **Rent:** For purposes of this Lease, "Rent" means Base Rent, Additional Rent, and all other sums that Tenant may owe to Landlord or otherwise be required to pay under this Lease. Landlord shall have the same rights and remedies for non-payment of any Rent as for non-payment of Base Rent. The obligations of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations.

E. **Place of Payment:** Tenant shall deliver all amounts due Landlord under this Lease to the following address or to such other person or place as Landlord may designate in writing:

Addison Airport
c/o Asst. Airport Director – Real Estate
4545 Jimmy Doolittle Drive, Suite 200
Addison, Texas 75001

F. **Method of Payment:** Tenant must pay all Rent timely and without demand, notice, deduction, or offset, except as required by Law or as otherwise provided by this Lease. Tenant shall make payment of all Rent owed by personal or corporate check made payable to "Addison Airport" (or by credit card, electronic transfer or ACH (Automatic Clearing House), if acceptable to Landlord). Cash is not an acceptable form of payment of Rent. If Tenant

fails to timely pay any amounts due under this Lease, or if any check of Tenant is returned to Landlord by the institution on which it was drawn for insufficient funds or for any other reason, or if Tenant's credit card is denied more than three times in any twelve-month period (if Landlord authorizes payment by credit card), Landlord, after providing written notice to Tenant, may require Tenant to pay subsequent amounts that become due under this Lease by cashier's check or money order only. Rent, and any other sums or amounts to be paid by Tenant to Landlord under this Lease, shall be deemed to have been paid when Landlord has received the negotiable payment.

G. **Late Charges:** If Landlord does not actually receive payment of Rent or any other sums due at the designated place of payment within ten (10) days after the date it is due, Tenant shall pay to Landlord a Late Charge equal to 5% of the amount due to reimburse Landlord for Landlord's cost and inconvenience incurred because of Tenant's delinquency. The Late Charge is a cost associated with the collection of Rent and Landlord's acceptance of a Late Charge does not waive Landlord's right to exercise its rights and remedies, including those under Paragraph 24 (Remedies of Landlord) herein.

If Tenant fails to pay (i) any monthly installment of Base Rent due under this Lease by the 10th day of the month when due, or (ii) any other component of Rent within 10 days after the same is due as specified in this Lease, more than once in any consecutive three (3) month period, Tenant, upon the delivery of written notice to Tenant by Landlord ("Additional Deposit Notice"), shall pay to Landlord an amount equal to the then-current monthly installment of Base Rent (the "Additional Deposit") to be held and applied by Landlord as an addition to the Security Deposit delivered by Tenant and held on account by Landlord upon Tenant's execution of this Lease pursuant to subparagraph 3.H, below. Landlord's requirement of any Additional Deposit shall be in addition to all other rights and remedies available to Landlord under this Lease. If Tenant does not deliver the Additional Deposit to Landlord within ten (10) days after the delivery of the Additional Deposit Notice, such failure shall be an event of default under this Lease.

H. **Security Deposit:** Tenant shall deposit with Landlord, upon Tenant's execution of this Lease, the sum of \$7,814.33, to be held by Landlord as Tenant's "Security Deposit." Such Security Deposit shall be equal to one monthly installment of Base Rent unless otherwise adjusted as provided for in 3.G. above.

1. If at any time during this Agreement the Security Deposit then held on account by Landlord becomes less than the prevailing monthly installment of Base Rent, Tenant will make an additional payment to Landlord so that the Security Deposit held by Landlord is increased to equal one monthly installment of Base Rent, unless otherwise adjusted as provided for in 3.G. above.

2. Landlord shall hold such Security Deposit without interest as security for the performance by Tenant of Tenant's covenants and obligations under this Lease. Landlord may commingle the Security Deposit with Landlord's other funds, and no trust relationship is created with respect to the Security Deposit. Tenant shall not assign, otherwise transfer, or encumber or attempt to assign, otherwise transfer, or encumber the Security Deposit, and Landlord and its successors and assigns shall not be bound by any actual or attempted assignment, other transfer, or encumbrance. Regardless of any assignment, other transfer, or encumbrance of the Security Deposit by Tenant, Landlord may return the Security Deposit to the Tenant.

3. The Security Deposit is not an advance payment of Rent or a measure of liquidated damages in case of default by Tenant. Upon the occurrence of any event of default, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by Law, use the Security Deposit to the extent necessary to make good any arrearages of Rent and any other damage, injury, expense, or liability caused to Landlord by such event of default. Following any such application of the Security Deposit, Tenant shall pay to Landlord, on demand, the amount so applied to fully restore the Security Deposit to its required amount.

4. If Tenant is not then in default hereunder, such Security Deposit, less any lawful deductions by Landlord, shall be returned by Landlord to Tenant with an accounting of said deductions taken no later than thirty (30) days following the termination or expiration of this Hangar Lease. Permitted deductions from the Security Deposit may include but not be limited to: unpaid Base Rent; unpaid utility charges incurred by Tenant; unpaid service charges; damages by Tenant to the Premises (beyond normal wear and tear) or repairs by Landlord; replacement cost of Landlord's property that was in or attached to the Premises and is missing; cost to replace unreturned keys; agreed reletting charges; Landlord's cost of cleaning the Premises to a broom-swept condition if required; Landlord's cost of removal of any trash or debris left in the Premises; Landlord's cost of the removal and storage of Tenant's personal property left or abandoned by Tenant or otherwise disposed of by Landlord; Landlord's cost of removal of unauthorized vehicles or aircraft left on the Premises;

government fees or fines against Landlord because of Tenant; late fees and other costs of collection incurred by Landlord in connection with this Lease; interest that would have been earned by Landlord on unpaid balances; attorneys' fees, court costs and filing fees.

4. Adjustment of Rental: Effective on each anniversary of the Commencement Date and each anniversary thereafter over the Term (hereinafter referred to as the "Adjustment Date"), the Base Rent due under Paragraph 3.A above shall be adjusted as follows:

A. The Base Rent shall be adjusted to reflect changes in the Consumers' Price Index - All Items for Dallas-Fort Worth, Texas (hereinafter referred to as the "Consumer Price Index"), as quoted in the publication *Consumer Price Index - All Urban Consumers (CPI-U)* for the Dallas-Fort Worth, Texas area which is issued by the U.S. Department of Labor, Bureau of Labor Statistics. The base index is the Consumer Price Index existing on the Commencement Date ("Base Index"). The current index is the Consumer Price Index on the first day of the calendar month preceding the then applicable Adjustment Date (the "Current Index").

B. Beginning with the year that includes the then applicable Adjustment Date, the Base Rent shall be adjusted so that it equals the product of the Base Rent during the first year of this Lease multiplied by a fraction, the numerator of which is the Current Index and the denominator of which is the Base Index, but in no event shall Base Rent ever be decreased below the Base Rent set forth in Paragraph 3.A.

C. If the Consumer Price Index is unavailable for whatever reason for the computations set forth hereinabove, another index approximating the Consumer Price Index as closely as feasible (as reasonably determined by Landlord) shall be substituted therefor.

5. Permitted Use of Premises: The Premises shall be used and occupied by Tenant only for Commercial Aviation Use limited to the following ("Permitted Use"):

A. Tenant's use of the Premises shall be limited to the storage of aircraft owned by, or under the direct care, custody, and operational control (as the term is recognized by the FAA) of the Tenant and related aeronautical tools, equipment, parts, and supplies and for no other purpose without the Landlord's prior written consent.

B. Light maintenance, repair, and restoration of Tenant's aircraft.

C. To operate a non-profit 501(c)(3) educational organization devoted to promoting aviation studies, aviation history, and the display of historically significant, vintage aircraft and materials related to the history of aviation.

D. To operate as an event venue for various public and/or private events for hire, subject to the prevailing Airport Rules & Regulations and Town of Addison Code of Ordinances including, but not limited to, the timely application and issuance of an Airport Special Events Permit when required

E. To operate and offer to the public for-hire Living History Flight Experiences (LHFE) and to conduct flight experiences under FAA 91.147 flight programs.

For purposes hereof, "Commercial Aviation Use" means the operation of a business enterprise providing aviation-related goods, services, or facilities for a commercial purpose (including, without limitation, any activity by the Tenant securing earning, income, compensation, [including exchange or barter of goods, and services], and/or profit from said activities, whether such objectives are accomplished). Tenant shall occupy and use the Premises only for the Permitted Use and shall comply with all Laws relating to the use, condition, access to, and occupancy of the Premises.

Any use or occupancy of the Premises other than for the purposes set forth above is not permitted at any time without the prior written consent of Landlord.

The Premises shall not be used or occupied for any concession for the sale or distribution of tobacco products, oil, gas, petroleum products or any activity of a similar character. Tenant agrees that no aircraft, vehicle or other equipment will be left unattended at any time outside the boundaries of the Premises or within any common area of the Airport ("common area" having the meaning set forth in Chapter 14 of the City's Code of Ordinances), including the safety areas, operating areas and/or non-obstruction areas of the Airport without the prior written consent of the Airport

Manager. Tenant further agrees to cooperate and coordinate with adjacent tenants and the Airport Manager, when necessary (as determined by Landlord), to facilitate and not to obstruct aircraft movement along nearby taxilanes, especially during periods of construction, maintenance, and repair of Airport facilities.

The Premises shall not be used for any purpose or activity that (i) constitutes a violation of any Laws; (ii) in Landlord's opinion, creates or would create a nuisance or waste or unreasonably disturb, annoy, or interfere with other tenants or users of the Airport; or (iii) increases insurance costs for Landlord.

Tenant acknowledges that Landlord is bound by, and this Lease is subject to, the terms and conditions of all Federal Aviation Administration, Texas Department of Transportation, and other grant agreements, grant assurances and regulations regarding the Airport, including, without limitation, any grant, loan, regulation, or agreement under Section 22.055 of the Texas Transportation Code, as amended or superseded, whether now existing or made in the future. Tenant agrees not to act or fail to act in any way or manner that would cause Landlord to be in violation of any of the foregoing.

6. Acceptance of Premises: Tenant acknowledges that Tenant has fully inspected the Premises and accepts the Premises as suitable for the purposes for which the same are leased in their present condition, "AS IS, WHERE IS, WITH ALL FAULTS AND PATENT AND LATENT DEFECTS". Without limiting anything in the foregoing, LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS, AND THERE ARE NO, REPRESENTATIONS, PROMISES, COVENANTS, AGREEMENTS, GUARANTYS OR WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, OF OR AS TO THE CONDITION, QUALITY, QUANTITY, SUITABILITY, MERCHANTABILITY, HABITABILITY OR FITNESS OF THE PREMISES FOR ANY PARTICULAR PURPOSE WHATSOEVER GIVEN IN CONNECTION WITH THIS LEASE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS OR ANY OTHER LAWS.

TENANT ALSO ACKNOWLEDGES AND AGREES THAT TENANT'S INSPECTION AND INVESTIGATION OF THE PREMISES HAVE BEEN ADEQUATE TO ENABLE TENANT TO MAKE TENANT'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PREMISES, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER LAWS.

TENANT ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6 ARE AN INTEGRAL PORTION OF THIS LEASE AND THAT LANDLORD WOULD NOT AGREE TO LEASE THE PREMISES TO TENANT AS SET FORTH HEREIN WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH 6. TENANT FURTHER ACKNOWLEDGES THAT TENANT IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO LANDLORD. TENANT ACKNOWLEDGES AND AGREES FURTHER THAT THIS LEASE IS SUBJECT TO ANY AND ALL CURRENTLY EXISTING TITLE EXCEPTIONS OR OTHER MATTERS OF RECORD OR VISIBLE OR APPARENT FROM AN INSPECTION AFFECTING THE PREMISES.

7. Securing Governmental Approvals and Compliance with Law; Noise Abatement:

A. Tenant, at Tenant's sole cost and expense, shall obtain all governmental licenses, permits and approvals required for the use and occupancy of the Premises, as set forth in Paragraph 5 above, including but not limited to the issuance of a valid Certificate of Occupancy prior to Tenant occupying the Premises pursuant to Paragraph 44 hereinbelow.

B. Tenant shall promptly comply with all governmental orders and directives and all other Laws for the correction, prevention and abatement of nuisances caused by Tenant and arising out of the use and occupancy of the Premises, as set forth in Paragraph 5 above.

C. Tenant shall comply with noise abatement standards at the Airport and shall notify any aircraft operator using the Premises of such standards.

8. Assignment and Subletting:

A. Without the prior written consent of Landlord, Tenant shall have no power to and shall not, either voluntarily or involuntarily, by operation of law or otherwise, assign, sell, pledge, encumber, mortgage, license, transfer, or otherwise convey (together, "assign" or "assignment," and any person or entity to whom an assignment is made being an "assignee") this Lease or any rights or obligations of Tenant hereunder, or sublet the whole or any part of the Premises. Any such assignment or any subletting, without the prior written consent of Landlord, shall be null and void and may be deemed by Landlord (in Landlord's sole discretion) an event of default under Paragraph 23 (Default by Tenant) of this Lease. For the purposes hereof, an assignment will be deemed to have also occurred if the person(s) who owns or has voting control of 51% or more of Tenant on the Effective Date of this Hangar Lease ceases to own or have voting control of 51% or more of Tenant at any time during the term of the Hangar Lease. From time to time as requested by Landlord, Tenant shall provide to Landlord, in a form acceptable to Landlord, a written certification as to the ownership of voting securities or voting control of Subtenant. For the purposes hereof, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

Any assignment or subletting shall be expressly subject to all the terms and provisions of this Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any Landlord-approved assignment or subletting, Tenant shall not assign this Lease or sublet the Premises without first obtaining a written agreement from each such assignee or sublessee whereby each such assignee or sublessee agrees to be bound by the terms and provisions of this Hangar Lease. No such assignment or subletting shall constitute a novation. In the event of the occurrence of an event of default while the Premises are assigned or sublet, Landlord, in addition to any other remedies provided herein or by Law, may, at Landlord's option, collect directly from such assignee or subtenant all rents becoming due under such assignment or subletting and apply such rent against any sums due to Landlord hereunder. No direct collection by Landlord from any such assignee or subtenant shall release Tenant from the payment or performance of Tenant's obligations hereunder. Landlord's consent to any assignment or subletting will not waive its rights or remedies, and it will not stop Landlord from exercising its rights or remedies, with respect to any other actual or proposed assignment or subletting, and Landlord's consent to any assignment or subletting will not relieve Tenant or any guarantor of Tenant hereunder of any liability to Landlord under this Lease or otherwise.

B. Notwithstanding the foregoing, Landlord hereby acknowledges and consents to Tenant's subletting of the Premises for the purpose of renting hangar space for aircraft storage only, provided that each sublease is 1) made available for Landlord's review and inspection during Tenant's normal business hours upon Landlord's written request, and 2) evidenced by written agreement, signed, and executed by Tenant and the subtenant, and has incorporated therein and fairly states that:

1. each subtenant agrees to be bound by the terms and provisions of this Hangar Lease, including the provisions of Paragraph 5 pertaining to the use of the Premises. In the event of any conflict between the terms of this Hangar Lease and the terms of the sublease, the terms of the Hangar Lease shall control;
2. no such subletting shall constitute a novation.
3. in the event of occurrence of an event of default while the Premises are sublet, Landlord, in addition to any other rights or remedies provided herein or by Law, in equity, or otherwise, may, at Landlord's option, collect directly from such subtenant all rents becoming due under such subletting and apply such rent against any sums due to Landlord under this Lease;
4. subtenant shall be obligated to obtain Landlord's consent to any action as to which Tenant is obligated to obtain such consent under this Hangar Lease;
5. any such sublease is to automatically terminate upon termination of this Hangar Lease notwithstanding any other provision of the sublease to the contrary;
6. Landlord shall have no responsibility or obligation for the performance by subtenant of its obligations under the sublease; and
7. neither this consent, the exercise by Landlord of its rights and/or remedies hereunder, nor the sublease or any other instrument shall give subtenant any rights, directly or indirectly, against Landlord or create or impose any obligation, duty, responsibility, or liability of Landlord in favor of or for the benefit of subtenant.

Further, Tenant agrees that in no way does any sublease release Tenant from any of its covenants, agreements, liabilities and duties under this Hangar Lease; that this consent does not constitute approval by Landlord of the terms of any such sublease; that nothing herein contained shall be deemed a waiver or release of any of the Landlord's rights under this Hangar Lease; that Tenant shall remain fully liable for the performance of each and every term, provision, covenant, duty and obligation of the Tenant under this Hangar Lease including, without limitation, the duty to make any and all payments of Rent. Any violation of any terms and conditions of this Hangar Lease by a subtenant will constitute a default by Tenant under this Hangar Lease.

Upon Landlord's written request, Tenant shall provide to Landlord the names and addresses of any subtenants, and the make, model, aircraft type and "N" number of any aircraft stored or located on or in the Premises by Tenant or any subtenant.

9. Property Taxes and Assessments: Tenant shall pay, before they become delinquent, all property taxes or assessments, and any other governmental charges, fees, or expenses, levied or assessed on: (i) all improvements, fixtures, equipment or personal property comprising a part of or located upon the Premises; and (ii), the leasehold estate of Tenant created hereby (hereinafter referred to as "Tenant's Taxes"). Upon the request of Landlord, Tenant shall, from time to time, furnish to Landlord "paid receipts" or other written evidence that all of Tenant's Taxes have been paid by Tenant. If any of Tenant's Taxes are included in tax notices and, or statements delivered to Landlord, Tenant has the right to legally protest or appeal, as provided for by Law, any tax levy or assessment of Tenant's Taxes provided Landlord has not already filed or does not intend to file such protest or appeal of (i) the appropriateness of such tax and, or (ii) the taxable value as assessed by the respective taxing authority. If any of Tenant's Taxes are included in tax statements delivered to Landlord, Tenant shall pay to Landlord that portion representing Tenant's Taxes within ten (10) days after Tenant's receipt of an invoice from Landlord accompanied by evidence of Landlord's computation of the portion thereof representing Tenant's Taxes. In the event Tenant fails to pay any Tenant's Taxes, Landlord shall have the right (but not the obligation) to pay or cause to be paid such Tenant's Taxes, and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant on demand.

10. Maintenance and Repair of Premises:

A. Landlord shall, throughout the term hereof, except as otherwise expressly provided in this Lease and so long as Tenant is not in default of this Agreement beyond any applicable cure period, be responsible for those areas, items and matters identified in the "Landlord" column as set forth in Exhibit E - Maintenance and Repair Responsibilities, which exhibit is attached hereto and incorporated herein by reference. Landlord shall not be responsible for Tenant or any third party's equipment, fixtures, or personal property comprising a part of or located upon the Premises.

B. Except as provided by subparagraph A. of this Paragraph 10, Tenant shall, to the Landlord's satisfaction, maintain the Premises in good order, condition, and repair throughout the term of this Lease including, but not limited to, those areas, items and matters identified under the "Tenant" column set forth in the attached Exhibit E to this Agreement. Tenant shall be responsible for any alterations, additions or improvements made by Tenant to the Premises and/or any improvements thereon or therein. Tenant shall, throughout the term hereof, be responsible for all consumable supplies and repair of plumbing and water damage caused because of Tenant's failure to reasonably protect water pipes from freezing temperatures or misuse by Tenant or by Tenant's owners, employees, agents, contractors, guests or invitees. Tenant shall be responsible for keeping the Premises free from waste and nuisance and shall, upon the expiration of the Lease Term, or any earlier termination of this Lease or any repossession of the Premises by Landlord, deliver the Premises clean and free of trash and in good condition and repair, with all fixtures and equipment situated in or upon the Premises in the same condition as same existed on the Commencement Date, with reasonable wear and tear excepted.

Notwithstanding anything in this Lease to the contrary, Tenant shall bear the risk of complying with the Americans with Disabilities Act of 1990, any other federal or any state laws governing access to the disabled, or architectural barriers, and all rules, regulations, and guidelines promulgated under such Laws, as amended from time to time, in or pertaining to the Premises.

C. In the event Tenant fails to so maintain or repair the Premises and/or the improvements, fixtures, equipment and personal property comprising a part of or located upon the Premises, and/or otherwise fails to comply

with any of the provisions of subparagraph B. or D. of this Paragraph or any other provision of this Lease requiring Tenant to maintain or repair the Premises or keep them in a particular condition, Landlord shall have the right (but not the obligation) to cause all such repairs or other maintenance or work to be made, and the reasonable costs therefor expended by Landlord plus interest thereon as provided in Paragraph 40 shall be paid by Tenant to Landlord on demand.

D. If Tenant handles or stores flammable materials on the Premises, Tenant agrees to maintain proper safeguards with respect thereto and to comply with all requirements of Landlord's and Tenant's insurance companies and/or governmental authorities with respect to the storage, use and disposal of such materials, and with all applicable Laws.

11. Alterations, Additions, and Improvements: Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions, or improvements to the Premises, without the prior written consent of Landlord. Landlord shall not unreasonably withhold its consent for non-structural alterations, additions, or improvements. Tenant shall have the right to erect or install shelves, bins, machinery, and trade fixtures, if Tenant complies with all applicable Laws in connection therewith. All alterations, additions, and improvements in and to the Premises shall be performed in accordance with the terms and provisions of this Lease, with all Laws, and in a first-class, workmanlike manner, and Tenant shall promptly pay and discharge all costs, expenses, claims for damages, liens and all other liabilities and obligations which arise in connection therewith.

12. Insurance:

A. Tenant shall procure and maintain throughout the Term, without interruption, a policy or policies of insurance, at Tenant's sole cost and expense, to meet or exceed the insurance requirements specified in the then prevailing Addison Airport Minimum Standards and Requirements for Commercial Aeronautical Service Providers (the "Airport Minimum Standards") which may be amended or modified by the City from time to time. At any time over the Term the Airport Minimum Standards are either suspended, repealed or otherwise modified to the extent Tenant's use and occupancy of the Premises no longer require such insurance policies under the Airport Minimum Standards, Tenant shall procure and maintain throughout the Term, without interruption, the following insurance policies:

1. Commercial General Liability insurance against claims for bodily injury, death or property damage or destruction occurring on, in or about the Premises, with limits of liability of not less than \$1,000,000 for each occurrence, CSL/\$1,000,000 general aggregate. Coverage shall include blanket contractual liability for liability assumed under this Lease.
2. Workers Compensation insurance and employer's liability with limits of liability of not less than \$1,000,000.
3. Hangar keepers Legal Liability insurance at limits of \$1,000,000 per occurrence is required if Tenant is engaged in maintenance, repair or servicing of aircraft belonging to any third party, or if Tenant is otherwise involved in any operation in which Tenant has care, custody or control of an aircraft that belongs to a third party.
4. Aircraft Liability insurance for all Tenant-owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 and \$1,000,000 for personal and advertising injury.

B. All insurance policies required under this Paragraph 12 shall be endorsed to provide the following, as applicable: (i) in all liability policies, name as additional insureds the Town of Addison, Texas, and its respective officials, officers, agents, and employees; (ii) in all liability policies, provide that such policies are primary insurance regardless of the application of any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted under this Lease, and that insurance applies separately to each insured against whom a claim is made or suit is brought; and (iii) a waiver of subrogation in favor of the Town of Addison, Texas, , and its respective officials, officers, agents, and employees, must be included in all liability and Workers Compensation policies. All such policies shall be issued by an insurance company authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance, if required, and shall be endorsed to provide for at least 30 days' advance written notice to Landlord of a material change in, non-renewal, or cancellation of a policy. Certificates of insurance, satisfactory to Landlord, evidencing all coverage above, shall be furnished to Landlord prior to the Commencement Date, with

complete copies of policies furnished to the Landlord upon request. Landlord reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

13. Casualty Damage or Destruction:

A. In case of any damage to or destruction of the buildings, structures, fixtures and equipment, or any other improvements, on or at the Premises, or any part thereof, Tenant shall promptly give written notice thereof to Landlord, generally describing the nature and extent of such damage and/or destruction.

B. If the Premises (the hangar building or structure, excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any assignee, subtenant or other occupant of the Premises) should be substantially, totally, or partially destroyed or damaged by fire, tornado or other casualty, this Lease shall not terminate, but Landlord may, at Landlord's sole option and at Landlord's sole cost, expense and risk, proceed forthwith and use reasonable diligence to rebuild or repair the Premises (the hangar building or structure, but excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant or user of the Premises) to substantially the condition in which it existed prior to such destruction or damage; provided, however, that if Landlord elects not to rebuild or repair such damage or destruction and notifies Tenant in writing of such election, then this Lease shall terminate and rent shall be abated for the unexpired portion of this Lease, effective from the date of actual receipt by Landlord of the written notification of the damage or destruction from Tenant. If Landlord elects to rebuild or repair the Premises and the Premises are untenantable in whole or in part following such destruction or damage, during the period of such rebuilding or repair the Rent payable hereunder shall be equitably adjusted for that period during which the Premises are untenantable. However, if the destruction or damage was caused by the negligence, gross negligence, or willful or wanton act or omission of Tenant, or any of Tenant's officers, employees, agents, subtenants, licensees, contractors, subcontractors, or invitees, or any other person for whom Tenant is responsible, Rent shall not be abated and Tenant shall have the continuing obligation to pay Rent during the period of such rebuilding or repair.

If Landlord elects to rebuild or repair the Premises (the hangar building or structure) as set forth above, Tenant shall, immediately upon notice from Landlord, remove from the Premises its equipment and property as reasonably required by Landlord to complete such rebuilding or repair. Upon the completion of such rebuilding or repair, Tenant shall restore the Premises and Tenant's property and promptly reopen for business. Tenant shall use the proceeds from Tenant's insurance policies for restoration of improvements made by Tenant to the Premises, for restoration and/or replacement of Tenant's equipment, trade fixtures, and inventory, and to cover any business interruption loss.

C. Landlord's election to pay for the cost of the repair or rebuilding of the Premises (the hangar building or structure) or any part thereof may, at Landlord's option, not extend beyond or exceed the proceeds of any casualty or property damage insurance payable and collected in connection with such damage or destruction. All insurance proceeds, if any, payable on account of such damage or destruction shall be held and retained by Landlord (whether such repair or rebuilding occurs, or this Lease terminates).

14. Condemnation:

A. If, during the term hereof, any part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, or is sold to a condemning authority under threat of condemnation, and after such taking by or sale to said condemning authority the remainder of the Premises is not susceptible to efficient and economic occupation and operation by Tenant, this Lease shall automatically terminate as of the date said condemning authority takes possession of the Premises, and Landlord shall refund to Tenant any prepaid but unaccrued rental less any sum then owing by Tenant to Landlord.

B. If, after such taking by or sale to said condemning authority, the remainder of the Premises is susceptible to efficient and economic occupation and operation by Tenant, this Lease shall not terminate but the Base Rent due hereunder shall be adjusted so that Tenant shall be required to pay for the remainder of the Term hereof the sum obtained by multiplying each monthly Base Rent installment due hereunder (as adjusted from time to time pursuant to Paragraph 4, above) by a fraction, the numerator of which shall be the number of square feet remaining in the Premises after the taking by or sale to said condemning authority and the denominator of which shall be the square footage originally contained in the Premises. The Base Rent adjustment called for herein shall either not commence or be

suspended until said condemning authority takes possession of the condemned portion of the Premises. All other terms and provisions shall remain unchanged unless otherwise provided for herein.

C. Landlord shall receive the entire award or payment from any condemnation and Tenant shall have no claim to that award or for the value to Landlord of any unexpired term of this Lease; provided, however, that Tenant shall have the right to appear in any condemnation proceeding or action to negotiate, prosecute and adjust any claim attributable to loss or damage to Tenant's trade fixtures and removable personal property, removal or relocation costs, and any loss to Tenant resulting from the unexpired portion of the Lease Term. If this Lease is not terminated pursuant to subparagraph A of this Paragraph, Landlord shall repair damage to the Premises caused by the condemnation (excluding Tenant's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of Tenant or any permitted assignee, subtenant or other occupant of the Premises), except that (i) Landlord shall not be obligated to repair any damage for which Tenant has been reimbursed by the condemning authority; and (ii) if the condemnation damages or payments received by Landlord are not sufficient to pay for such repair, Landlord shall have the right to terminate this Lease.

15. **Utilities:** Except where provided to the contrary below, Tenant shall be responsible, at Tenant's sole cost and expense, for obtaining all utility connections at or for the Premises and Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, impact fees, tap-in fees and services furnished to the Premises during the term hereof. Tenant agrees to contact all utility service providers prior to any excavation or digging on the Premises or the premises in and around the Premises. Landlord shall in no event be liable or responsible for any cessation or interruption in any such utility services.

A. Notwithstanding the foregoing, Landlord and Tenant hereby acknowledge and agree to the terms and conditions contained in Exhibit D – Utility Expense Reimbursement Addendum attached hereto and incorporated herein by reference wherein it sets forth which utility services, if any, will be provided and paid for by the Landlord and subsequently reimbursed by Tenant upon demand.

B. If Tenant is the responsible party for obtaining any of the utility connections at or for the Premises, any access or alterations to the Premises or to the Airport necessary to obtain any of such utility connections may be made only with Landlord's prior consent and at Tenant's sole expense.

C. In the event Tenant fails to pay any utility or connection charges for which Tenant is responsible, Landlord shall have the right (but not the obligation) to pay or cause to be paid such charges, fees or expenses, incurred by Tenant and the costs thereof expended by or caused to be expended by Landlord plus interest thereon as provided in Paragraph 40 of this Lease shall be paid by Tenant upon written demand.

D. Prior to executing this Lease Tenant acknowledges that it has, at its sole costs and expense, determined that all necessary utilities are available to the Premises and are adequate for Tenant's intended commercial use, and that there are no other utility services needed or required by Tenant at the Premises in connection herewith.

E. Landlord shall in no event be liable or responsible for any cessation or interruption in any utility services to the Premises.

16. Common Facilities and Reciprocal Easement Agreement:

A. **Common Facilities:** So long as Tenant is not in default hereunder beyond any applicable cure period, Tenant and Tenant's owners, employees, agents, servants, customers and other invitees shall have the non-exclusive right to use all common facilities, improvements, equipment and services which may now exist or which may hereafter be provided by Landlord at the Airport for the accommodation and convenience of Landlord's customers and tenants, including landing and takeoff facilities, means of ingress and egress to the Premises, other Airport installations, and all other reasonable services which may be provided without charge from time to time by Landlord in operating the Airport ("Common Facilities"). All such Common Facilities shall always be under the exclusive control and management of Landlord and may be rearranged, modified, changed, restricted, closed, or terminated from time to time at Landlord's sole discretion.

B. **Granting of Right of Way:** Given the existing aircraft ramp/apron configuration of the Premises and the abutting ramp/aprons associated with 4572, 4574, and 4576 Claire Chennault properties ("Adjacent Properties"),

Tenant, for itself and its successors and assigns, hereby grants a non-exclusive right-of-way easement to the owner, occupant and/or tenant (together with their guests and invitees) of the Adjacent Properties across and over a portion of the aircraft ramp/apron within the Premises expressly for the purpose of aircraft, vehicle, and pedestrian ingress and egress to and from their respective premises to the airport Common Facilities. The attached aerial attached hereto and incorporated by reference as **Exhibit "C"** depicts the proximity of the aircraft ramp/apron on the Premises subject to this Paragraph 16.B ("Shared Ramp"). Tenant (a) shall not leave unattended aircraft, vehicles, equipment, or other personal property on the Shared Ramp at any time with the exception of conducting proper pre- or post-flight operations on the shared ramp; (b) shall refrain from utilizing, encroaching, or otherwise interfering or obstructing the Adjacent Properties' aircraft ramp/apron except by express permission or by way of a reciprocal right-of-way easement similar hereto; and (c) agrees to be respectful of adjacent tenants' right of quiet use and enjoyment of their leased premises without interference by Tenant.

17. Special Events: Landlord may sponsor or hold certain special events, including, but not limited to, air shows and fireworks displays to be conducted on portions of the Airport, which may limit or obstruct access to the Premises and/or to the Airport ("**Special Events**"). As a material inducement to Landlord to enter this Lease, and notwithstanding anything to the contrary contained herein, Tenant, on behalf of Tenant and on behalf of all directors, officers, shareholders, partners, principals, employees, agents, contractors, subtenants, licensees or concessionaires of Tenant, and on behalf of any other party claiming any right to use the Leased Premises by, through or under Tenant, hereby: (i) agrees that Landlord has the right to sponsor any or all Special Events and to allow use of portions of the Airport therefor even if the same limit or obstruct access to the Premises and/or to the Airport; (ii) releases, waives and discharges Landlord and Manager, and their respective officials, officers, employees and agents, from all liability for any loss, damage, cost, expense or claim arising or resulting from or pertaining to the limitation or obstruction of access to the Premises and/or to the Airport from the conduct of Special Events and/or activities relating or pertaining thereto, including, without limitation, death, injury to person or property or loss of business or revenue (the "**Released Claims**"); (iii) covenants not to sue the Landlord or Manager or their respective officials, officers, employees and agents (whether in their official or private capacities) for any Released Claims; (iv) agrees that the terms contained in this Paragraph are intended and shall be construed to be as broad and inclusive as possible under Law; and (v) agrees that if any portion of this Paragraph is held to be invalid or unenforceable, the remainder of this Paragraph shall not be affected thereby, but shall continue in full force and effect.

18. Rules and Regulations: Landlord has adopted the Airport Minimum Standards (as defined in Paragraph 12.A., above) and the "**Addison Airport Rules and Regulations**" (the "**Rules and Regulations**") which shall govern Tenant's use of and conduct on the Premises and all Common Facilities, a copy of which has been or will be furnished to Tenant. The Airport Minimum Standards and the Rules and Regulations are incorporated by reference as if written verbatim herein, and Tenant agrees to always comply fully with them. Landlord shall have and reserves the right, in its sole discretion, to discontinue, amend, modify and alter the Airport Minimum Standards and the Rules and Regulations from time to time, and to adopt other rules, standards, or regulations applicable to the Airport, the Premises and Tenant as Landlord may deem necessary or appropriate, in its sole discretion, including for the purpose of assuring the safety, welfare and convenience of Landlord, Tenant and all other tenants, users, and customers of the Airport.

19. Signs and Equipment: After first securing Landlord's approval, Tenant shall have the right from time to time to install signs depicting Tenant's name and to operate radio, communications, meteorological, aerial navigation and other equipment and facilities in or on the Premises that may be reasonably necessary for the operation of Tenant's business, provided such signs and equipment are installed and maintained in compliance with all applicable governmental Laws, and all changes to such Laws, including the Town of Addison's sign ordinance, with the Airport Minimum Standards and the Rules and Regulations, with all provisions of this Lease, and do not interfere with the operation of any navigation facilities or Airport communications (including, without limitation, navigation facilities or Airport communications used or operated by the Federal Aviation Administration).

20. Landlord's Right of Entry: Landlord and Landlord's authorized representatives shall have the right, during normal business hours, to enter the Premises: (i) to inspect the general condition and state of repair thereof, (ii) to make repairs permitted under this Lease, (iii) to show the Premises to any prospective tenant, purchaser, or lender, or (iv) for any other reasonable and lawful purpose. Landlord and Landlord's authorized representatives have the right to enter the Premises at any time in the event of an emergency pertaining to the Premises. During the final one hundred eighty (180) days of the term hereof, Landlord and Landlord's authorized representatives shall have the right to erect and maintain on or about the Premises customary signs advertising the Premises for lease.

21. Indemnity and Exculpation and Release:

A. Exculpation. The Town of Addison, Texas and all other Addison Persons and the Manager Persons (for purposes of this subparagraph A, as the terms "Addison Persons" and "Manager Persons" are defined in subparagraph B below), shall not be liable to Tenant or to any Tenant Persons (for purposes of this subparagraph A, as the term "Tenant Persons" is defined in subparagraph B below), or to any other person whomsoever, for any death or injury to persons or damage to or destruction of property or any other harm on or about the Premises or any adjacent area owned by Landlord caused by or resulting from any act or omission of Tenant or any Tenant Persons or any other person entering the Premises under express or implied invitation of Tenant or any Tenant Persons, or arising out of the use or occupation of the Premises by Tenant or by any Tenant Persons, in the performance of Tenant's obligations hereunder.

B. Tenant's Indemnity Obligation. TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY AND HOLD HARMLESS (I) THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS, INDIVIDUALLY OR COLLECTIVELY, IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES (THE TOWN OF ADDISON, TEXAS, AND THE ELECTED OFFICIALS, THE OFFICERS, EMPLOYEES, REPRESENTATIVES, AND VOLUNTEERS OF THE TOWN OF ADDISON, TEXAS EACH BEING AN "ADDISON PERSON" AND COLLECTIVELY THE "ADDISON PERSONS") AND (II) AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS (AIRPORT MANAGER AND AIRPORT MANAGER'S OWNERS, OFFICERS, EMPLOYEES AND AGENTS EACH BEING A "MANAGER PERSON" AND COLLECTIVELY THE "MANAGER PERSONS"), FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, PROCEEDINGS, CAUSES OF ACTION, DEMANDS, LOSSES, LIENS, HARM, DAMAGES, PENALTIES, FINES, LIABILITIES, EXPENSES, LAWSUITS, JUDGMENTS, COSTS, AND FEES (INCLUDING REASONABLE ATTORNEY FEES AND COURT COSTS) OF ANY KIND AND NATURE WHATSOEVER MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, (COLLECTIVELY FOR PURPOSES OF THIS SUBPARAGRAPH B, "DAMAGES"), THAT RESULT FROM, RELATE TO, OR ARISE OUT OF, IN WHOLE OR IN PART, (I) ANY CONDITION OF THE PREMISES CAUSED IN WHOLE OR IN PART BY TENANT OR BY ANY OF TENANT'S OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MANAGERS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, CONCESSIONAIRES, OR ANY OTHER PERSON OR ENTITY FOR WHOM TENANT IS LEGALLY RESPONSIBLE, AND THEIR RESPECTIVE OWNERS, DIRECTORS, SHAREHOLDERS, PARTNERS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, ENGINEERS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, TENANTS, LICENSEES, INVITEES, PATRONS, AND CONCESSIONAIRES, OR ANY OTHER PERSON ACTING BY OR UNDER THE AUTHORITY OR WITH THE PERMISSION OF TENANT, TENANT'S TENANTS, OR ANY OTHER PERSON ENTERING THE PREMISES UNDER EXPRESS OR IMPLIED INVITATION OF TENANT DURING THE LEASE TERM (COLLECTIVELY, "TENANT PERSONS"), (II) ANY CONSTRUCTION ON OR REPAIR TO THE PREMISES, OR THE PREMISES BECOMING OUT OF REPAIR DUE TO THE FAULT OF TENANT OR ANY TENANT PERSONS, FOR ANY REASON INCLUDING BY FAILURE OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNES OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING, (III) REPRESENTATIONS OR WARRANTIES BY TENANT UNDER THIS LEASE, AND/OR (IV) ANY ACT OR OMISSION OF TENANT OR ANY TENANT PERSONS UNDER, IN CONNECTION WITH, OR IN THE PERFORMANCE OF, THIS LEASE. SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON, OR BY ANY ACT OR OMISSION BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSON, THE AIRPORT MANAGER, OR ANY OTHER MANAGER PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT SHALL PROMPTLY ADVISE LANDLORD IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE TOWN OF ADDISON, ANY OTHER ADDISON PERSON, ANY MANAGER PERSON, OR TENANT OR ANY TENANT PERSON RELATED TO OR ARISING OUT OF TENANT'S ACTIVITIES UNDER THIS LEASE AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT TENANT'S SOLE COST AND EXPENSE. THE ADDISON PERSONS AND MANAGER PERSONS, AS THE CASE MAY BE, SHALL HAVE THE RIGHT, AT THE ADDISON PERSONS' OR MANAGER PERSONS' (AS THE CASE MAY BE) OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING TENANT OF ANY OF ITS OBLIGATIONS HEREUNDER.

C. **Release.** TENANT HEREBY RELEASES THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FROM, AND AGREES THAT THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS, AND AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS, SHALL NOT BE LIABLE TO TENANT OR ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B. OF THIS PARAGRAPH 21) FOR (I) ANY DEATH OR INJURY TO ANY PERSON OR PERSONS OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY KIND RESULTING FROM THE PREMISES BECOMING OUT OF REPAIR OR BY DEFECT IN OR FAILURE

OF EQUIPMENT, PIPES, OR WIRING, OR BROKEN GLASS, OR BY THE BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR OIL LEAKING, ESCAPING OR FLOWING INTO THE PREMISES, REGARDLESS OF THE SOURCE, OR BY DAMPNES OR BY FIRE, EXPLOSION, FALLING PLASTER OR CEILING OR FOR ANY OTHER REASON WHATSOEVER, AND FOR (II) ANY LOSS OR DAMAGE THAT MAY BE OCCASIONED BY OR THROUGH THE ACTS OR OMISSIONS OF OTHER TENANTS OF LANDLORD OR CAUSED BY OPERATIONS IN CONSTRUCTION OF ANY PRIVATE, PUBLIC OR QUASI-PUBLIC WORK.

D. **THE PROVISIONS OF THIS PARAGRAPH 21 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LEASE AGREEMENT.**

22. Environmental Compliance:

A. **No Storage or Disposal:** Tenant shall not install, store, use, treat, transport, discharge or dispose (or permit, allow, or acquiesce in the installation, storage, use, treatment, transportation, discharge or disposal by Tenant or by any Tenant Persons) on the Premises or any portion of the Common Facilities, any: (a) asbestos in any form; (b) urea formaldehyde foam insulation; (c) transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or (d) any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq., as amended or superseded), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §9601 et seq., as amended or superseded), the Hazardous Materials Transportation Act (49 U.S.C. §5101 et seq., as amended or superseded), the Toxic Substances Control Act (15 U.S.C. §2601 et seq., as amended or superseded), the Clean Air Act (42 U.S.C. §7401 et seq., as amended or superseded), and/or the Clean Water Act (33 U.S.C. §1251 et seq., as amended or superseded) (and any regulations promulgated pursuant to the foregoing Laws), or any other federal, state, county, regional, local or other governmental Laws, or which, even if not so regulated may or could pose a hazard to the health and safety of the occupants of the Premises and/or any portions of the Common Facilities, and which is either: (i) in amounts in excess of that permitted or deemed safe under applicable Law; or (ii) in any manner which is prohibited or deemed unsafe under applicable Law. (The substances referred to in the foregoing (a), (b), (c) or (d) are collectively referred to hereinafter as "Hazardous Materials").

B. Cleanup Laws; Tenant's Indemnity Obligation:

1. Tenant shall, at Tenant's sole cost and expense, comply with any presently existing or hereafter enacted Laws (including all rules, standards, regulations, or policies relating to Hazardous Materials (collectively, "Cleanup Laws"). In furtherance and not in limitation of the foregoing, Tenant shall, at Tenant's sole cost and expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the Premises and/or any portion of the Common Facilities by (i) Tenant, or by (ii) any of Tenant's owners, directors, shareholders, partners, managers, officers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, concessionaires, or any other person or entity for whom Tenant is legally responsible, and/or their respective owners, directors, shareholders, partners, officers, managers, employees, agents, representatives, engineers, consultants, contractors, subcontractors, tenants, licensees, invitees, patrons, and concessionaires, or by (iii) any person acting by or under the authority or with the permission of Tenant, Tenant's tenants, or any other person entering the Premises under express or implied invitation of Tenant during the Term of this Lease, Tenant shall, at Tenant's own cost and expense,

prepare and submit the required plans and financial assurances and carry out the approved plans in accordance with such Cleanup Laws and to Landlord's satisfaction. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord for preparation of affidavits or other documents required by Landlord to determine the applicability of the Cleanup Laws to the Premises and/or any portion of the Common Facilities, as the case may be, and shall sign the affidavits promptly when requested to do so by Landlord.

2. **Tenant's Indemnity Obligation.** WITHOUT LIMITING ANY OTHER INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATION OF TENANT SET FORTH IN THIS LEASE, TENANT AGREES TO AND SHALL FULLY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO LANDLORD), INDEMNIFY, AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS AND ALL OTHER ADDISON PERSONS (AS THE TERM "ADDISON PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), AND THE MANAGER PERSONS (AS THE TERM "MANAGER PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE), FROM AND AGAINST, AND REIMBURSE THE TOWN OF ADDISON, TEXAS, ALL OTHER ADDISON PERSONS, THE AIRPORT MANAGER AND ALL OTHER MANAGER PERSONS (AS THE CASE MAY BE) FOR, ANY AND ALL OBLIGATIONS, DAMAGES, INJUNCTIONS, FINES, PENALTIES, DEMANDS, CLAIMS, COSTS, FEES, CHARGES, EXPENSES, ACTIONS, CAUSES OF ACTION, JUDGMENTS, LIABILITIES, SUITS, PROCEEDINGS, HARM, AND LOSSES OF WHATEVER KIND OR NATURE (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURT COSTS), AND ALL CLEANUP OR REMOVAL COSTS AND ALL ACTIONS OF ANY KIND, MADE UPON, INCURRED BY, SUFFERED BY, OR ASSERTED AGAINST ANY ADDISON PERSON OR ANY MANAGER PERSON OR THE PREMISES, WHETHER DIRECTLY OR INDIRECTLY, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE INSTALLATION, STORAGE, USE, TREATMENT, TRANSPORTING, DISPOSAL OR DISCHARGE OF HAZARDOUS MATERIALS IN, ON, UNDER, ABOVE, OR TO THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES BY TENANT OR BY ANY TENANT PERSONS (AS THE TERM "TENANT PERSONS" IS DEFINED IN SUBPARAGRAPH B OF PARAGRAPH 21, ABOVE); AND FROM ALL FINES, PENALTIES, SUITS, JUDGMENTS, PROCEDURES, PROCEEDINGS, CLAIMS, ACTIONS, AND CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING OUT OF TENANT'S OR ANY OF TENANT PERSONS' FAILURE TO PROVIDE ALL INFORMATION, MAKE ALL SUBMISSIONS AND TAKE ALL STEPS REQUIRED BY THE AUTHORITY UNDER THE CLEANUP LAWS OR ANY OTHER LAW, RULES, REGULATION, STANDARD, ORDER, OR POLICY (ENVIRONMENTAL OR OTHERWISE). SUCH DEFENSE, INDEMNITY, AND HOLD HARMLESS OBLIGATION SHALL AND DOES INCLUDE DAMAGES ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS, OR BY ANY ACT OR OMISSION OF OR BY THE TOWN OF ADDISON, TEXAS, ANY OTHER ADDISON PERSONS, THE AIRPORT MANAGER OR ANY OTHER MANAGER PERSONS THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

TENANT'S OBLIGATIONS AND LIABILITIES UNDER THIS SUBPARAGRAPH SHALL CONTINUE (AND SURVIVE THE TERMINATION OR EXPIRATION OF THIS LEASE) SO LONG AS THERE MAY BE HAZARDOUS MATERIALS AT THE PREMISES AND/OR ANY PORTION OF THE COMMON FACILITIES OR ANY PORTION OF THE AIRPORT OR ADJACENT PROPERTIES, THAT WERE INSTALLED, STORED, USED, TREATED, TRANSPORTED, DISPOSED OF OR DISCHARGED DURING THE LEASE TERM BY TENANT OR ANY OF TENANT PERSONS. IN ADDITION TO AND NOT IN LIMITATION OF LANDLORD'S OTHER RIGHTS AND REMEDIES, TENANT'S FAILURE TO ABIDE BY THE TERMS OF THIS PARAGRAPH 22 SHALL BE RESTRAINABLE BY INJUNCTION.

C. **Environmental Notices:** Tenant shall promptly supply Landlord and Airport Manager with copies of any notices, correspondence and submissions made by Tenant to or received by Tenant from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the FAA, TxDOT, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

D. **Survival:** Tenant's obligations and liability pursuant to the terms of this Paragraph 22 shall survive the expiration or earlier termination of this Lease.

23. **Default by Tenant:** Each of the following shall be deemed to be an event of default by Tenant under this Lease:

A. Failure of Tenant to pay any installment of Rent, or to pay or cause to be paid taxes (to the extent Tenant is obligated to pay or cause same to be paid), utilities, insurance premiums, or any other sum payable to Landlord hereunder, on the date that same is due, and such failure shall continue thereafter for a period of ten (10) days (the "10-day Grace Period") and such failure shall not be cured within ten (10) days after written notice thereof (the "Cure Period") to Tenant (which Cure Period may overlap, in whole or in part, the 10 day Grace Period).

B. Failure of Tenant to comply with any term, condition, or covenant of this Lease (other than the payment of Rent or other sum of money, or the payment of taxes, utilities or insurance premiums, or other payments

Tenant is to make under this Lease), and such failure shall not be cured within thirty (30) days after written notice thereof to Tenant.

C. Tenant shall fail to deliver the Additional Deposit to Landlord within ten (10) days after the delivery by Landlord to Tenant of the Additional Deposit Notice.

D. Tenant, or any guarantor of Tenant hereunder, (i) becomes or is declared insolvent according to any Law, (ii) makes a transfer in fraud of creditors according to any applicable Law, or (iii) assigns or conveys all or a substantial portion of its property for the benefit of creditors.

E. Tenant or any guarantor of Tenant hereunder, files a petition for relief, or is the subject of an order for relief, under the United States Bankruptcy Code, as amended, or any other present or future federal or state insolvency, bankruptcy, or similar Laws (collectively "Applicable Bankruptcy Law").

F. Appointment of a receiver or trustee for Tenant (or any guarantor of Tenant hereunder) or Tenant's (or any such guarantor's) property; or the interest of Tenant (or any such guarantor) under this Lease is levied on under execution or under other legal process; or any involuntary petition is filed against Tenant (or any such guarantor) under Applicable Bankruptcy Law (provided, however, that no action described in this subparagraph F. or in subparagraphs D. or E. shall constitute a default by Tenant if Tenant (or any guarantor of Tenant hereunder) shall vigorously contest the action by appropriate proceedings and shall remove, vacate or terminate the action within sixty (60) days after the date of its inception.).

G. Abandonment by Tenant of any substantial portion of the Premises or cessation of use of the Premises for the purposes leased.

H. Tenant is in default of any other lease or agreement with, or any permit or license issued by, the Town of Addison, Texas.

24. Remedies of Landlord: Upon the occurrence of any of the events of default listed in Paragraph 23, Landlord, without prejudice to any legal, equitable, or other (including contractual) right or remedy to which it may be entitled, shall have the option to pursue any one or more of the following remedies without notice or demand whatsoever (and using lawful force if necessary or appropriate after providing written notice thereof, if any is required):

A. Terminate this Lease or any of Tenant's rights under this Lease, with or without reentering or repossessing the Premises.

B. Terminate Tenant's right to occupy all or any part of the Premises without terminating this Lease and with or without reentering or repossessing the Premises.

C. Recover unpaid rent and any Breach Damages (as "Breach Damages" are defined in this Paragraph 24, below).

D. Change or pick the locks, access codes, or other access control devices, and take any other self-help or judicial action to exclude Tenant and other occupants from the Premises.

E. Remove and store (at Tenant's sole cost) any property on the Premises at Tenant's sole cost.

F. Sue for eviction, specific enforcement, equitable relief, rent, damages, or any other available remedy.

G. Apply the Security Deposit in any manner permitted by this Lease, and/or increase the amount of the Security Deposit.

H. Cure Tenant's default, and if Landlord so elects, Tenant must reimburse Landlord within thirty (30) days after Landlord delivers an invoice for the cure amounts paid or to be paid plus any reasonable expenses Landlord incurred effecting compliance with Tenant's obligations.

I. Withhold or suspend any payment that this Lease would otherwise require Landlord to make.

J. Charge interest on any amount not paid when due through the date of its payment at the Default Interest Rate (as set forth in Paragraph 40).

K. Recover, but only if Tenant fails to pay Rent and Landlord terminates this Lease or Tenant's right of possession with more than twelve (12) months remaining in the Term of this Lease, liquidated rental damages for the period after any such termination equal to twelve (12) times the monthly Rent due at the time of termination in lieu of any other contractual or legal measure of damages (including re-letting costs) for Tenant's non-payment of Rent, and the parties agree this is a reasonable estimate of Landlord's damages for such a breach given the uncertainty of future market rental rates and of the duration of any vacancy.

L. Exercise all other remedies available to Landlord at Law, in equity, or otherwise (including, without limitation, injunctive relief and any other remedy available under applicable Law).

For purposes of this Paragraph 24, "Breach Damages" means and includes, without limitation, all actual, incidental, and consequential damages, court costs, interest, and attorneys' fees arising from Tenant's breach or default of this Lease, including, without limitation, the cost to or incurred by Landlord of (a) recovering possession of the Premises, (b) removing and storing the property of Tenant and any other occupant or user of the Premises, (c) re-letting of the Premises (including, without limitation, the costs of brokerage commissions and cleaning, decorating, repairing, or altering the Premises for a substitute tenant or tenants), (d) collecting any money owed by Tenant or a substitute tenant, (e) repairing any damage to the Premises caused by any Tenant or other occupant or user of the Premises, (f) performing any obligation of Tenant under this Lease, (g) any other loss or cost reasonably incurred by Landlord as a result of, or arising from, Tenant's breach of this Lease or Landlord's exercise of its rights and remedies for such breach, (h) any contractual or liquidated type or measure of damages, including but not limited to Rental Deficiency as such is defined below; and (i) any other type or measure of damages recoverable for any particular breach under applicable Law.

For purposes of this Paragraph 24, "Rental Deficiency" means a contractual measure of Breach Damages for Tenant's non-payment of Rent measured by either the (a) actual Rental Deficiency, which is the difference (never less than zero) between (i) the Rent due for, and other Rent allocable under this Lease to, each month beginning with the first month with respect to which Landlord receives Rent from re-letting the Premises, and (ii) the proceeds, if any, that Landlord actually collects from any substitute tenant for any part of the Premises in each corresponding month in which the Term and the term of the substitute tenant's lease overlap; or (b) market Rental Deficiency, which is the present value, discounted at 6% simple annual interest, of the difference (never less than zero) between (i) the rent otherwise due under this Lease during any period after Tenant's breach in which Landlord may elect to recover this damage measure, and (ii) the fair rental value of the Premises during that period, *plus* any costs incurred in connection with any actual or attempted re-letting and any other Breach Damages.

In determining the market Rental Deficiency, the fair rental value will be the total rent that a comparable tenant would pay for comparable space in a building of substantially equivalent quality, size, condition, and location, considering rental rates and concessions then prevalent in the marketplace, the remaining lease term, the expected vacancy, and any other relevant factors. An independent MAI appraiser selected by Landlord will determine the fair rental value of the Premises, and that determination will conclusively bind the parties in any computation of the market Rental Deficiency.

Unless Landlord delivers signed, written notice thereof to Tenant, no act or omission by Landlord or Airport Manager or their respective officials, officers, employees, or agents will constitute Landlord's acceptance of surrender of the Premises, termination of this Lease, or an actual or constructive eviction of Tenant (including, without limitation, Tenant's delivery of keys to any of Landlord's or Airport Manager's officials, officers, employees, or agents or Landlord's repossession, reentry, or re-letting of the Leased Premises).

Pursuit of any of the foregoing remedies or rights shall not preclude pursuit of any of the other remedies or rights herein provided or any other remedies or rights provided by Law, in equity, or otherwise; nor shall pursuit of any remedy or right herein provided constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, conditions and covenants herein contained. If any of Tenant's property ("Tenant Property") remains upon the Premises upon the expiration of the Lease term or any earlier termination of this Lease or any repossession of the Premises by Landlord because of Tenant's default under this Lease, Landlord shall have the right to remove such Tenant Property from the Premises and store such Tenant Property, and Tenant shall be obligated to reimburse Landlord for all of the costs incurred by Landlord in removing and storing such Tenant Property. Landlord shall not be required to release any Tenant Property to Tenant until Tenant has paid Landlord all costs incurred by Landlord in removing and storing such Tenant Property and all other amounts owed by Tenant to Landlord pursuant to this Lease, including, without limitation, unpaid rental and costs incurred by Landlord to repair the Premises.

25. Default by Landlord: No default by Landlord hereunder shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or render Landlord liable for damages, of any kind or nature, or entitle Tenant to be relieved from any of Tenant's obligations hereunder (including the obligation to pay Rent) or grant Tenant any right of deduction, abatement, set-off or recoupment, or entitle Tenant to take any action whatsoever with regard to the Premises or Landlord, until thirty (30) days after Tenant has given Landlord written notice specifically setting forth such default by Landlord, and Landlord has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period, then within an additional reasonable period of time so long as Landlord has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default.

If Landlord fails to cure such default within the said thirty (30) day period, or within said additional reasonable period, Tenant shall have the right, as its sole and exclusive remedy, to proceed to cure such default and deduct the cost of curing same plus interest thereon at the rate of ten percent (10%) per annum from the next succeeding Base Rent installment(s) due by Tenant to Landlord hereunder.

If any mortgagee of Landlord has given Tenant its address for notices and specifically requests such notice, Tenant agrees to give the notice required hereinabove to such mortgagee at the time Tenant gives same to Landlord, and to accept curative action, if any, undertaken by such mortgagee as if such curative action had been taken by Landlord.

The liability of Landlord (and all other Addison Persons and all Manager Persons) for any default by Landlord under this Lease shall be limited to an amount equal to twelve (12) months of Base Rent (the amount of such Base Rent being the amount in effect at the time of such default), and Landlord (and all other Addison Persons and all Manager Persons) shall not be otherwise or personally liable for any deficiency, claim, harm, loss, judgment, liability, or for any other matter whatsoever, and Tenant (for itself and all Tenant Persons) fully waives all other rights of recovery against Landlord (and all other Addison Persons and all Manager Persons) and any assets of Landlord (and all other Addison Persons and all Manager Persons).

26. Mitigation of Damages:

A. Landlord and Tenant agree to the following criteria in connection with Landlord's mitigation of damages after a default by Tenant and abandonment of the Premises by Tenant under this Lease (such mitigation, being by means of marketing the Premises for lease, to commence not more than sixty (60) days after Tenant physically vacates the Premises and to continue until the Premises have been relet):

1. Landlord will have no obligation to solicit or entertain negotiations with any other prospective tenant of the Premises until and unless Landlord obtains full and complete possession of the Premises, including without limitation, the final and non-appealable legal right to relet the Premises free of any claim of Tenant.

2. Landlord will not be obligated to offer the Premises to a prospective tenant when other premises suitable for that prospective tenant's use are (or soon will be) available in any other premises located at Addison Airport.

3. Landlord will not have any obligation to lease the Premises for any rental less than the current rate then prevailing for similar space at Addison Airport (or if no similar space is available, the current fair market rental then prevailing for similar space in comparable buildings in the same market area as the Premises) nor shall Landlord be obligated to enter a new lease under any terms or conditions that are unacceptable to Landlord.

4. Landlord will not be obligated to enter any lease with any prospective tenant whose reputation is not acceptable to Landlord, in Landlord's sole judgment and opinion.

5. Landlord will not be obligated to enter a lease with any prospective tenant: (i) which does not have, in Landlord's sole judgment and opinion, sufficient financial resources and operating experience to occupy and operate the Premises in a first-class manner and meet its financial obligations; or (ii) whose proposed use of the Premises is not a permitted use under the terms of this Lease.

6. Landlord will not be required to expend any amount of money to alter, remodel or otherwise make the Premises suitable for use by any prospective tenant.

If Landlord makes the Premises available for reletting under the criteria set forth hereinabove, Landlord will be deemed to have fully satisfied Landlord's obligation to mitigate damages under this Lease and under any Law or judicial ruling in effect on the date of this Lease or at the time of Tenant's default, and Tenant hereby waives and releases, to the fullest extent legally permissible, any right to assert, in any action by Landlord to enforce the terms of this Lease, any defense, counterclaim, or rights of setoff or recoupment respecting the mitigation of damages by Landlord (or alleged failure by Landlord to adequately mitigate its damages), unless and to the extent Landlord maliciously or in bad faith fails to act in accordance with the requirements of this Paragraph.

No rent collected from a substitute tenant for any month more than the Rent due under the Lease for that month will be credited or offset against unpaid Rent for any other month or any other Breach Damages. Tenant stipulates that the mitigation requirements expressed in this Paragraph are objectively reasonable. **TO THE FULLEST EXTENT PERMITTED BY LAW, TENANT WAIVES ANY OTHER OBLIGATION BY LANDLORD TO MITIGATE ITS DAMAGES AFTER TENANT VACATES OR ABANDONS THE PREMISES.**

B. Tenant's right to seek damages because of a default by Landlord under this Lease shall be conditioned on Tenant taking all actions reasonably required, under the circumstances, to minimize any loss or damage to Tenant's property or business, or to any of Tenant's officials, officers, employees, agents, invitees, or other third parties that may be caused by any such default of Landlord.

27. **Waiver of Subrogation:** Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during the term of this Lease for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of the Premises, which loss or damage is covered by valid and collectible casualty, fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of casualty, fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

28. **Title to Improvements:** The Town of Addison, Texas, is the sole owner of the Premises. Any and all improvements made to the Premises by Tenant shall become the property of Landlord upon the expiration or termination of this Lease; provided, however: (i) if Tenant is not then in default hereunder, Tenant shall have the right to remove all personal property, equipment, or removable trade fixtures owned by Tenant from the Premises, but Tenant shall be required to repair any damage to the Premises caused by such removal in a good and workmanlike manner and at Tenant's sole cost and expense; and (ii) Landlord may elect to require Tenant to remove all improvements made to the Premises by Tenant and restore the Premises to the condition in which the same existed on the Commencement Date hereof, in which event Tenant shall promptly perform such removal and restoration in a good and workmanlike manner and at Tenant's sole cost and expense. If Tenant fails or refuses to remove any or all of Tenant's personal property, equipment, and trade fixtures from the Premises on or before the date of the termination of this Lease, the items which

Tenant has failed or refused to remove: (i) shall be considered abandoned by Tenant, (ii) shall become the property of Landlord, and (iii) may be disposed of by Landlord in any manner desired by Landlord in Landlord's unfettered discretion.

29. Mechanics' and Materialmen's Liens: TENANT AGREES TO DEFEND, INDEMNIFY AND HOLD LANDLORD HARMLESS OF AND FROM ALL LIABILITY ARISING OUT OF THE FILING OF ANY MECHANICS' OR MATERIALMEN'S LIENS AGAINST THE PREMISES BY REASON OF ANY ACT OR OMISSION OF TENANT OR ANYONE CLAIMING BY, THROUGH, OR UNDER TENANT; AND LANDLORD, AT LANDLORD'S OPTION, MAY SATISFY SUCH LIENS AND COLLECT THE AMOUNT EXPENDED FROM TENANT TOGETHER WITH INTEREST THEREON AS PROVIDED IN PARAGRAPH 40 AS ADDITIONAL RENT; PROVIDED, HOWEVER, THAT LANDLORD SHALL NOT SO SATISFY SUCH LIENS UNTIL THIRTY (30) DAYS AFTER WRITTEN NOTIFICATION TO TENANT OF LANDLORD'S INTENTION TO DO SO AND TENANT'S FAILURE DURING SUCH THIRTY (30) DAY PERIOD TO BOND SUCH LIENS OR ESCROW FUNDS WITH APPROPRIATE PARTIES TO PROTECT LANDLORD'S INTEREST IN THE PREMISES.

30. Title: Tenant enters this Lease and accepts the Premises subject to: (i) the Airport Minimum Standards and the Rules and Regulations as amended or modified from time to time; (ii) easements, rights-of-way, and other interests in or encumbrances on Property (whether or not recorded) that may affect the Premises; (iii) all Laws promulgated by any governmental authority having jurisdiction over the Premises, and (iv) all of the terms, conditions, and provisions of this Lease.

31. Quiet Enjoyment and Subordination: Landlord represents that Tenant, upon Tenant's payment of the Rent and other payments herein required and provided for, and Tenant's performance of the terms, conditions, covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the Premises during the full Term of this Lease; provided, however, that Tenant accepts this Lease subject and subordinate to any recorded mortgage, deed of trust or other lien presently existing upon, or to any other matter affecting, the Premises. Landlord further is hereby irrevocably vested with full power and authority by Tenant to subordinate Tenant's interest hereunder to any mortgage, deed of trust, ground or other lease ("ground lease"), or other lien now existing or hereafter placed on the Premises or to declare this Lease prior and superior to any mortgage, ground lease, deed of trust or other lien now existing or hereafter placed on the Premises (and Tenant agrees upon demand to execute such further instruments subordinating this Lease as Landlord may request), provided such subordination shall be upon the express conditions that (i) this Lease shall be recognized by the mortgagee (or ground lessor or holder of such other lien or interest) and that all of the rights of Tenant shall remain in full force and effect during the full term of this Lease so long as Tenant attorns to the mortgagee, its successor and assigns (or ground lessor or holder of such other lien or interest, their successors and assigns) and pays timely all Rent and other payments due hereunder and performs all of the duties and obligations of Tenant under this Lease; and (ii) in the event of foreclosure or any enforcement of any such mortgage, deed of trust, ground lease, or other lien, the rights of Tenant hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect so long as Tenant shall fully perform all Tenant's obligations under this Lease and attorn to the mortgagee, its successor and assigns (or ground lessor or holder of such other lien or interest, their successors and assigns). Tenant also agrees upon demand to execute further instruments declaring this Lease prior and superior to any mortgage, deed of trust, ground lease, or other lien and specifically providing that this Lease shall survive any foreclosure of such mortgage, deed of trust or other lien, or action to terminate a ground lease affecting the Premises. Upon any foreclosure of any mortgage, deed of trust or other lien now existing or hereafter placed on the Premises (or any sale in lieu thereof), or upon termination of a ground lease affecting the Premises, Tenant agrees to attorn to and recognize as landlord hereunder, the purchaser of Landlord's interest in the Premises at any foreclosure sale (or sale in lieu thereof) pursuant to any such mortgage, deed of trust or other lien, or the ground lessor (in the event of termination of a ground lease), if Tenant is required to do so by the applicable party (and Tenant agrees to execute an instrument to that effect as may be provided by such applicable party).

32. Access and Egress: Landlord reserves, and Tenant hereby grants to Landlord, the full and unrestricted access to and egress from that portion of the Premises on which buildings or improvements are not located for Landlord, its tenants, employees, guests, patrons, invitees, contractors, suppliers of materials, furnishers of services, its or their equipment, vehicles, machinery and other property, and Manager, its officers, employees and agents, without charge to Landlord or to said persons or entities.

33. **Rent on Net Return Basis:** It is intended that the rent provided for in this Lease shall be a net return to Landlord for the term of this Lease, free of any loss, expenses, or charges with respect to the Premises including, without limitation, maintenance, repairs, replacement, insurance, taxes and assessments, and this Lease shall be construed in accordance with such intention.

34. **Holding Over:** Should Tenant, or any of Tenant's successors in interest fail to surrender the Premises, or any part thereof, on the expiration of the term of this Lease, such holding over shall constitute a tenancy from month to month only terminable at any time by either Landlord or Tenant after thirty (30) days' prior written notice to the other, at a monthly rental equal to one hundred fifty percent (150%) of the Base Rent paid for the last month of the Term of this Lease.

35. **Waiver of Default:** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein. Landlord will not be deemed to have waived any right or remedy, or Tenant's breach of any obligation under this Lease, unless Landlord delivers a signed writing, addressed to Tenant and explicitly relinquishing that right, remedy or breach. No custom or practice arising during the Term of this Lease will waive, or diminish, Landlord's right to insist upon strict performance of Tenant's obligations. No restrictive endorsement or other statement on or accompanying any check or payment will be deemed an accord and satisfaction or novation, and Landlord will be entitled to accept any such check or payment, without prejudice, to Landlord's rights to recover the full amount due and to exercise its other remedies.

36. **Release of Landlord Upon Transfer:** All of Landlord's personal liability for the performance of the terms and provisions of this Lease (except for any liability accruing prior to such transfer) shall terminate upon a transfer of the Premises by Landlord, provided that the obligations of Landlord under this Lease are covenants running with the land and shall be binding upon the transferee of Landlord's interest in this Lease and the Premises.

37. **Attorneys' Fees:** If, on account of any breach or default by Landlord or Tenant of their respective obligations under this Lease, it shall become necessary for the other to employ an attorney to enforce or defend any of such party's rights or remedies hereunder, and should such party prevail, such party shall be entitled to collect reasonable attorneys' fees incurred in such connection from the other party.

38. **Financial Information:** Tenant agrees that Tenant will from time to time, upon the written request of Landlord during the term of this Lease furnish to Landlord such credit and banking references as Landlord may reasonably request.

39. **Estoppel Certificates:**

A. Tenant agrees that from time to time, upon not less than thirty (30) days' prior written request by Landlord, Tenant will deliver to Landlord a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which rent and other charges have been paid; (iii) Landlord is not in default under any term or provision of this Lease or, if then in default, the nature thereof in detail in accordance with an exhibit attached thereto; (iv) that, if requested by Landlord, Tenant will not pay Rent more than one (1) month in advance, (v) that this Lease will not be amended without notice to Landlord's mortgagee (or such other person as Landlord may identify), and (vi) that this Lease will not be terminated by Tenant without the same notice required by this Lease to be furnished by Tenant to Landlord also being furnished by Tenant to Landlord's mortgagee (or such other person as Landlord may identify), and Landlord's mortgagee (or such other person as Landlord may identify) shall have the same opportunity to cure such default within the curative period as allowed Landlord under this Lease; and (vii) any other information pertaining to Landlord, Tenant, this Lease or the Premises reasonably requested by Landlord.

B. Landlord agrees that from time to time, upon not less than thirty (30) days' prior written request by Tenant, Landlord will deliver to Tenant a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (ii) the dates to which Rent and other charges have been paid; and/or (iii) Tenant is not in default under any term or provision of this Lease or if in default the nature thereof in detail in accordance with an exhibit attached thereto.

40. Interest on Tenant's Obligations and Manner of Payment: All monetary obligations of Tenant to Landlord under this Lease remaining unpaid ten (10) days after the due date of the same (if no due date has been established under other provisions hereof, the "due date" shall be the date upon which Landlord demands payment from Tenant in writing) shall bear interest per annum at the lesser of ten percent (10%) or the highest non-usurious rate then allowed by Law (the "Default Interest Rate"), from and after said tenth (10th) day until paid. If more than twice during the term of the Lease Tenant's personal or corporate check is not paid by the bank on which it is drawn for whatever reason, Landlord may require by giving written notice to Tenant that the payment of all future monetary obligations of Tenant under this Lease are to be made on or before the due date by cashier's check, certified check or money order, and the delivery of Tenant's personal or corporate check will no longer constitute payment of such monetary obligations. Any acceptance by Landlord of a personal or corporate check after such notice shall not be deemed or construed as a waiver or estoppel of Landlord to require other payments as required by said notice.

41. Landlord's Lien: In addition to the constitutional and statutory Landlord's liens, **TENANT HEREBY GRANTS TO LANDLORD A SECURITY INTEREST TO SECURE PAYMENT OF ALL RENT DUE HEREUNDER FROM TENANT, UPON ALL GOODS, WARES, EQUIPMENT, FIXTURES, FURNITURE AND OTHER PERSONAL PROPERTY OWNED BY TENANT AND SITUATED IN OR UPON THE PREMISES, TOGETHER WITH THE PROCEEDS FROM THE SALE OR LEASE THEREOF.**

Such property shall not be removed without the consent of Landlord until all arrearages in rent then due to Landlord hereunder shall have been paid and discharged. Upon Tenant's failure to pay rent due within ten (10) days after the due date, Landlord may, in addition to any other remedies provided herein or by Law, enter upon the Premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property owned by Tenant and situated on the Premises without liability for trespass or conversion, and sell the same at public or private sale with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any such sale. Landlord has no right to and has no security interest in and may not take possession of any property which may be situated on the Premises, but which is not owned by Tenant, including but not limited to property which may be owned by another and leased and/or loaned to Tenant. Unless otherwise required by Law, notice to Tenant of such sale shall be deemed sufficient if given in the manner prescribed in this Lease at least thirty (30) days before the time of the sale. Any public sale made under this Paragraph shall be deemed to have been conducted in a commercially reasonable manner if held in the Premises or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Dallas County, Texas, for five (5) consecutive days before the date of the sale. Landlord or Landlord's assigns may purchase at a public sale and, unless prohibited by Law, at a private sale. The proceeds from any disposition dealt with in this paragraph, less all expenses connected with the taking of possession, holding and selling of the property including reasonable attorneys' fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted herein. Any surplus shall be paid to Tenant or as otherwise required by Law, and Tenant shall pay any deficiency forthwith.

Upon request by Landlord, Tenant agrees to execute, as debtor, and deliver to Landlord financing statements in form sufficient as may be necessary to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Texas Business and Commerce Code. Landlord may at its election at any time file in the appropriate County records a copy of this Lease as a Financing Statement. Landlord, as Secured Party, has all the rights and remedies afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the landlord's liens and rights provided by Law or by the other terms and provisions of this Lease. The constitutional and statutory liens for rent are expressly reserved; the security interest herein granted is in addition and supplementary thereto.

42. Corporate Execution: If Tenant is a corporation or if this Lease shall be assigned by Tenant to a corporation or if Tenant sublets all or a portion of the Premises to a corporation, such corporation hereby agrees to execute and deliver to Landlord from time to time during the Term of this Lease such instruments as Landlord may reasonably request to evidence: (i) the authority of such corporation to transact business good standing with the State of Texas; and (ii) the authority of the officers of such corporation to execute this Lease or other documents in connection with this Lease.

43. Joint and Several Liability: If more than one person or entity is defined as Tenant in this Lease, all the duties, obligations, promises, covenants, and agreements contained in this Lease to be paid and performed by Tenant shall be the joint and several obligations of all persons or entities defined as Tenant. Each person or entity defined as Tenant agrees that Landlord, in Landlord's sole discretion, may: (i) institute or bring suit against them, jointly and

severally, or against any one or more of them; (ii) compromise or settle with any one or more of them for such consideration as Landlord may deem proper; and (iii) release one or more of them from liability hereunder, and that no such action by Landlord shall impair or affect Landlord's rights to collect costs, expenses, losses or damages incurred or suffered by Landlord from the other persons or entities defined as Tenant, or any of them, not so sued, compromised, settled with or released.

44. Certificate of Occupancy: Tenant may take possession of the Premises pursuant to the terms and conditions of this Hangar Lease; however, Tenant may not occupy the Premises without first being issued a valid Certificate of Occupancy pursuant to the Town of Addison, Texas Code of Ordinances, Part II, Chapter 18, Article II, Division 2, Section 18-53. Tenant may apply for a Certificate of Occupancy any time after the Effective Date of this Agreement. If for any reason, beyond the reasonable control of Tenant, Tenant is unable to secure a Certificate of Occupancy within thirty (30) days prior to the Commencement Date, Tenant may terminate this Lease provided Tenant has given Landlord written notice of all deficiencies preventing the issuance of said Certificate of Occupancy in favor of Tenant and Landlord fails to cure or otherwise resolve the deficiency(ies) within ten (10) business days of Landlord's receipt of Tenant's written notice. Nothing herein contained shall obligate Landlord to install any additional electrical wiring, plumbing or plumbing fixtures, or other fixtures or equipment or any other improvements whatsoever which are not presently existing in the Premises, or which have not been expressly agreed upon by Landlord in writing.

45. Independent Contractor: It is understood and agreed that in leasing, occupying, and operating the Premises, Tenant is acting as an independent contractor and is not acting as agent, partner, joint venturer, or employee of Landlord.

46. Force Majeure: In the event performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by an Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or hindered.

47. Exhibits: All exhibits, attachments, annexed instruments, and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

48. Use of Language; No Third-Party Beneficiaries: Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires. For purposes of this Lease, "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration and use of the terms does not create a presumption that components not expressed are excluded.

Where Landlord consent or approval is required in this Lease, such consent or approval may be given by the City Council of the Town of Addison, Texas or by the City Manager of the Town of Addison.

Except as otherwise set forth in this Lease, this Lease and each of its provisions are solely for the benefit of the parties hereto and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

49. Captions: The captions or headings or paragraphs in this Lease are inserted for convenience only and shall not be considered in construing the provisions hereof if any question of intent should arise.

50. Successors: The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities, and duties of Landlord under this Lease including, but not limited to, any notices required or permitted to be delivered by Landlord to Tenant hereunder may, at Landlord's option, be exercised or performed by Landlord's agent or attorney.

51. Severability: The terms and provisions of this Lease are severable, and if any term or provision in this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby, and the invalid or unenforceable term or provision will be reformed to fully give effect to the parties' intentions in a manner that is legal, valid, and enforceable. It is the parties' intent that the term of this

Lease does not exceed any statutory limit; if it should be determined that the term of this Lease exceeds such period, the term hereof shall be reformed to make the term hereof not exceed such period.

52. **Notices:** Any notice or document required to be delivered or given hereunder may be delivered in person or shall be deemed to be delivered, whether received or not, when deposited in the United States mail, postage prepaid as registered or certified mail (return receipt requested is optional by sender), addressed to the parties at the addresses indicated below, or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

TO LANDLORD:

Town of Addison, Texas
c/o Airport Manager
4545 Jimmy Doolittle Drive, Suite 200
Addison, Texas 75001
Attn: Asst. Airport Director – Real Estate

~ and ~

Town of Addison, Texas
P.O. Box 9010
5300 Beltline Road
Dallas, TX 75001-9010

TO TENANT:

Jani-King International, Inc.
4572 Claire Chennault Drive
Addison, TX 75001
Attn: Perry White, Director of Special Projects

53. **Fees or Commissions:** Each party hereto hereby covenants and agrees with the other that such party shall be solely responsible for the payment of any brokers', agents' or finders' fees or commissions agreed to by such party arising from the execution of this Lease or the performance of the terms and provisions contained herein, **AND THE TENANT AGREES TO INDEMNIFY AND HOLD THE CITY AND/LANDLORD HARMLESS FROM THE PAYMENT OF ANY SUCH FEES OR COMMISSIONS.**

54. **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

55. **Governing Law and Venue:** This Lease and all of the transactions contemplated herein shall be governed by and construed in accordance with the Laws of the State of Texas, without regard to conflict of Law provisions of any jurisdiction; and Landlord and Tenant both irrevocably agree that venue for any dispute concerning this Lease or any of the transactions contemplated herein shall be in any court of competent jurisdiction in Dallas County, Texas, and the parties submit themselves to the jurisdiction of such courts.

56. **No Recording:** Tenant agrees that Tenant will not record this Lease in the real property records of Dallas County, Texas, without first securing the prior written consent of Landlord, which may be withheld at Landlord's sole discretion. However, Tenant agrees upon the written request of Landlord to execute, acknowledge, and deliver to Landlord a short-form lease in recordable form.

57. **Diagram:** The diagram of the Premises attached hereto as **Exhibit B** merely evidences existing or contemplated improvements. By attaching such diagram as an exhibit to this Lease, Landlord is in no way contracting or bound to maintain or construct improvements exactly as shown thereon or prohibited from making additional or different improvements.

58. **Time of Essence:** Time is of the essence in the payment and performance of the duties and obligations imposed upon Tenant by the terms and conditions of this Lease.

59. **Survival:** All duties and obligations imposed upon Tenant by the terms and conditions of this Lease shall survive the termination or expiration of this Lease until paid or performed.

60. **Special Conditions:**

A. This Hangar Lease shall supersede the Ground Lease defined above without interruption. Under the terms and conditions of the Ground Lease, Tenant is obligated to maintain the improvements made to the Demised

Premises in good repair and condition over the duration of the ground-lease term. Landlord provided Tenant notice of needed repairs to the Demises Premises that were included in Property Condition Report "(PCA)" dated February 10, 2021, prepared by Partner Engineering and Science, Inc., which report was also provided to Tenant. Items needing attention are described below and referenced in Table 1 of the PCA (the "PCA Repairs").

1. Section 3.2.2 – Clean and seal cracks and joints at the concrete pavement. Perform limited sectional concrete repairs.
2. Section 4.3.1 – Clean exterior walls and perform miscellaneous repairs to metal panels.
3. Section 4.3.2 – Remove and replace window sealants and gaskets.
4. Section 4.4.1 – Replace deteriorated sealant around pipe penetrations flashing boots; allowance for sealant touch-up at metal panel fasteners/laps/joints and miscellaneous repairs as needed.
5. Section 5.2 – Replace split system (including condensing unit and interior air handler).
6. Section 5.3 – Install GFCI outlet circuits at restroom.
7. Section 5.5.1 – Inspect and test fire extinguishers.

As an inducement for Landlord to enter this Hangar Lease, and as a condition precedent to this Hangar Lease commencing and allowing Tenant to retain occupancy and possession of the Premises, the above-referenced PCA Repairs must be completed to Landlord's satisfaction no later than thirty (30) days prior to the expiration of the Ground Lease. If the above-referenced PCA Repairs are not completed to Landlord's satisfaction prior to the expiration of the Ground Lease, this Hangar Lease shall automatically terminate no later than November 30, 2021, *ab inito* with no further duty or obligation by either party to the other except for Tenant's obligations pertaining to vacating the Premises pursuant to the Ground Lease. Notwithstanding the foregoing, this Lease does not in any way release or waive any rights, duties, or obligations of either party under the Ground Lease, while the Ground Lease remains in full force and effect.

B. Regarding the ground lease with Jani-King International, Inc. for the property located at 4574 Claire Chennault Drive, which ground lease is set to expire November 30, 2022, should Landlord and Tenant enter into a Conventional Hangar Lease for that property upon the ground lease expiration, the lease term shall be coterminous with this Hangar Lease Term, and will include an early termination clause similar to what is described in Section 2A above.

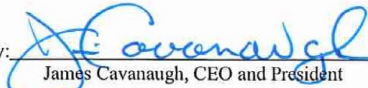
61. **Authority to Execute.** The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Lease on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

62. **Entire Agreement and Amendments:** This Lease, consisting of sixty-two (62) paragraphs and Exhibits A through E attached hereto and made a part hereof, together with the premises and recitals to this Lease set forth above which are incorporated herein, and any other documents incorporated herein (including, without limitation, the Rules and Regulations), embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge, or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or on behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

EXECUTED as of the day, month, and year first above written.

TENANT:

JANI-KING INTERNATIONAL, INC.
A Texas corporation

By: 
James Cavanaugh, CEO and President

LANDLORD:

TOWN OF ADDISON, TEXAS
A home-rule municipality

By: _____
Wesley S. Pierson, City Manager

EXHIBIT "A"

Property Survey and Legal Description of the Premises

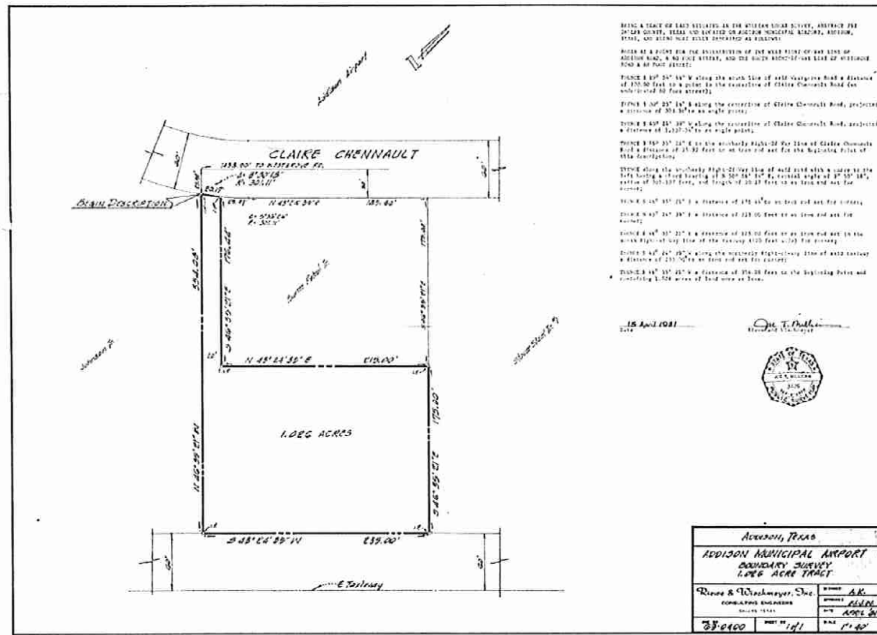


EXHIBIT "B"

Aerial Depiction of the Premises

Below is a depiction of the proximity of the Premises for informational purposes only and is not to be construed as accurate in area or dimension.

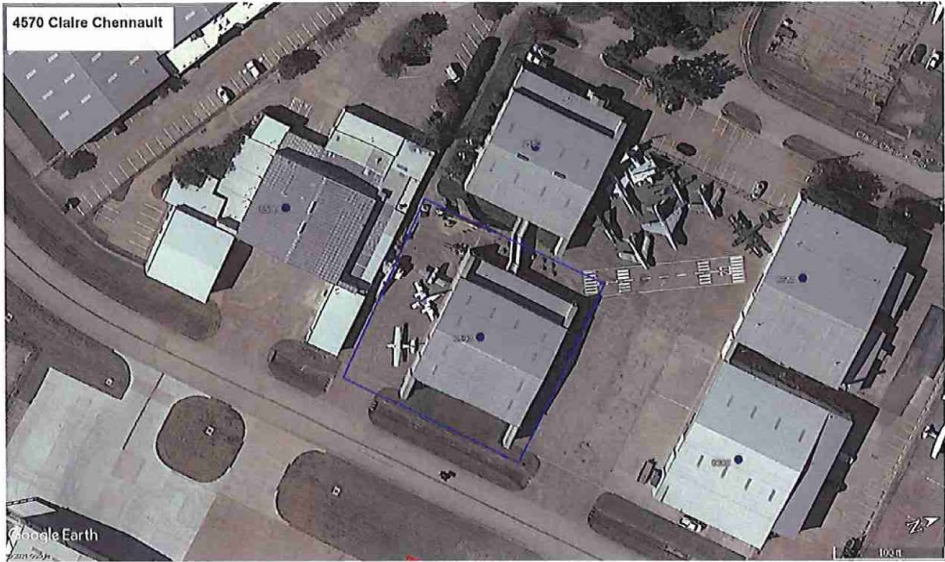


EXHIBIT "C"

Shared Ramp Subject to Right-of-Way Easement
(See Paragraph 16.B)

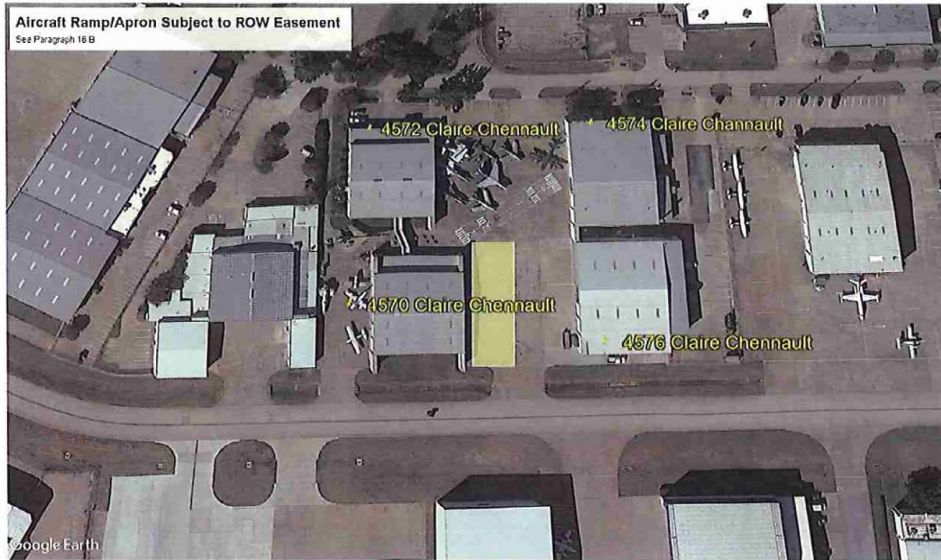


EXHIBIT "D"

Utility Expense Reimbursements

Conventional Hangar Lease for Commercial Aviation Use Effective November 30, 2021, concerning the Premises located at 4570 Claire Chennault Drive, Addison Airport, Addison, Dallas County, Texas 75001

A. The party designated below will pay for the following utility charges serving the Premises including any related connection/disconnection charges assessed by the service provided:

(Check or mark once per line. *Note: if a check or mark is omitted or not made for any line item or if more than one check or mark is made on any line item, Tenant is the responsible party to procure and pay for such service).*

(1)	(2) <u>N/A</u>	(3) <u>Landlord</u>	(4) <u>Provided by Landlord & Reimbursed by Tenant</u>	(5) <u>Tenant</u>	(6) <u>Further Description If Any</u>
1. Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	Water Meter # _____
2. Sewer	<input type="checkbox"/>		<input type="checkbox"/>	√	
3. Electric	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	Electric Meter # _____
4. Gas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	if available to the Premises - Meter # _____
5. Telephone/Data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
6. Trash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
7. Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	√	
8. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. Other -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

The responsible party so designated above (i) may select or change the utility service provider from time to time over the term of the Lease, and (ii) shall be responsible, at its sole cost and expense, for obtaining and maintaining said utility connections at or for the Premises.

B. All utilities to be provided by Landlord and reimbursed by Tenant as indicated above (Column 5) shall be paid as follows:

1. In addition to the Base Rent, Tenant will pay Landlord as Additional Rent the costs for the utility services indicated herein and directly attributable or reasonably allocable to the Premises and associated with the referenced accounts (where each account is an account of or for Landlord).

2. Each month Landlord shall submit to Tenant an invoice for all such utility costs, including taxes, fees, and other related costs, billed to Landlord for the preceding billing cycle. Tenant shall pay, as Additional Rent, the amount of each such invoice no later than the first day of the month following the date of the invoice (and the obligation to pay the invoice for the last month (or partial month) of this Hangar Lease shall survive the expiration or termination of this Hangar Lease). Landlord agrees to reasonably cooperate with Tenant in the event Tenant, at Tenant's sole cost, should desire to inquire about, or to protest or appeal, the charges being assessed by the utility service provider. To this end, Tenant shall give Landlord prior written notice of any such protest or appeal, and resolution thereof.

3. Landlord agrees not to assess any rebilling or administrative service fees for utility costs covered under this addendum.

4. Tenant's failure to timely pay said utility costs as Additional Rent shall be deemed to be an event of default by Tenant under the Lease. Landlord reserves all rights and remedies available to it under the Lease and by Law to collect all Rent due.

EXHIBIT "E"

Maintenance and Repair Responsibilities

Conventional Hangar Lease for Commercial Aviation Use Effective November 30, 2021, concerning the Premises located at 4570 Claire Chennault Drive, Addison Airport, Addison, Dallas County, Texas 75001

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Ground Maintenance			
Building & Gate Locksmithing & Security	Maintains all public access gates. Main entry gate to property is Landlord's responsibility to maintain and repair unless abuse by Tenant or its invitees.	All, as required by Tenant's use and all Laws, including ordinances, rules and regulations. All doors and gates leading to Airport Operations Area are to be kept always secured.	
Fencing	Landlord maintains Airport perimeter fence (damage to such fence caused by or resulting from any of Tenant's, or its guests' and invitees, acts or omissions shall be paid for by Tenant)	All other fencing upon the Premises, <i>if any</i> , is Tenant's responsibility.	
Landscape & Lawn Care		All turf, beds and planters within the Premises	
Landscape Irrigation		Minimum requirements by City ordinance	
Pavement - Parking	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use or required by ordinance or otherwise by Landlord with Landlord's prior written consent.	
Pavement - Ramp	Structural repairs and reconstruction	Regular sweeping and snow removal. Any damage other than that resulting from normal wear and tear. Painting and striping as required for intended use, safe operations or as required by Landlord and with Landlord's prior written consent.	

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Trash Dumpster	Dumpster location or location changes at the sole discretion and direction of the Landlord. Change of service provider at sole discretion of Landlord.	Tenant to manage and maintain and to be provided at Tenant's sole cost and expense. Must be kept on Premises unless otherwise approved in advance by Landlord	Trash service is a shared service with 4551 & 4553 Glenn Curtriss Drive. Paid by Landlord and assessed 50%/50% between tenants.
Trash Dumpster screening, if required		Maintained at Tenant's sole cost and expense.	
Building Shell			
Garage Overhead & Service Doors	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance and basic service and repair. Examples of general preventive maintenance and basic service and repair would be servicing, maintaining or repairing springs, cables, rollers, latch & lock...	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Doors	Major repairs and replacement if required at sole discretion of Landlord	General preventive maintenance and basic service – including cleaning floor tracks.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Floor	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, sweeping, cleaning and safety markings as required by Landlord. Examples include cleaning floors of oils and chemical materials that may cause permanent damage to floor surface such as stains or peeling of floor coating.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Building & Hangar Insulation, if existing	Major repairs and replacement if required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Painting and cleaning of building exterior	Performed by Landlord at Landlord's sole expense and discretion.	General preventive maintenance, repair and replacement where required.	by Tenant. Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Repairs to exterior siding building, fascia, trim, etc.	Performed by Landlord at Landlord's sole expense and discretion	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Window and Glass Curtain Walls	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Roof	Major repairs and replacement when required at sole discretion of Landlord.	No penetrations without Landlord's prior written approval.	
Roof rain-gutters and downspouts	Major repair and replace as required.	General preventive maintenance, repair and replacement where required.	
Interior - Finish-out			
Interior Doors	Major repairs and replacement when required at sole discretion of Landlord.	General preventive maintenance, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
All Interior and Exterior door locks (electronic or keyed)	Any lock changes or lock system changes must be approved by Landlord in advance. Maintain copies of access keys provided by Tenant. Landlord must be given 24-hour access to building due to fire alarm system and reset.	General preventive maintenance, repair and replacement where required. Copies of access keys to be provided to Landlord with instruction and codes provided for any electronic locking systems.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Office/shop space flooring and floor cover	Major repairs and replacement at sole discretion of Landlord.	Major repair and replacement with Landlord's prior consent. General preventive maintenance, cleaning of all floor surfaces (carpet, tile and tile grout...) repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior – Office and shop space		Repainting like existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Painting Interior – Hangar space	Repainting like existing condition at sole discretion of the Landlord.		Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Walls & Ceilings	Major repairs and replacement at sole discretion of Landlord.	Repainting or repairing like existing condition. Major change in color, texture and material must be with Landlord's prior written consent. General preventive maintenance, cleaning, repair and replacement where required. Applicable to office area only.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
Building Systems			
Air Compressor		Tenant's full responsibility.	
Electrical Systems	Major repairs, replacement or modifications at sole discretion of Landlord. General maintenance and repair.	Replacement or material change only with Landlord's prior written consent. Inform Landlord of any electrical issues or needed modifications.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar Door Motors	General maintenance and repairs and replacement at sole discretion of Landlord. General preventive maintenance and basic service.	Replacement or material change only with Landlord's prior written consent.	
Exterior Lighting & maintenance	Major repairs and replacement at sole discretion of Landlord. Landlord to replace bulbs as necessary.	Replacement or material change only with Landlord's prior written consent.	
Office and interior lighting	Major repairs and replacement of fixtures at sole discretion of Landlord.	Tenant to replace bulbs and lamps as necessary with similar bulb and lamp types.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Hangar light repair and replacement	Major repairs and replacement at sole discretion of Landlord.	Replacement or material change only with Landlord's prior written consent. Tenant to replace bulbs as necessary.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
HVAC	Major repairs and replacement at sole discretion of Landlord. Filter changes and major repair of equipment.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent. Examples of general maintenance and repair are; routine services, preventive maintenance, thermostat battery replacement and	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for

	<u>Landlord</u>	<u>Tenant</u>	<u>Comment</u>
		additional refrigerant as needed.	by Tenant.
Window a/c units if any	Major repairs and replacement at sole discretion of Landlord.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Plumbing systems	Major repairs and replacement at sole discretion of Landlord.	General maintenance and repair. Replacement or material change only with Landlord's prior written consent.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Water heater	Replacement at Landlord's sole discretion.	General maintenance and repair. Replacement with Landlord's prior written consent.	
Storm water drains	Major repairs and replacement and general maintenance.	Damage caused by or resulting from acts of Tenant, Tenant's employees, guests or invitees shall be paid for by Tenant.	Damage caused by or resulting from Tenant, Tenant's employees, or its guests' and invitees, acts or omissions shall be paid for by Tenant.
Grease Traps	Landlord to have inspected and serviced upon tenant move-in.	Tenant's full responsibility.	If any
Fire Alarm Systems		Tenant to perform day-to-day minor maintenance and notify landlord or any known conditions needing attention. Tenant shall not obstruct, alter, impair, or prevent, in any way, the efficiency of fire alarm systems. Tenant to maintain and monitor and provide routine inspections.	The active alarm monitoring and inspections are shared expenses with 4551 & 4553 Glenn Curtiss Drive and treated by landlord as a shared pass-thru expense on a 50%/50% basis.

	Landlord	Tenant	Comment
Tapping into Fire Main for fire suppression systems	Must be approved by Landlord in advance.	Tenant's full responsibility with Landlord's prior written consent.	
Fire Extinguishers		Tenant's full responsibility to supply and maintain required fire extinguishers to meet all applicable fire and building codes. Tenant is responsible for all periodic inspections of fire extinguishers to meet all applicable fire and building codes	

**Aerial Location of Subject Property
4570 Claire Chennault Drive
at Addison Airport**



Council Meeting

13.

Meeting Date: 10/26/2021

Department: Development Services

Pillars: Gold Standard in Public Safety

Milestones: Promote and protect the Addison Way

AGENDA CAPTION:

Present, Discuss, and Consider Action to Approve an **Ordinance Amending Chapter 22 (Businesses) of the Code of Ordinances by Reinstating Article VIII (Short Term Rentals), in order to Continue Regulating Short Term Rentals.**

BACKGROUND:

Short term rentals are generally defined as renting a home or a portion of a home for stays of less than 30 days. Given the popularity of apps such as Airbnb and Vrbo, the use of short term rentals in residential areas has increased. In March 2019, the City Council adopted regulations for such properties in Addison. The regulations required these properties to be registered with the Town and that the owner and occupants agree to abide by certain requirements to minimize their impact on the adjacent neighbors.

The ordinance included a sunset provision after one year, requiring the City Council to review and adjust or extend the requirements by April 30, 2020. Council did elect to extend this program for another year in March 2020. Due to staff transition, these regulations were not brought forward for Council consideration prior to the April 30, 2021 sunset date. As a result, there are no specific regulatory or registration requirements that are currently applicable to short term rentals in Addison. Staff is bringing forward this ordinance amendment to permanently reinstate the previously adopted short term rental regulations and eliminate the sunset provision.

Since the initial adoption of the short term rental regulations, six properties have registered with the Town, and only one active registrant remains. Through a cursory review of the most common short term rental apps – Airbnb and Vrbo – it appears that Addison has a fairly limited supply of short term rentals, with the majority of those opportunities being accommodated in multifamily dwelling units.

In order to best protect the Town, it is recommended that the City Council proceeds with reinstating the short term rental regulations. Town staff will monitor implementation and return to Council by the fourth quarter of fiscal year 2022 to address any implementation challenges and needed regulatory refinements.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - Short Term Rental Regulations

Presentation - Short Term Rentals

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 22 (BUSINESSES) OF THE CODE OF ORDINANCES BY EXTENDING AND REINSTATING ARTICLE VIII (SHORT TERM RENTALS); REPEALING SECTION 22-259 (SUNSET REVIEW); PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS AND REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, on March 12, 2019, the City Council for the Town of Addison, Texas amended Chapter 22 (Businesses) of the Code of Ordinances by adopting Article VIII (Short Term Rentals), establishing regulations for the registration and use of Short Term Rentals, which included a sunset review provision providing for the expiration of said Article on or before April 30, 2020, subject to City Council action extending the same; and

WHEREAS, on March 10, 2020, the City Council passed Ordinance No. O20-06, extending Chapter 22, Article VIII through April 30, 2021, and further amending the Definitions and Registration sections contained in said Article; and

WHEREAS, residents still desire the option to periodically utilize their properties as Short Term Rentals; and

WHEREAS, the operation of Short Term Rentals should not be permitted to negatively affect property values or the stability of residential neighborhoods; and

WHEREAS, the City Council has determined that previously adopted Short Term Rental regulations set forth in Chapter 22, Article VIII are still necessary to protect the public health, safety, morals, and general welfare of the community.

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

SECTION 1. Chapter 22 (Businesses) of the Code of Ordinances is hereby amended by extending and reinstating Article VIII (Short Term Rentals) in its entirety, readopting the language of said Article VIII as the same was last amended by Ordinance No. O20-06, save and except for Sec.22-259 (Sunset Review), which is hereby repealed in its entirety.

SECTION 2. Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall, upon conviction, be punished by a fine not to exceed the sum of \$500 for each offense and each and every day such violation shall continue shall be deemed to constitute a separate offense, in accordance with Chapter 1 (General Provisions), Section 1.7 (General penalty; continuing violations; proof of exceptions) of the Code of Ordinances for the Town of Addison.

SECTION 3. The provisions of this Ordinance are severable, and should any section, subsection, paragraph, sentence, phrase or word of this Ordinance, or application thereof to any person, firm, corporation or other business entity or any circumstance, be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of the remaining or other parts or portions of this Ordinance, and the City Council hereby declares that it would have passed

such remaining parts or portions of this Ordinance despite such unconstitutionality, illegality, or invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. 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 5. 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 **26TH** day of **OCTOBER 2021.**

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Whitt Wyatt, City Attorney

Short Term Rental Regulations

City Council
October 26, 2021

The logo for the City of Addison, featuring the word "ADDISON" in blue, uppercase letters inside a white circle. The circle is set against a blue background that is part of a larger graphic design on the right side of the slide, which includes a grey triangle in the top right corner and a grey triangle in the bottom right corner.

- Ordinance O19-08 was passed in March 2019 and updated and extended in March 2020
 - Defined Short Term Rental (STR) as:
 - "the rental of any residence or residential structure, or a portion of a residence or residential structure for a period of less than 30 days".
 - Limited to primary residence of applicant
 - The term does not include:
 - (1) a unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space, or event center purpose or another similar use;
 - (2) a bed and breakfast; or
 - (3) a hotel
 - STR must register and abide by certain requirements
 - Sunset Review: Expiration on April 30, 2021
 - Due to staff transition, consideration of updates did not occur prior to sunset

Ordinance Provisions



- Town has right to inspect the property
- No external signage
- Occupancy limit:
 - No more than two adults per bedroom, plus two adults
 - 10 person maximum
- Vehicle limit:
 - Maximum that can be accommodated in garage and driveway
- Must be the registrant's primary address (homestead)
- Must pay applicable hotel occupancy taxes
- Cannot rent for the primary purpose of having a Party venue
- Must share neighborhood information for parking, noise, trash
- Annual registration fee of \$115.00
- Throughout lifespan of the program, 6 properties registered

CONTACT INFORMATION FOR PROPERTY OWNER:

24-HOUR LOCAL DESIGNATED CONTACT:

TOWN OF ADDISON PHONE NUMBERS:

- Emergency: 911
- Nonemergency: 972-450-7156
- Public Works Issues: 972-450-2871
- Development Services: 972-450-2880
(to report an issue with a Short-Term Rental property)

THE TOWN OF ADDISON WEBSITE: <https://addisontexas.net/>

TOWN OF ADDISON TOURISM:

- Far from ordinary and close to everything, Addison is at the center of it all for dining, events, and theater in North Texas. Visit our tourism website at <https://visitaddison.com/> for additional information on places to be, things to see, and upcoming events.

EMERGENCY ALERTS IN CASE OF SEVERE WEATHER:

- Please visit [AddisonAlert.com](https://addisonalert.com) for up-to-date weather notifications.

PLEASE ENJOY YOUR STAY BUT BE MINDFUL OF SOME OF THE TOWN'S RULES AND REGULATIONS.

PARKING REQUIREMENTS:

- One car per bedroom, or the maximum number of cars that can be accommodated in the garage and driveway, without extending over the public rights-of-way (alleys and sidewalks) whichever is less.
- In single-family neighborhoods, on-street overnight parking, enforced 2am – 6am, is prohibited and subject to additional fines.

NOISE ORDINANCE:

- Loud and raucous noise is prohibited. This includes, but is not limited to the operation of mechanical or electrical device, apparatus, instrument, automobile, motorcycle or vehicle in such a manner that creates noise which is clearly audible at a distance of more than 50 feet from the source of the noise. Playing music at such volume that the sound creates a loud and raucous noise is prohibited on any day between the hours of 11:00 pm and 7:00 am.

TRASH COLLECTION:

- For single-family residences, collection days are Monday and Thursday beginning at 7am. Please do not put trash or recycling items out any sooner than 6pm the night before collection day, per Town Ordinance. There is no collection on Thanksgiving or Christmas.
- You should place garbage in one way receptacles (i.e. garbage bags) of sufficient strength to hold 35 pounds. Please put Garbage bags at least 3 feet away from your recycling cart.
- If your pick up is missed, please contact CWD at 972-392-9300, Option 2.
- In certain town home and condo developments, trash collection is handled privately. Please consult the property owner for more details about trash disposal

OCCUPANCY LIMIT:

- No more than two adult guests per bedroom, plus no more than two additional adults are allowed, with a maximum occupancy of ten (10) persons, adult and children.

A SHORT-TERM RENTAL PROPERTY IS PROHIBITED FROM BEING USED AS A PARTY VENUE.

- Party means a social gathering of people, including those who have not rented the residence, for the primary purpose of eating, drinking or entertainment in a manner that is disruptive to the surrounding properties.

ADDITIONAL INFORMATION ON SHORT-TERM RENTAL REGULATIONS CAN BE FOUND AT <https://addisontexas.net/STR>

- Grapevine
 - Short Term Rentals are prohibited entirely within the city
 - Property owners sued Grapevine over the ban
 - In August 2021, Court of Appeals denied city's appeal of trial court's denial of city's motion for summary judgement
 - City is continuing to pursue its legal options

- Arlington
 - City limited short term rentals to a special district established near the entertainment district and established other use specific standards intended to address party rentals
 - Property owners sued Arlington, and sought an injunction on enforcement
 - Trial court and appeals court denied property owners' request for temporary injunction
 - Property owners continue to consider legal options

Staff recommends **reinstatement of the short term rental regulations and elimination of the sunset provision**

- Staff will monitor ongoing litigation and return by Q4 of FY22 to address implementation challenges and any needed regulatory refinements

Questions?