



**REGULAR MEETING
OF THE CITY COUNCIL**

April 11, 2023

ADDISON TREEHOUSE

**14681 MIDWAY RD. SUITE 200, ADDISON, TX 75001
6:00 PM EXECUTIVE SESSION & WORK SESSION
7:30 PM REGULAR MEETING**

Notice is hereby given that the Addison City Council will conduct a Regular Meeting on Tuesday, April 11, 2023 at the Addison TreeHouse. Email comments may be sent to iparker@addisontx.gov by 3:00 pm the day of the meeting. The meeting will be live streamed on Addison's website at www.addisontexas.net.

Call Meeting to Order

Pledge of Allegiance

Present 2023 Citizen's Academy Certificates

EXECUTIVE SESSION

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

Section 551.071 Consultations with Attorney, Tex. Gov. Code, Consultation with an attorney to seek advice of its attorney about: (1)(A) pending or contemplated litigation or (1)(2) a settlement offer regarding:

- The Town of Addison, Texas v. Piedmont Midway Partners, L.P., Nates Seafood and Steakhouse, Inc., and Truist Bank f/k/a BB&T, f/k/a Branch Banking and Trust Company, in Cause No. CC-20-03614-B, in the County Court at Law Dallas County, Texas.

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

- City Manager Personnel Update

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 and Discuss a Review of the March 27, 2023 Special Meeting on Strategic Planning.
2. Present and Discuss the Addison Police Department's 2022 Annual Report.
3. Present and Discuss Mayor and City Council Compensation.

REGULAR MEETING

Announcements and Acknowledgments Regarding Town and Council Events and Activities

- Presentation by Mayor Joe Chow to former Board of Zoning Adjustment Member Dan Liscio

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.

4. Consider Action on the **Minutes from the March 28, 2023 City Council Meeting.**
5. Consider Action on a **Resolution Approving a Settlement Agreement of Midway Road Improvements Litigation; and Authorizing the Conveyance of Certain Public Real Property and Authorizing the City Manager to Execute the Settlement Agreement.**
6. Consider Action on a **Resolution Approving an Entertainment Agreement Between the Town of Addison and Swae Lee, Inc. to Provide Entertainment at the Taste Addison Event and Authorize the City Manager to Execute the Agreement** in the Amount Not to Exceed \$115,000.
7. Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and McKinstry Essention, LLC for the Turn-Key Construction Service Related to the Sloped Roof Replacements at the Addison Police Department, Fire Station 1, Fire Station 2, and the Addison Athletic Club and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$186,096.
8. Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and McKinstry Essention, LLC for Turn-Key Construction Services Related to Generator Replacements at the Addison Police Department and Fire Station 1 and Authorizing the City Manger to Execute the Agreement** in an Amount Not to Exceed \$641,765.

9. Consider Action on an **Ordinance Amending Chapter 2, of the Code of Ordinances of the Town by Amending Article III, Division I, Section 2-73, Reimbursement for Travel Expenses.**
-

Regular Items

10. Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving a Special Use Permit (SUP) for Property Located at 14975 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance No. O84-100, to allow the Sale of Alcoholic Beverages for On-Premises Consumption.** Case 1876-SUP/14975 Quorum Drive (Residence Inn Addison).
 11. Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving a Special Use Permit (SUP) for Property Located at 15175 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance Nos. O92-020 and O92-066, to allow a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption.** Case 1878-SUP/15175 Quorum Drive (St. Martin's).
 12. Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving 2023 Standards of Care for the Town's Youth Recreation Programs.**
-

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 2023

1.

Meeting Date: 04/11/2023

Department: City Manager

AGENDA CAPTION:

Present and Discuss a Review of the March 27, 2023 Special Meeting on Strategic Planning.

BACKGROUND:

At a Special Meeting held on March 27, 2023, Ramsee Consulting Group Managing Director Rick Robinson facilitated a strategic planning session with the Addison City Council and members of Town staff. The result was the development of a vision, goals, and strategies.

The Vision developed was: The Town of Addison is the benchmark for a diverse, vibrant, innovative, and connected community. Our unique places and experiences enhance the quality of life of our residents, businesses, workers, and visitors and make us the place to live, work, and visit.

The goals discussed align with the existing Strategic Pillars. The strategies developed were added to the existing Milestones. Based on direction from Council to retain the use of the terms Pillars and Milestones, staff has drafted the following Strategic Pillars and Milestones for Fiscal Year 2024 for Council consideration.

Pillars	Corresponding Milestone(s)
Innovative in Entrepreneurship and Business	<ol style="list-style-type: none">1. Attract and retain innovators in target industries.2. Leverage Addison's unique assets to grow and expand placemaking business programs and events that will set Addison apart to attract talent and businesses.3. Leverage Airport assets to maximize business growth and expansion.
Excellence in Asset Management	<ol style="list-style-type: none">1. Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information systems.
Excellence in Transportation Systems	<ol style="list-style-type: none">1. Effectively utilize and promote the Silver Line development with a first mile/last mile solution.2. Improve all modes of transportation with infrastructure in acceptable condition and well maintained.

Gold Standard in Customer Service	<ol style="list-style-type: none"> 1. Establish an intentional culture throughout the organization that is based on continuous improvement, excellence, and adherence to the core values (BRAVE).* 2. Promote and protect the Addison Way. 3. Continuously improve processes and policies to include the voice of the customer and ensure they are easily accessible.* 4. Improve communications and use of technology.*
Gold Standard in Financial Health	<ol style="list-style-type: none"> 1. Continue development and implementation of the Long-Term Financial Plan. 2. Incorporate fiscal analysis in long-range planning.* 3. Align budget and projects with the strategic plan.*
Gold Standard in Public Safety	<ol style="list-style-type: none"> 1. Prepare for the impact of new growth and development in Addison.
Optimize the Addison Brand	<ol style="list-style-type: none"> 1. Define and promote Addison Identity.

* indicates a new Milestone.

Once finalized, the Fiscal Year 2024 Vision, Pillars and Milestones will be presented to Council for adoption at a future Council meeting.

RECOMMENDATION:

Staff seeks Council direction.

Attachments

Presentation - Strategic Planning Review

Strategic Planning Session Review

The logo for ADDISON, 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 diagonal white lines and a grey triangle in the top right corner.

ADDISON

The Town of Addison is the benchmark for a diverse, vibrant, innovative, and connected community. Our unique places and experiences enhance the quality of life of our residents, businesses, workers, and visitors and make us the place to live, work, and visit.

Financial: To achieve and maintain the highest standards in financial excellence.

Customer Experience: Our customers are delighted by our amenities, events, attentiveness, effectiveness, and innovations.

Internal Business Processes: Our effective, efficient, continually improved processes and policies are easy to locate, easy to understand, and make it easy to do business with the city.

Organizational Culture/Employee: Our empowered, engaged, and innovative employees fully embrace our core values and deliver exceptional customer service while working in an inclusive, welcoming environment.

- Establish an intentional culture throughout the organization that is based on continuous improvement, excellence, and adherence to the core values (BRAVE)
- Continuously improve processes and policies to include the voice of the customer and ensure they are easily accessible
- Improve communication and use of technology
- Incorporate fiscal analysis in long-range planning
- Align budget and projects with strategic plan

Proposed 2024 Pillars and Milestones

Pillars	Corresponding Milestone(s)
Innovative in Entrepreneurship and Business	<ol style="list-style-type: none">1. Attract and retain innovators in target industries.2. Leverage Addison’s unique assets to grow and expand placemaking business programs and events that will set Addison apart to attract talent and businesses.3. Leverage Airport assets to maximize business growth and expansion.
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Excellence in Transportation Systems	<ol style="list-style-type: none">1. Effectively utilize and promote the Silver Line development with a first mile/last mile solution.2. Improve all modes of transportation with infrastructure in acceptable condition and well maintained.

Proposed 2024 Pillars and Milestones

Gold Standard in Customer Service	<ol style="list-style-type: none">1. Establish an intentional culture throughout the organization that is based on continuous improvement, excellence, and adherence to the core values (BRAVE). *2. Promote and protect the Addison Way.3. Continuously improve processes and policies to include the voice of the customer and ensure they are easily accessible.*4. Improve communications and use of technology. *
Gold Standard in Financial Health	<ol style="list-style-type: none">1. Continue development and implementation of the Long-Term Financial Plan.2. Incorporate fiscal analysis in long-range planning.*3. Align budget and projects with the strategic plan.*
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* Indicates new Milestone

Does Council wish to make any changes to the Vision?

Does Council wish to make any changes to the Pillars and Milestones?

Staff will bring the 2024 Strategic Pillars and Milestones to Council for formal adoption at a future meeting (April 25, 2023).

Council Meeting 2023

2.

Meeting Date: 04/11/2023

Department: Police

Pillars: Gold Standard in Public Safety

AGENDA CAPTION:

Present and Discuss the **Addison Police Department's 2022 Annual Report.**

BACKGROUND:

The Addison Police Department has prepared an Annual Report for Calendar Year 2022. This report includes a statistical review of the year, notable events from the patrol and criminal investigation divisions, and goals and objectives for Fiscal Year 2023.

The Addison Police Department is also pleased to provide the results of an internal and external audit of its License Plate Recognition and Optical Camera system. This annual audit is assurance to the public, the department's License Plate Recognition and Optical Camera System has operated according to Council's policy direction, and that all internal activities surrounding its use were found to be in line with those adopted policies and procedures.

An important change in our reporting methodology took place in 2020. The Addison Police Department historically utilized the Uniform Crime Reporting (UCR) Program to track crime and clearance rates over time. Beginning in 2020, the Addison Police Department began using the National Incident Based Reporting System (NIBRS). Implemented to improve the overall quality of crime data collected by law enforcement, NIBRS captures details on each single crime incident as well as on separate offenses within the same incident. The additional data includes information on victims, known offenders, relationships between victims and offenders, arrestees, and property involved in crimes. NIBRS:

- Provides greater specificity in reporting offenses. Not only does NIBRS look at all the offenses within an incident, but it also looks at many more offenses than UCR. NIBRS collects data for 52 offenses, plus 10 additional offenses for which only arrests are reported. UCR counts limited data for 10 offenses and 20 additional crimes for which only arrests are reported.
- Collects more detailed information, including incident date and time, whether reported offenses were attempted or completed, expanded victim types, relationships of victims to offenders and offenses, demographic details, location data, property descriptions, drug types and quantities, the offender's suspected use of drugs or alcohol, the involvement of gang activity, and

whether a computer was used in the commission of the crime.

- Helps give context to specific crime problems such as drug/narcotics and sex offenses, as well as issues like animal cruelty, identity theft, and computer hacking.
- Provides greater analytic flexibility. Through NIBRS, data users can see many more facets of crime, as well as relationships and connections among these facets, than SRS provides.

When used to its full potential, NIBRS identifies, with precision, when and where crime takes place, what form it takes, and the characteristics of its victims and perpetrators. Armed with such information, law enforcement can better define the resources it needs to fight crime, as well as use those resources in the most efficient and effective manner.

Data collected prior to 2020 under UCR will show a much lower incidence of crime than the data collected under NIBRS because the UCR data only covers a narrow range of criminal activity compared to NIBRS. Comparisons between UCR and NIBRS data alone will not provide an accurate representation of the annual change in overall criminal activity. As we continue to collect our crime data using the NIBRS format, we will have a more accurate tool to see changes in activity should they occur.

RECOMMENDATION:

Information only, no action required.

Attachments

Presentation - APD Annual Report

Report - Addison Police Annual Report 2022

Letter - 2022 Audit Letter

Addison Police Department 2022 Annual Report

The logo for the Addison Police Department, featuring the word "ADDISON" in a bold, blue, sans-serif font centered within 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 page, which includes diagonal lines and a grey triangle in the top right corner.

ADDISON

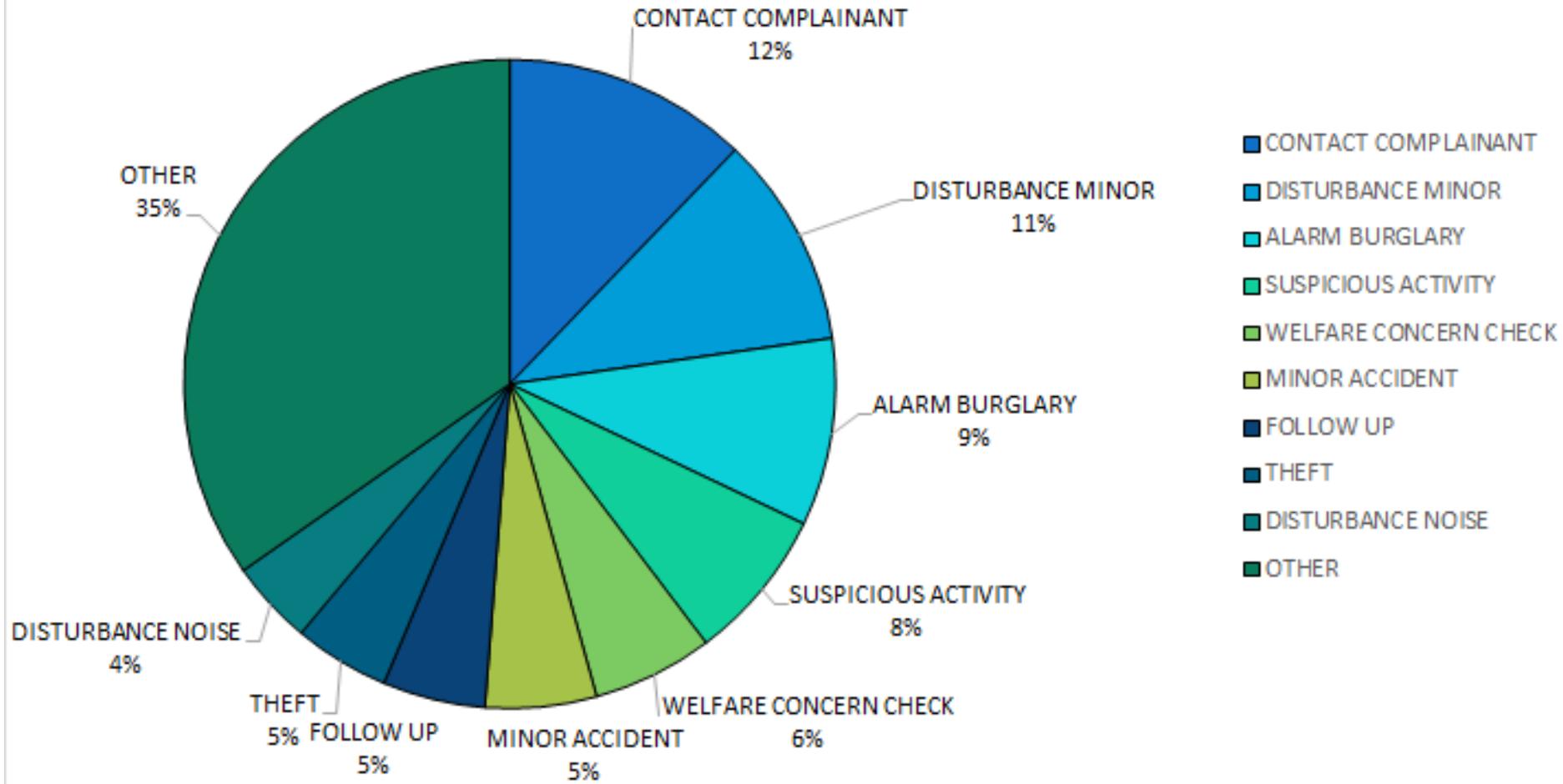
While Officers spend the majority of their time answering calls for service, they are also expected to patrol the hotels, apartments, businesses, and neighborhoods in their beats. They do both traditional and undercover patrols.

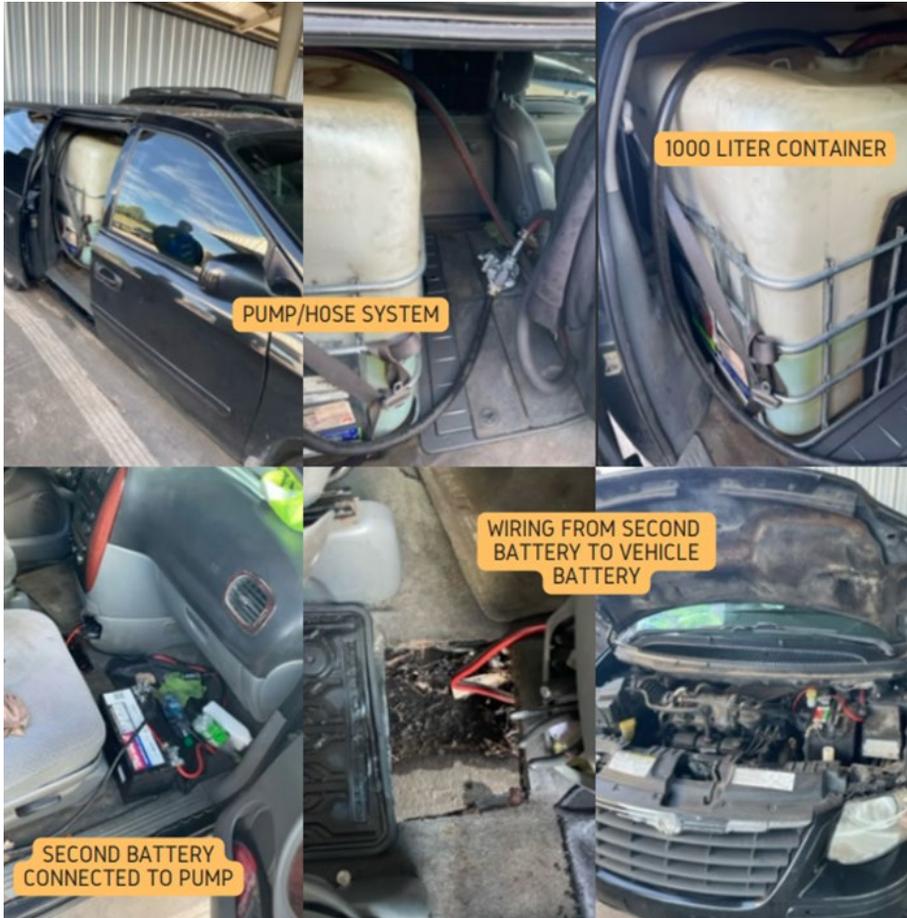
Standards for self-initiated activity are high as officers routinely conduct traffic stops, investigate suspicious vehicles and people, patrol our parks, walk through businesses and hotels, and check on homes under vacation watch.

Thanks to their hard work and tenacity, in 2022 Patrol arrested 6 sets of catalytic converter thieves and identified several more. Their efforts helped demonstrate a need for an ordinance against unlawful possession of these auto parts, which Addison City Council voted to ratify in March 2023.



2022 Calls for Service

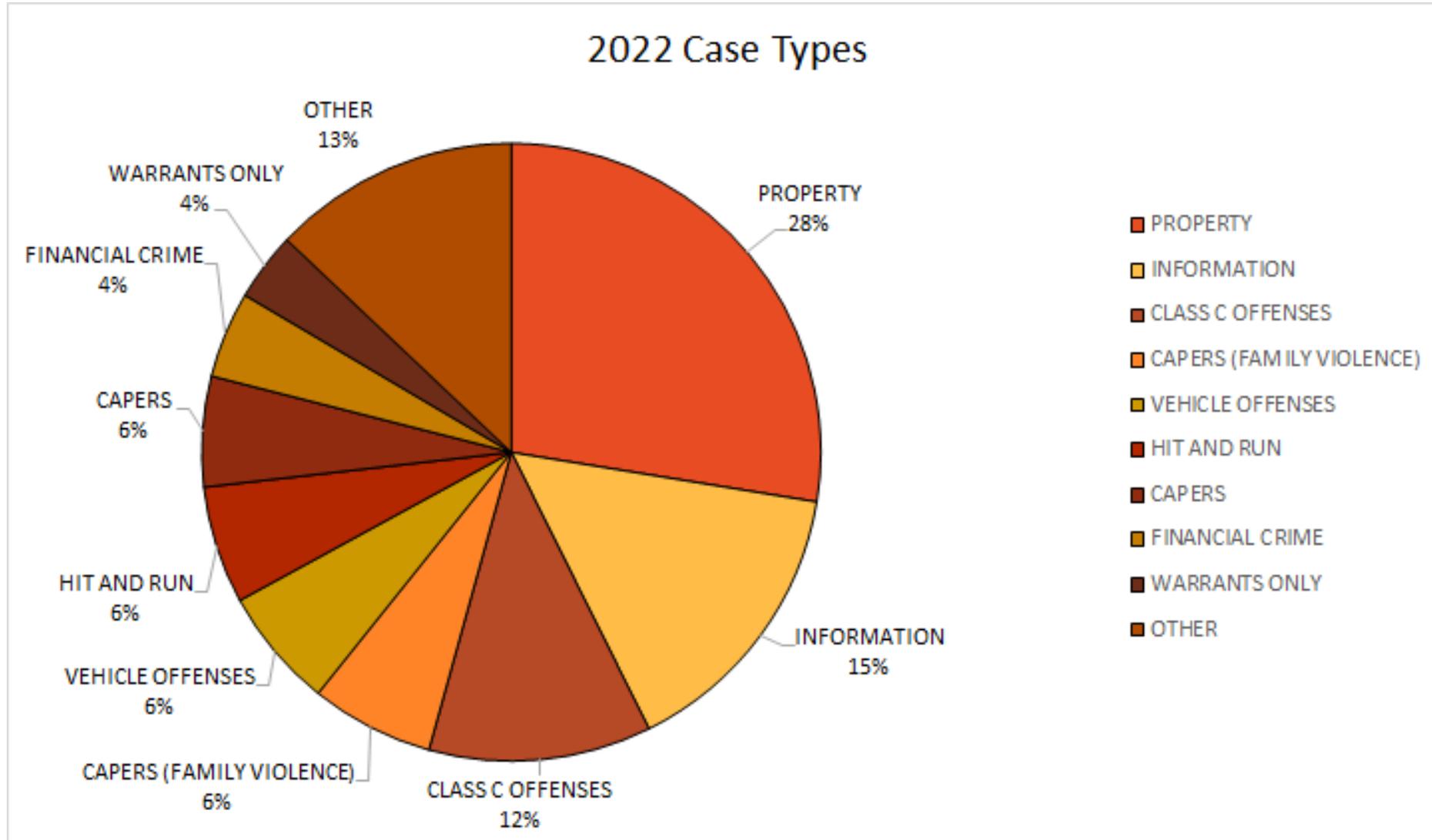




In CID our Detectives each handle 5-15 cases a week. Cases investigated include everything from stolen lawn gnomes and lost wallets to organized vehicle burglary rings and murder.

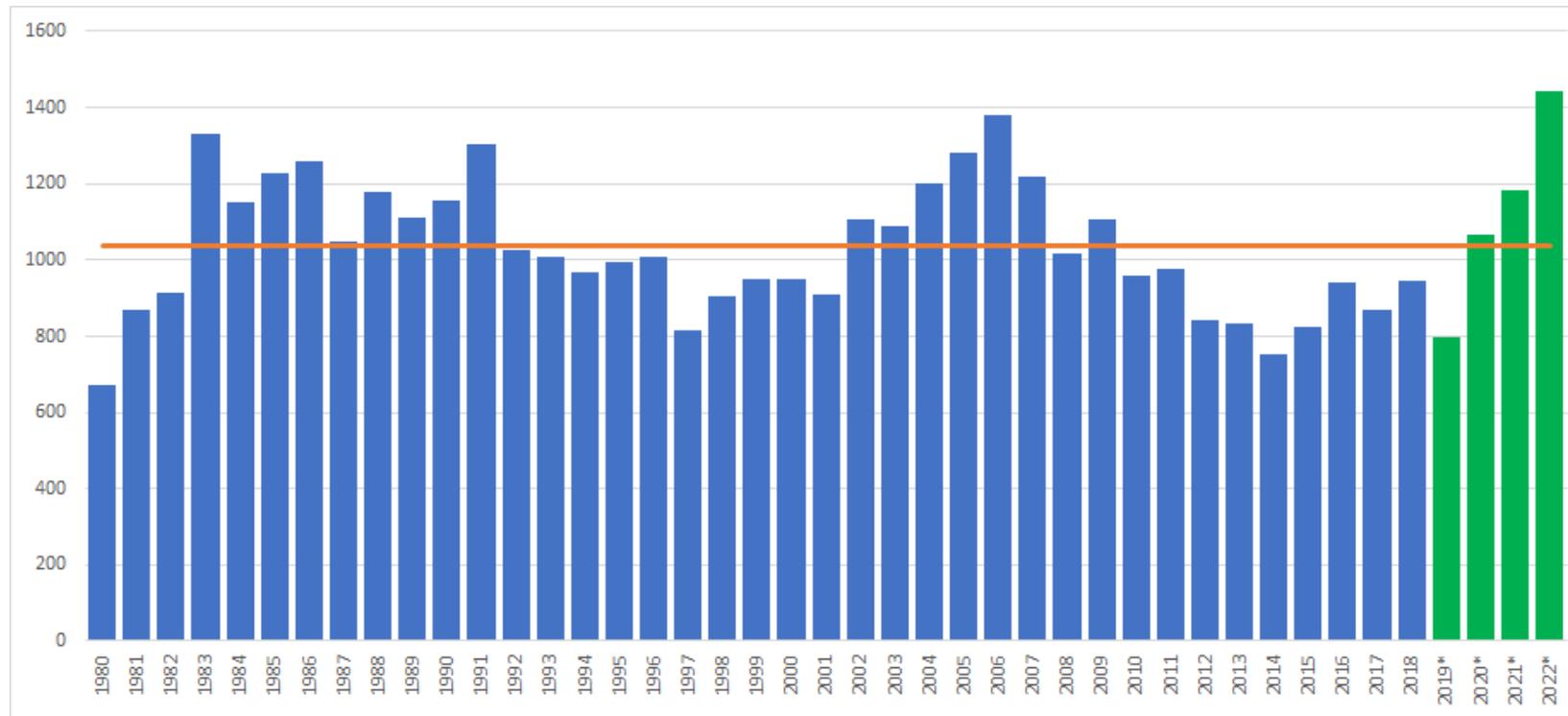
Detectives are helped by officers on special assignment and civilian personnel to find, link, and distribute intelligence. They prosecute each case whenever lawful, ethical, and reasonable.

Detectives manage their case load while also each untangling 1-2 complex, long-term investigations. One of these special projects was the discovery and prosecution of a fuel theft ring responsible for thousands of gallons of stolen diesel across DFW. The suspects used a van with a homemade pump system in the backseat. Detectives served 9 felony warrants on the group.



Crime Rate – 1980-2022

Historic UCR data shows crime rates are a cycle that includes a 7-9 year gradual increase followed by similar 7-9 year gradual decrease.



* 2019-2022 data converted to UCR format from NIBRS format

Crime Rate – 2021-2022



NIBRS	2021	2022	% CHANGE
Group B Offenses	619	619	0.0%
Persons Crimes	523	552	5.5%
Property Crimes	1553	1821	17.3%
Society Crimes	359	315	-12.3%
Total	3054	3307	8.3%

Crimes Against Persons – 2021-2022

	NIBRS Group	2021	2022	% CHANGE
Crimes Against Persons	Murder	3	1	-66.7%
	Kidnapping	11	12	9.1%
	Rape	34	20	-41.2%
	Robbery	26	15	-42.3%
	Assault	449	504	12.2%
	Trafficking	0	0	
	TOTAL		523	552

In 2022, there were fewer felony crimes against persons offenses reported to Addison. Most offenses in these categories were assaults, and of those, most were simple assaults. Our personnel will continue to prosecute these crimes and work with victims to ensure the best outcomes possible.

Crimes Against Property – 2021-2022

	NIBRS Group	2021	2022	% CHANGE	
Crimes Against Property	Arson	1	2	100.0%	
	Burglary	124	109	-12.1%	
	Vehicle Theft	239	256	7.1%	
	Fraud	196	154	-21.4%	
	Vandalism	175	175	0.0%	
	Larceny-Theft	816	1123	37.6%	
	Cybercrime	2	2	0.0%	
	Coercion	0	0		
	TOTAL		1553	1821	17.3%

Our largest crime rate increase in 2022 was for property crime. The majority of these offenses were committed under opportunistic, low risk circumstances such as forgotten wallets, unlocked vehicles, or valuables left in plain sight. Common targets include work laptop bags, backpacks, and purses left visible in restaurant parking lots.

Officers and detectives have arrested multiple thieves in both groups this year, most of which are known to Addison or surrounding agencies as repeat offenders. The intelligence shared by our agency has solved dozens of offenses in other cities. These cities have also helped us link their suspects to our offenses.

ADDISON

POLICE DEPARTMENT

Annual Report

2022

POLICE AND
COURTS BUILDING
TOWN OF ADDISON

1005

Table of Contents

Police Staffing

• Organization Chart	3
• Patrol Division	4
• Criminal Investigations Division	5
• Animal Control	6
• Support Personnel	7

Statistical Review

• Formatting:	
◦ NIBRS Introduction	8
◦ NIBRS/UCR Comparison	9
◦ UCR Long-Term Trends	10
• Review:	
◦ Crimes Against Persons	11
◦ Crimes Against Property	13
◦ Crimes Against Society	15
◦ All Other Offenses	16
• 2021 - 2022 Comparison	17

Certifications, Achievements, and Resources

• Department Awards	20
• Personnel Awards	21
• Online Resources and Social Media	22

Police Staffing

Organization Chart

ADDISON
Police DEPARTMENT
ORGANIZATIONAL CHART
78 FTEs + 2 Overfill



Paul Spencer
Police Chief



Blake Potts
Professional
Standards LT



Amy Arizmendi
Management
Assistant

ADMINISTRATION

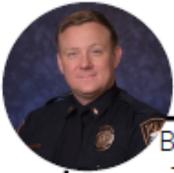
SUPPORT OPERATIONS

FIELD OPERATIONS

Mike Vincent
Captain



Chad Hanson
Asst. Chief



Brian Pietsch
Training LT



Jessica Morgan
Records
Supervisor

3 Records
Clerks



Brad Jones
Special Events
SGT



Ryan Wies
Animal Control
Supervisor

2 ACOS

Quarter
Master

PATROL

CID

Shane
Anderson
Patrol
Days LT



Tj Smetzer
Patrol Nights LT



Shawn Allen
CID LT



Cole Helton
Training SGT



Background
Investigator

DAYS A
SGT
7 OFCRS
2 MOTORS

DAYS B
SGT
7 OFCRS
2 MOTORS

Nights A
SGT
9 OFCRS

Nights B
SGT
9 OFCRS

CID SGT
7 INVESTIGATORS
PROPERTY
TECH

CID SGT
3 INVESTIGATORS
K9
AIRPORT OFC

DEPT
ASST
CRIME
ANALYST

Police Staffing

Patrol Division

Arrests: 1,118

Citations: 6,787

Warnings: 6,016

Officers Hired: 4

Officers Resigned: 8

Current Staffing: 63

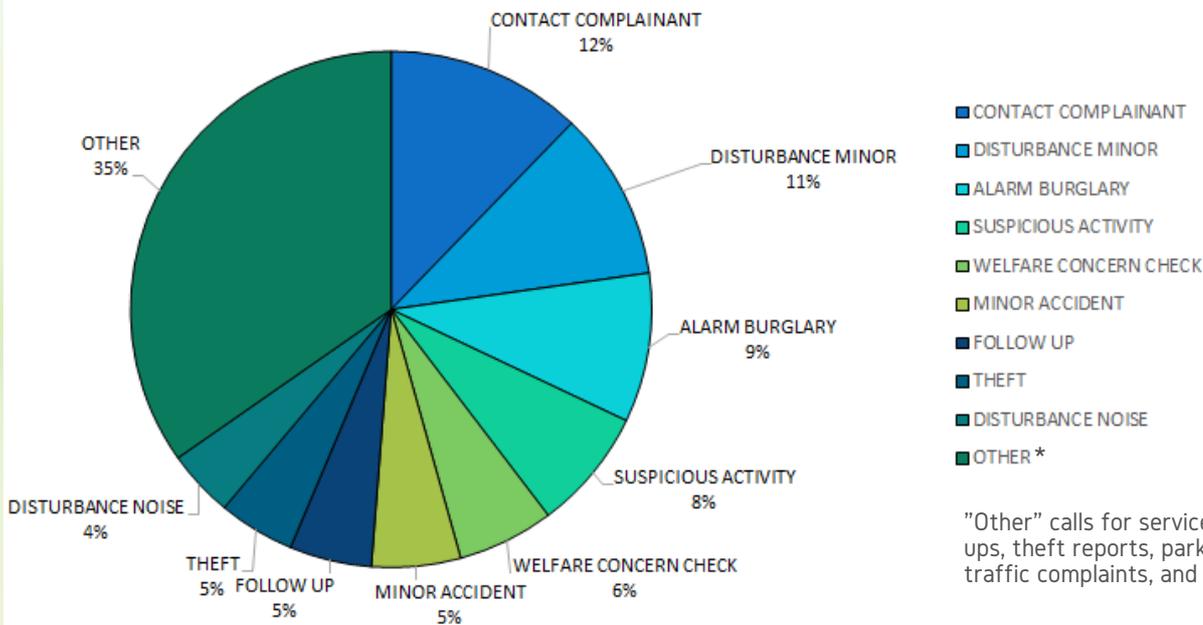
Maximum Staffing: 66

Traffic Stops: 8,583

Reports Written: 5,202

Calls Answered: 17,081

2022 Calls for Service



"Other" calls for service include 911 hang ups, theft reports, parking violations, traffic complaints, and many more.

While Officers spend the majority of their time answering calls for service, they are also expected to patrol the hotels, apartments, businesses, and neighborhoods in their beats. They do both traditional and undercover patrols.

Standards for self-initiated activity are high as officers routinely conduct traffic stops, investigate suspicious vehicles and people, patrol our parks, walk through businesses and hotels, and check on homes under vacation watch.

Thanks to their hard work and tenacity, in 2022 Patrol arrested 6 sets of catalytic converter thieves and identified several more. Their efforts helped demonstrate a need for an ordinance against unlawful possession of these auto parts, which Addison City Council voted to ratify in March 2023.



Police Staffing

Criminal Investigations Division

Cases Assigned: 4,969

Cases Cleared: 2,594

Cases Suspended: 2,333

Full Time Detectives: 7

Working Days/Year: 250

Cases Assigned/Day: 19.8

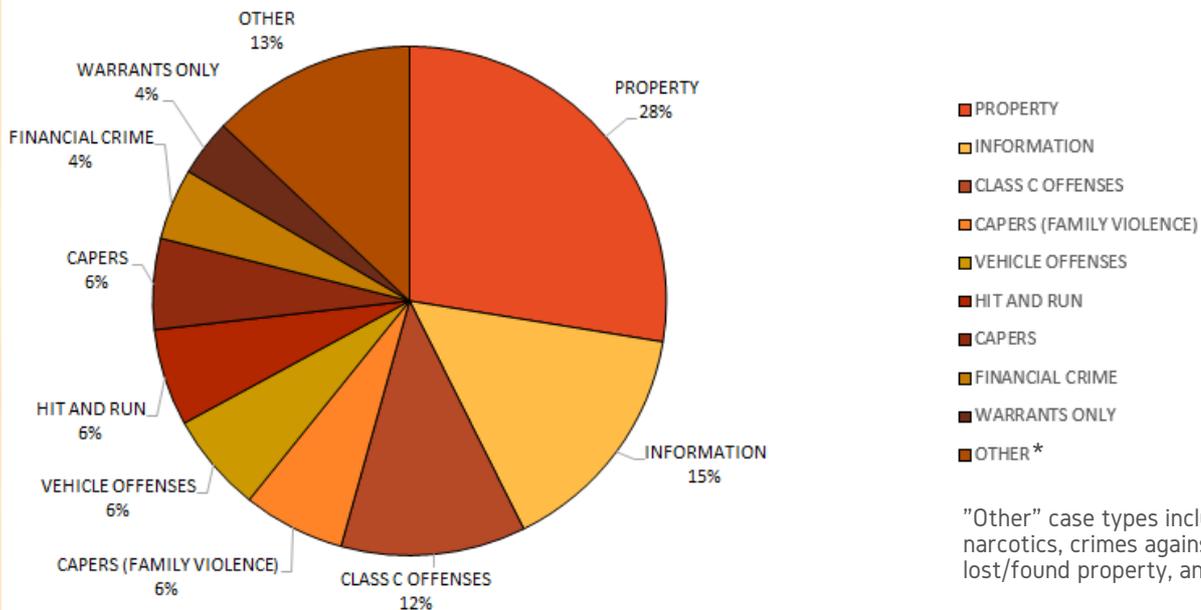
Cases Cleared/Day: 10.4

Vehicles Recovered: 110

Warrants Signed: 841

Flamethrowers seized: 1

2022 Case Types



In CID our Detectives each handle 5-15 cases a week. Cases investigated include everything from stolen lawn gnomes and lost wallets to organized vehicle burglary rings and murder.

Detectives are helped by officers on special assignment and civilian personnel to find, link, and distribute intelligence. They prosecute each case whenever lawful, ethical, and reasonable. Detectives manage their case load while also each untangling 1-2 complex, long-term investigations.

One of these special projects was the discovery and prosecution of a fuel theft ring responsible for thousands of gallons of stolen diesel across DFW. The suspects used a van with a homemade pump system in the passenger compartment. Detectives served 9 felony warrants on the group.

Police Staffing

Animal Control

2 Animal Control Officers and 1 Animal Control Supervisor handle all animal-related calls for the Town. Our ACOs are on call 24/7 for any critical incident involving animals. Addison's top priority for all wild and domesticated animals is their safety, comfort, and health.

Primary Duties:

- Animal bite investigation
- Caretaking of loose, stray, and injured animals
- Animal adoptions and transfers
- Wildlife monitoring
- Cruelty and neglect investigation

Yearly Statistics:

- Impounded animals: 260
- Adoptions/reclamations: 216
- Transfers: 26
- Trap/neuter/release (TNR): 25
- Bite investigations: 18
- Most common name: Piper
- Most common breed: Pit bull



2022 News:

- Trained a new Animal Control Officer
- Helped multiple owners recover their dogs due to Addison's free microchip policy
- Brought a new, larger truck into service
- Hosted first community meeting

Police Staffing

Support Personnel



Addison has 9 civilian employees serving behind the scenes in vital support roles. In addition to ensuring federal, state, and local legal compliance, our personnel file cases, safeguard evidence, submit proposals for new equipment and grants, maintain and upgrade fleet vehicles, run the License Plate Recognition (LPR) program, and answer public inquiries for reports, calls, statistics, arrests, and other records.

Personnel include 4 records staff, a quartermaster, two department assistants, a property technician, and a crime analyst. These employees often work together and with sworn personnel on projects, presentations, special events, and other miscellaneous tasks.

2022 civilian projects and accomplishments:

- Santa's Heroes gifts and household supplies (8 families)
- Latent Print Examiner program
- Victim's Compensation Fund project
- National Integrated Ballistic Information Network (NIBIN) firearms tracing
- Certified Records Analyst (CRA) training
- Metrocrest mental health statistics project
- 2,237 records requests fulfilled
- 370 safekeeping items released to their owners



STATISTICAL REVIEW

National Incident Based Reporting System (NIBRS)

Addison's Crime Statistic Reporting Format

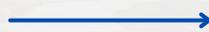
As crime types and patterns have evolved over the decades, departments have sought to improve on data collection and capture more information about crime. The National Incident Based Reporting System (NIBRS) format is the current national standard for crime statistic reporting. NIBRS includes 52 Part A major crimes and 11 Part B minor crimes. The FBI mandated all agencies switch to the NIBRS format by 2020. Addison reached this goal in 2019.

NIBRS is an upgrade from the format used from 1930 to 2019: Uniform Crime Reporting (UCR). UCR categorized offenses into two groups: Part I major crimes and Part II minor crimes. The seven major crimes are listed below. No victim/suspect relationships, location types, or property involvement were tracked, nor were lesser crimes in the same criminal incident.

With NIBRS, Addison can explore many more offense types and how the circumstances of those offenses evolve. Addison chooses to track both NIBRS and UCR formatted data to examine historical trends. Both formats will be explored in this report.

UCR Part 1 Offenses 7 crimes

Murder



Rape

Robbery

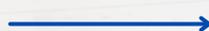
Aggravated Assault



Burglary

Larceny-Theft

Motor Vehicle Theft



NIBRS Part A Offenses 52 crimes



STATISTICAL REVIEW

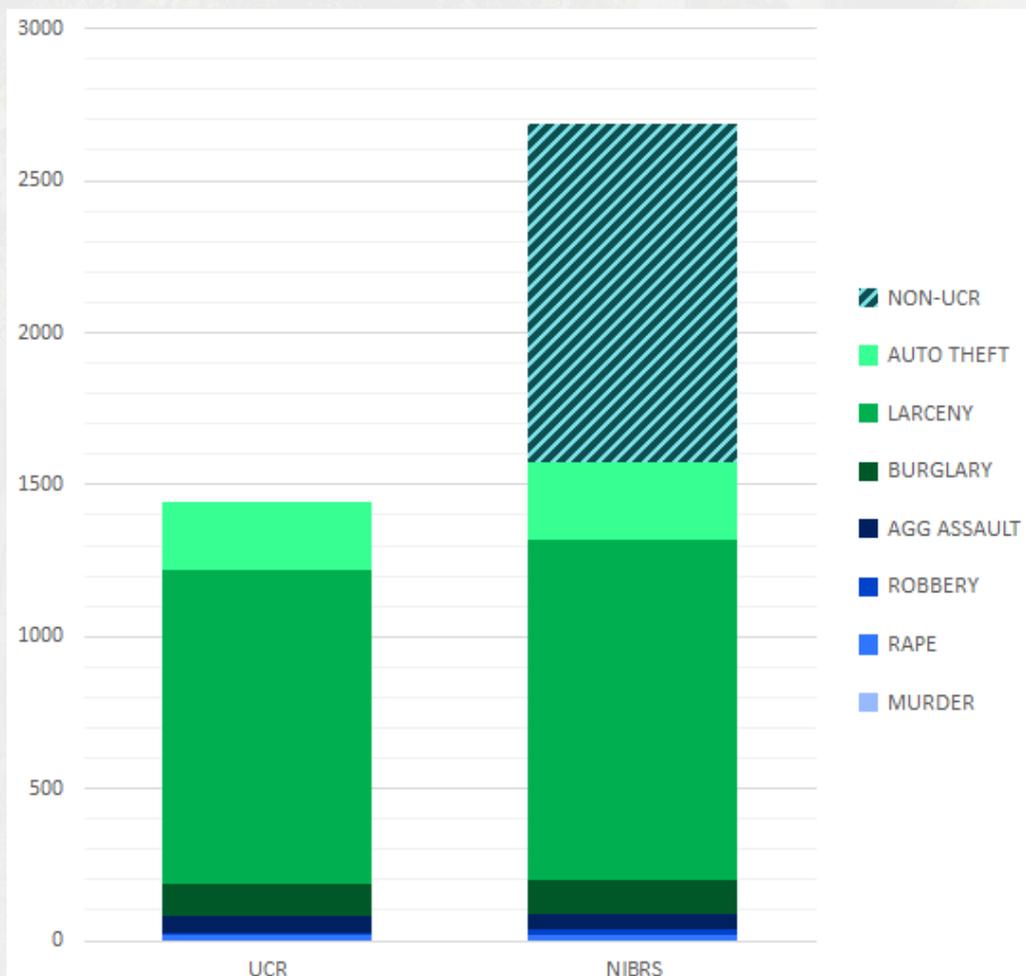
NIBRS vs UCR Comparison

Formatting Effects on Addison's Crime Rate

To demonstrate the large number of offenses now included in NIBRS, the same 2022 offense data was pulled in both the UCR and the NIBRS formats. All offenses not previously analyzed under UCR are grouped together under the label "NON-UCR."

The numbers of the traditional seven UCR Part 1 crimes are each slightly higher. NIBRS-style formatting contains both lesser-included offenses and offense types that were previously excluded. In 2022, our major crimes reported in NIBRS Group A format ended up being 1.8 times greater than the exact same data reported in UCR Part 1 format.

Addison's Total UCR Part 1 Offenses:



STATISTICAL REVIEW

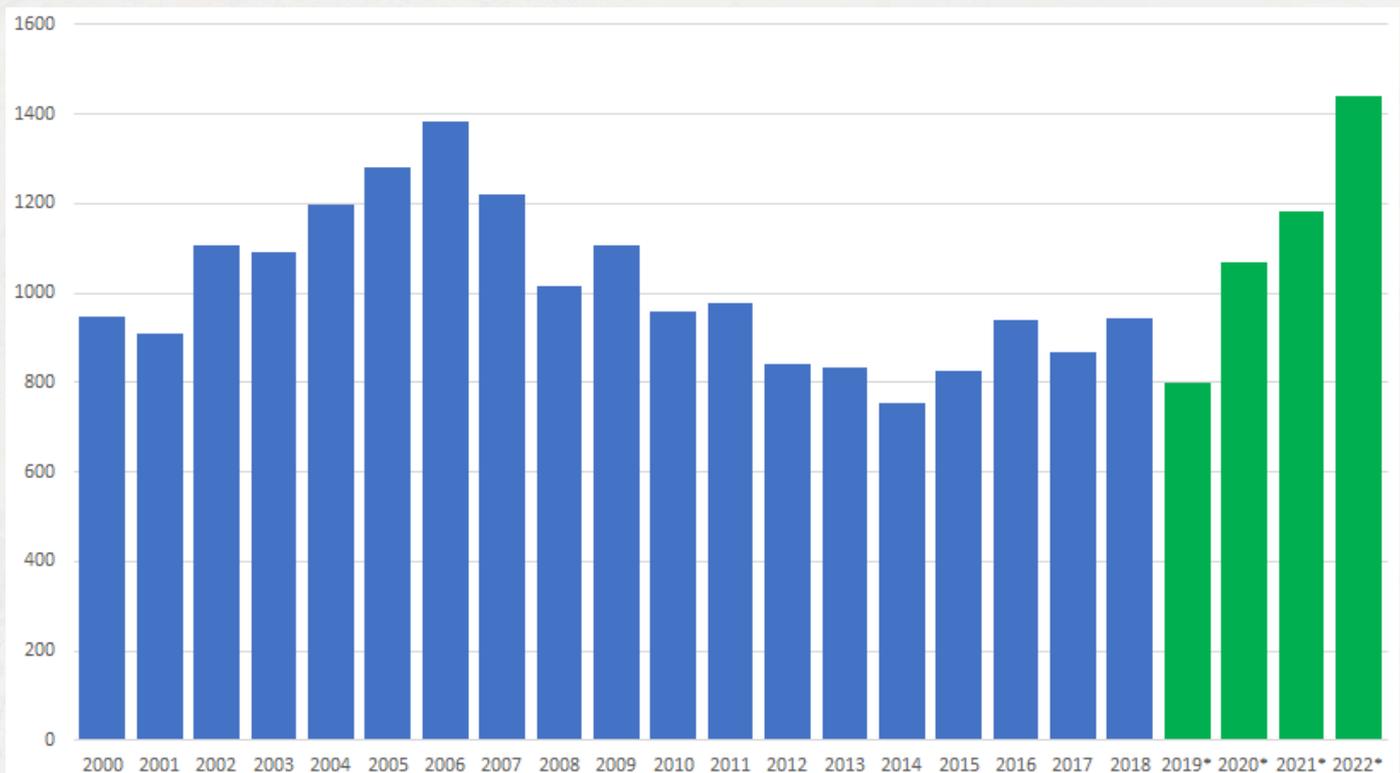
Uniform Crime Reporting (UCR)

Long-Term Crime Rate (UCR Only)

Total Part 1 Offenses:

	2018	2019*	2020*	2021*	2022*
Murder	0	1	0	3	1
Rape	13	10	9	19	15
Robbery	19	18	20	23	12
Aggravated Assault	40	51	42	53	52
Burglary	78	90	114	124	108
Larceny	706	508	671	759	1029
Auto Theft	88	121	212	203	224
TOTAL	994	799	1068	1184	1441

* 2019 - 2022 data adjusted from NIBRS format

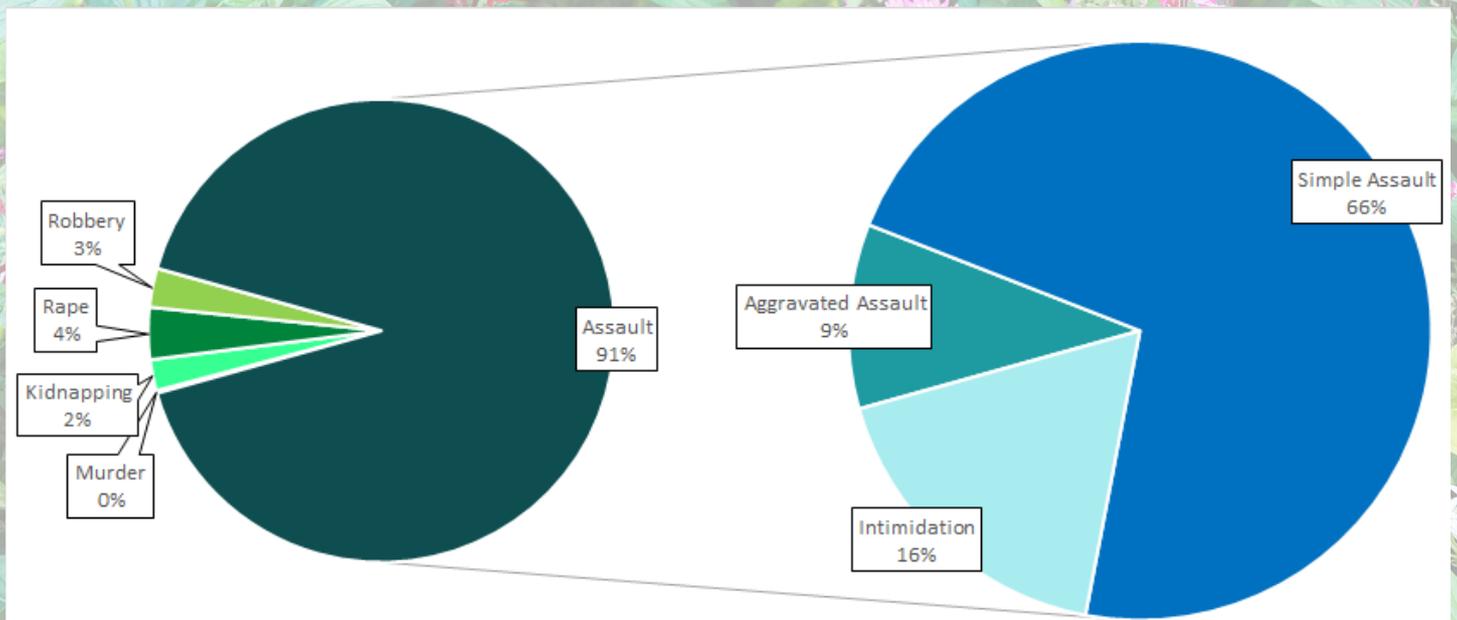


NIBRS: GROUP A OFFENSES

Crimes Against Persons

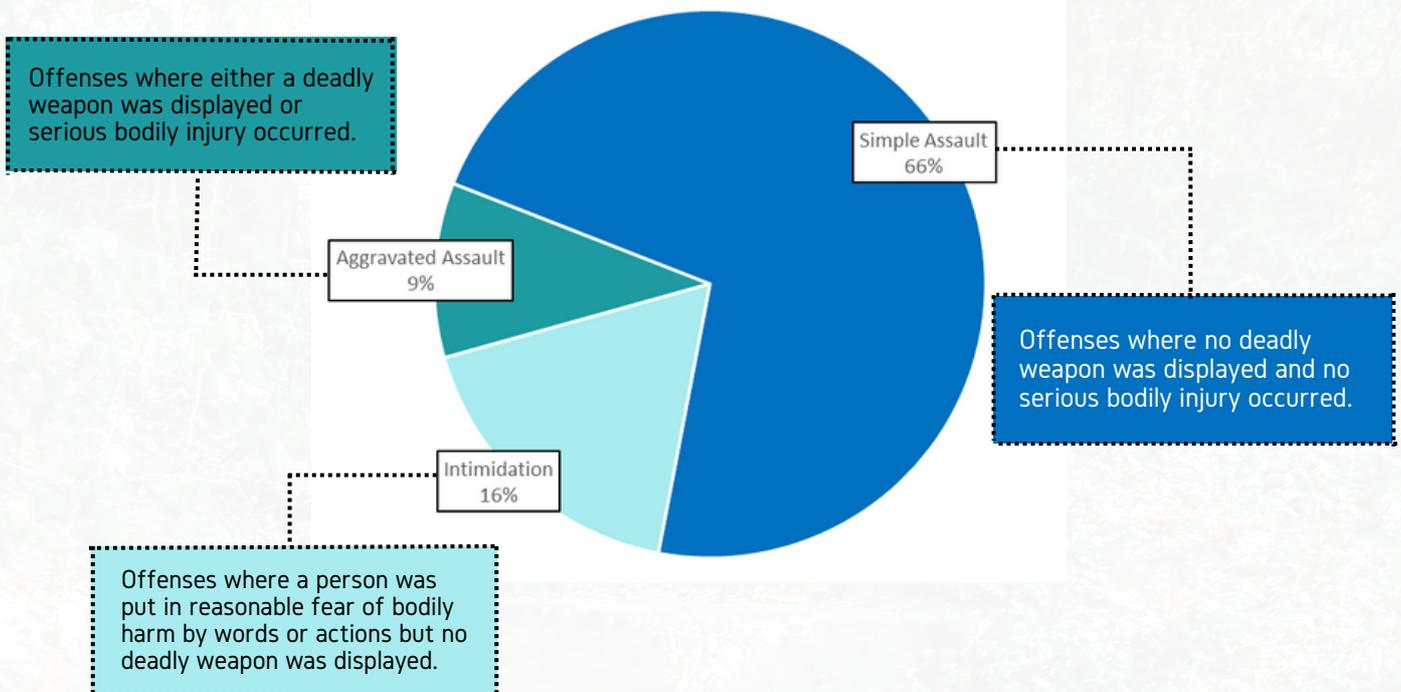
NIBRS Group	NIBRS Code Name	OFFENSES	CLEARED	CLEARED
Murder	Murder & Nonnegligent Homicide	1	1	100.0%
	Negligent Manslaughter	0	0	
	Justifiable Homicide	0	0	
Kidnapping	Kidnapping/Abduction	12	11	91.7%
Rape	Rape	15	10	66.7%
	Sodomy	1	1	100.0%
	Sexual Assault with an Object	0	0	
	Fondling	4	4	100.0%
	Incest	0	0	
	Statutory Rape	0	1	
Robbery	Robbery	15	9	60.0%
Assault	Aggravated Assault	52	30	57.7%
	Simple Assault	363	296	81.5%
	Intimidation	89	57	64.0%
Trafficking	Commercial Sex Acts	0	0	
	Involuntary Servitude	0	0	
TOTAL		552	420	76.1%

91% of Crimes Against Persons offenses reported in 2022 were assaults. The "assault" category contains these three offense levels: aggravated, simple, and intimidation. "Intimidation" includes assaults by threat, terroristic threats, and similar acts. "Kidnapping" includes unlawful restraint. See next page for details.



NIBRS: GROUP A OFFENSES

Crimes Against Persons



In 2022, most crimes against persons (53%) were committed by a family member, dating partner, or household member. Often, assault suspects are either fully known or partially known to the victim. A sample of 2022 aggravated assaults showed that 63% were family violence related, 25% of suspects were fully known to the victim, and 12% of suspects were not fully known to the victim.

Addison experienced an overall 5.5% increase in crimes against persons from 2021 to 2022. Most of this increase was due to a higher number of simple assaults; there was a 21% increase. When an outcry is made, our first priority is the victim's safety. Officers ensure this by removing the suspect or helping the victim find a safe space to stay. Officers can also apply for an emergency protective order to prevent the suspect from legally returning to the residence. During ongoing incidents, officers patrol the surrounding area actively looking for the suspect. This is a cooperative effort between multiple patrol shifts, detectives, and support personnel.

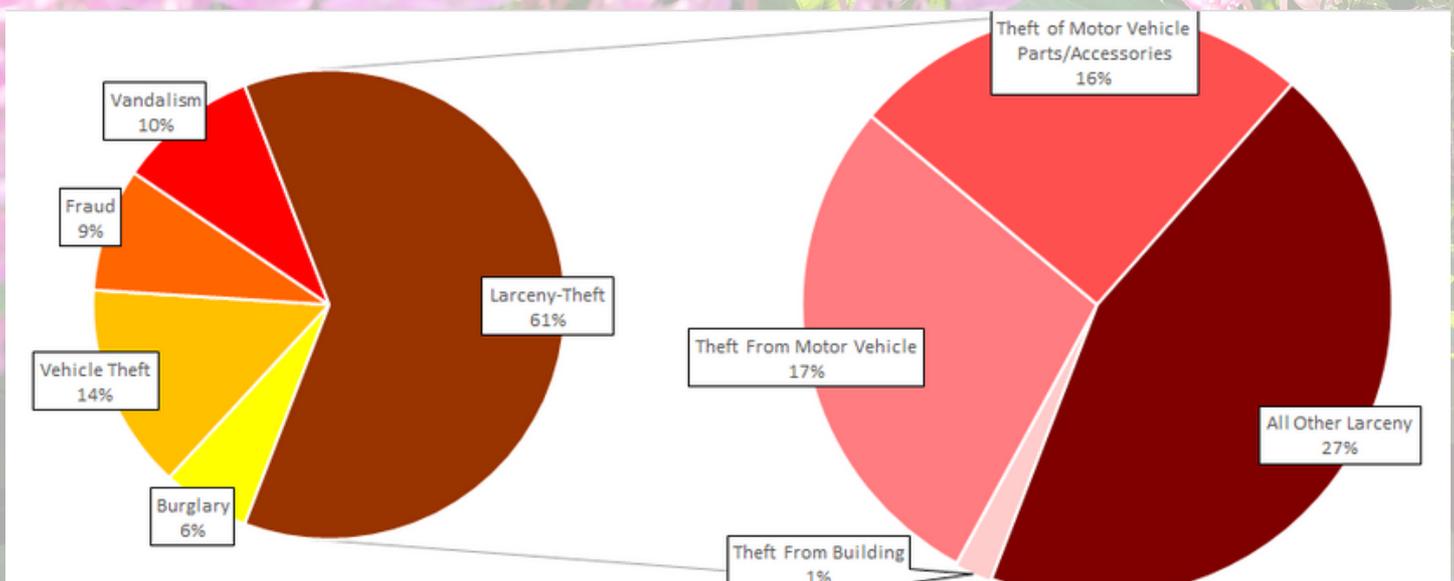
Detectives also work hard to prosecute these suspects and make sure victims have a safe place to be. Addison participates in the Victim's Compensation Fund, which is currently being expanded to help more families. Overall, Addison's crimes against persons cases have a 76.1% clearance rate.

NIBRS: GROUP A OFFENSES

Crimes Against Property

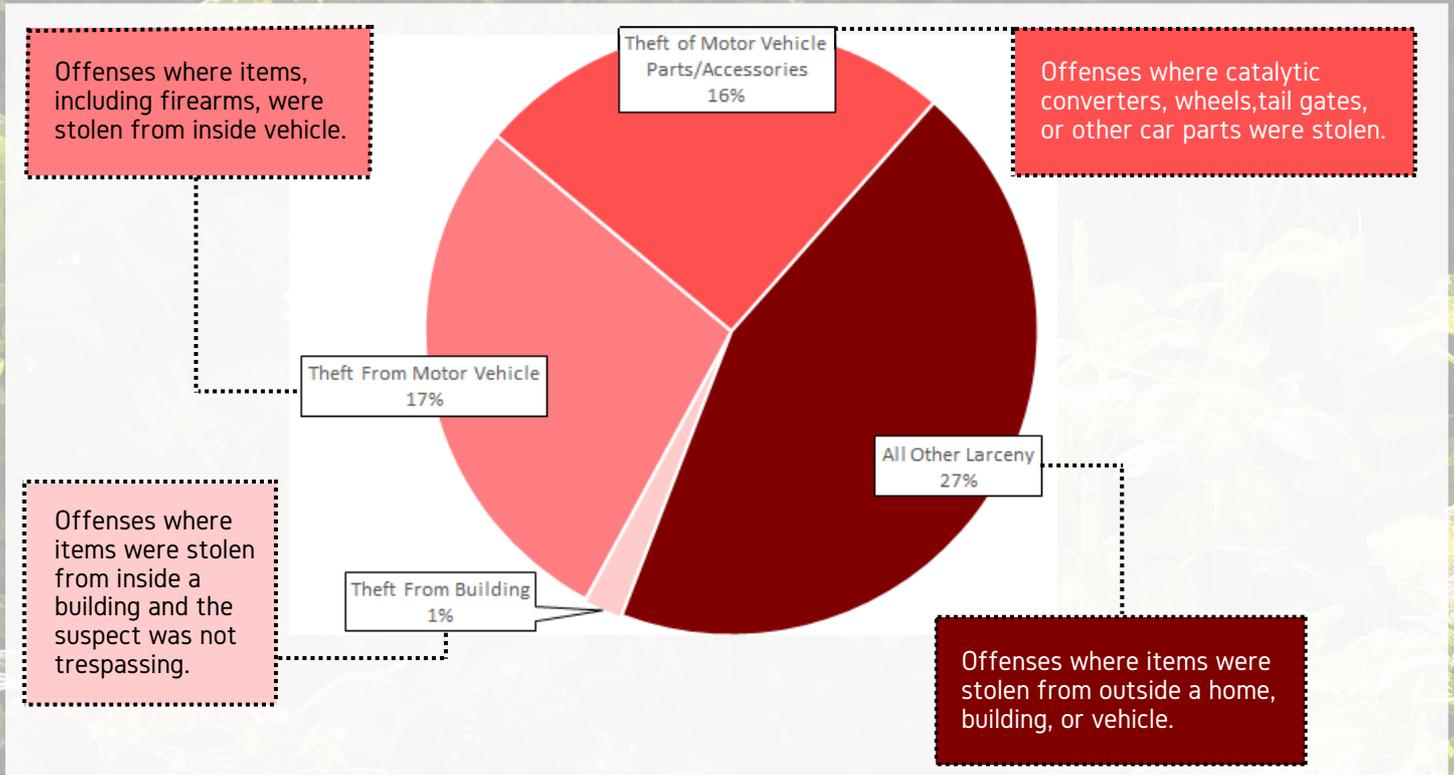
NIBRS Group	NIBRS Code Name	OFFENSES	CLEARED	CLEARED
Arson	Arson	2	0	0.0%
Burglary	Burglary/Breaking & Entering	109	27	24.8%
Vehicle Theft	Motor Vehicle Theft	256	51	19.9%
Fraud	Counterfeiting/Forgery	30	11	36.7%
	False Pretenses/Swindle/Confidence Game	37	20	54.1%
	Credit Card/Automated Teller Machine Fraud	23	8	34.8%
	Impersonation	2	0	0.0%
	Welfare Fraud	0	0	
	Wire Fraud	0	0	
	Identity Theft	62	21	33.9%
Vandalism	Destruction/Damage/Vandalism of Property	175	30	17.1%
Larceny-Theft	Pocket-picking	0	0	
	Purse-snatching	0	0	
	Shoplifting	1	0	0.0%
	Theft From Building	23	6	26.1%
	Theft from Coin Operated Machine	1	0	0.0%
	Theft From Motor Vehicle	315	13	4.1%
	Theft of Motor Vehicle Parts/Accessories	283	6	2.1%
	Embezzlement	5	1	20.0%
	Stolen Property Offenses	0	0	
	All Other Larceny	495	99	20.0%
Cybercrime	Hacking/Computer Invasion	2	0	0.0%
Coercion	Extortion/Blackmail	0	0	
	Bribery	0	0	
TOTAL		1821	293	16.1%

62% of Crimes Against Property offenses reported in 2022 were thefts. The "theft" category contains 9 specific offense types and an "all other larceny" catch-all category. Property crimes, whether in UCR or NIBRS format, have the lowest clearance rates due to lack of suspect information. See next page for details.



NIBRS: GROUP A OFFENSES

Crimes Against Property



In 2022, Addison saw an increase in catalytic converter thefts (+128%). Addison's increased theft rate is in line with the rest of the DFW region. This offense takes just a few seconds and costs the victim \$1000-3000. Likely targets include vehicles with higher ground clearance (trucks, SUVs) parked in hotels and business parking lots. Each week, personnel examine data for date/time/location trends and officers conduct directed patrols in those areas. These efforts led to several theft and burglary arrests. Addison also does community outreach meetings discussing crime prevention, recent offenses, and crime trends with the public.



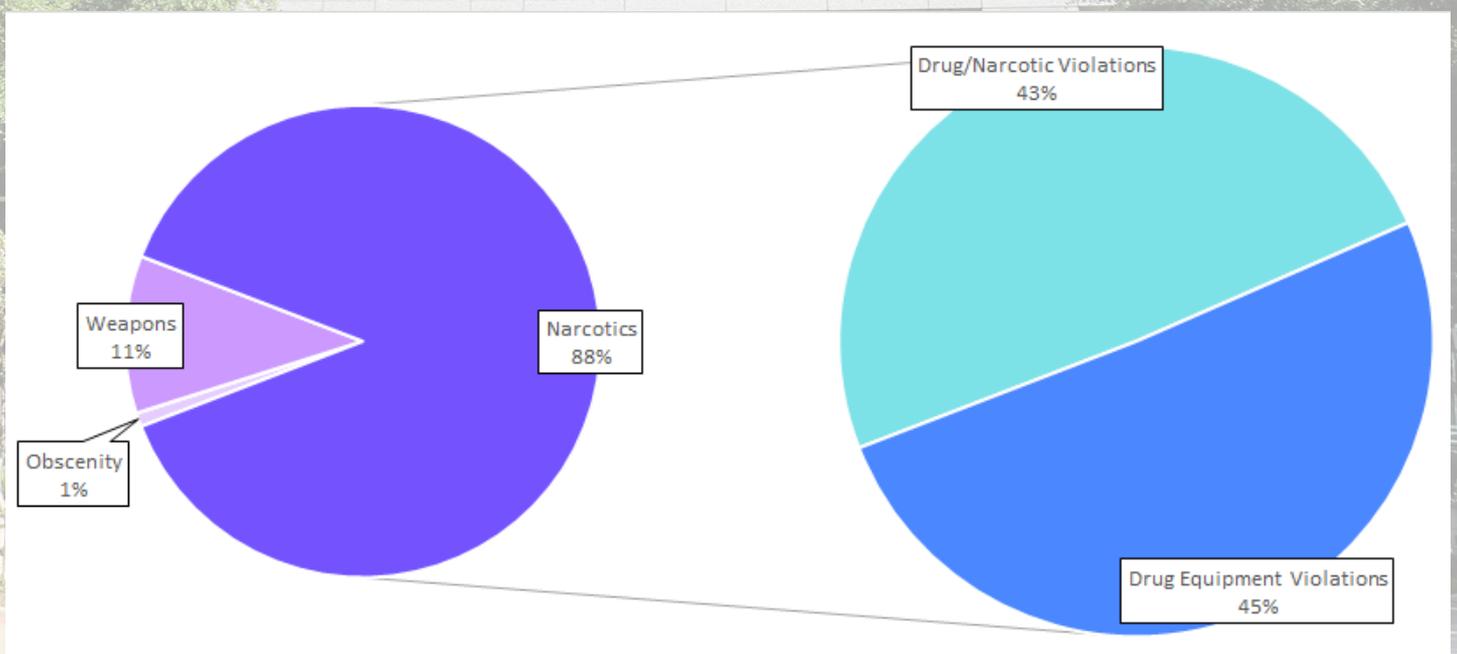
NIBRS: GROUP A OFFENSES

Crimes Against Society

NIBRS Group	NIBRS Code Name	OFFENSES	CLEARED	CLEARED
Obscenity	Prostitution	0	0	
	Assisting or Promoting Prostitution	0	0	
	Purchasing Prostitution	0	0	
	Pornography/Obscene Material	3	0	0%
Weapons	Weapon Law Violations	34	31	91%
Animal Cruelty	Animal Cruelty	0	0	
Narcotics	Drug/Narcotic Violations	137	135	99%
	Drug Equipment Violations	141	141	100%
Gambling & Tampering	Betting/Wagering	0	0	
	Operation/Promoting/Assisting Gambling	0	0	
	Gambling Equipment Violation	0	0	
	Sports Tampering	0	0	
TOTAL		315	307	97.5%

88% of the Crimes Against Society offenses reported in 2022 are drug or narcotics related. The chart on the right breaks down the "narcotics" category into the 2 types:

- Drugs/narcotics violations (possession, sales)
- Drug equipment violations (paraphernalia)



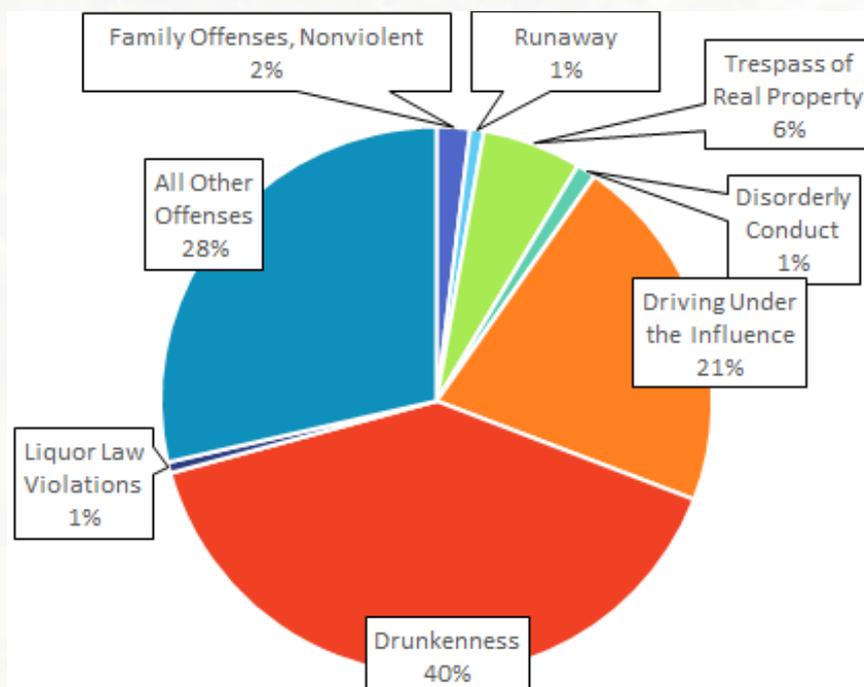
NIBRS: GROUP B OFFENSES

All Other Offenses

NIBRS Group	NIBRS Code Name	OFFENSES	CLEARED	CLEARED
Family	Family Offenses, Nonviolent	12	8	67%
	Runaway	5	5	100%
Other Theft	Bad Checks	0	0	
Public Conduct	Curfew/Loitering/Vagrancy Violations	0	0	
	Trespass of Real Property	36	29	81%
	Peeping Tom	0	0	
	Disorderly Conduct	7	5	71%
Alcohol	Driving Under the Influence	131	131	100%
	Drunkenness	247	247	100%
	Liquor Law Violations	4	4	100%
All Other	All Other Offenses	177	148	84%
TOTAL		619	577	93.2%

The total number of offenses in each NIBRS code name are represented in the pie chart below. The NIBRS code names with the largest number of reported incidents are drunkenness (public intoxication), driving under the influence (DWI), and trespass of real property (criminal trespass).

Due to the small number of offenses examined, these offenses are not grouped.



NIBRS: CRIME RATE

2021 - 2022

	NIBRS Group	NIBRS Code Name	2021	2022	% CHANGE
Crimes Against Persons	Murder	Murder & Nonnegligent Homicide	3	1	-66.7%
		Negligent Manslaughter	0	0	
		Justifiable Homicide	0	0	
	Kidnapping	Kidnapping/Abduction	11	12	9.1%
	Rape	Rape	23	15	-34.8%
		Sodomy	1	1	0.0%
		Sexual Assault with an Object	0	0	
		Fondling	8	4	-50.0%
		Incest	0	0	
		Statutory Rape	2	0	-100.0%
	Robbery	Robbery	26	15	-42.3%
	Assault	Aggravated Assault	51	52	2.0%
		Simple Assault	300	363	21.0%
		Intimidation	98	89	-9.2%
	Trafficking	Commercial Sex Acts	0	0	
Involuntary Servitude		0	0		
	TOTAL	523	552	5.5%	

	NIBRS Group	NIBRS Code Name	2021	2022	% CHANGE
Crimes Against Property	Arson	Arson	1	2	100.0%
	Burglary	Burglary/Breaking & Entering	124	109	-12.1%
	Vehicle Theft	Motor Vehicle Theft	239	256	7.1%
	Fraud	Counterfeiting/Forgery	32	30	-6.3%
		False Pretenses/Swindle/Confidence Game	21	37	76.2%
		Credit Card/Automated Teller Machine Fraud	72	23	-68.1%
		Impersonation	0	2	
		Welfare Fraud	0	0	
		Wire Fraud	0	0	
		Identity Theft	71	62	-12.7%
	Vandalism	Destruction/Damage/Vandalism of Property	175	175	0.0%
	Larceny-Theft	Pocket-picking	2	0	-100.0%
		Purse-snatching	0	0	
		Shoplifting	0	1	
		Theft From Building	19	23	21.1%
		Theft from Coin Operated Machine	1	1	0.0%
		Theft From Motor Vehicle	269	315	17.1%
		Theft of Motor Vehicle Parts/Accessories	124	283	128.2%
		Embezzlement	1	5	400.0%
		Stolen Property Offenses	0	0	
		All Other Larceny	400	495	23.8%
	Cybercrime	Hacking/Computer Invasion	2	2	0.0%
Coercion	Extortion/Blackmail	0	0		
	Bribery	0	0		
	TOTAL	1553	1821	17.3%	

	NIBRS Group	NIBRS Code Name	2021	2022	% CHANGE
Crimes Against Society	Obscenity	Prostitution	0	0	
		Assisting or Promoting Prostitution	0	0	
		Purchasing Prostitution	0	0	
		Pornography/Obscene Material	1	3	200.0%
	Weapons	Weapon Law Violations	53	34	-35.8%
	Animal Cruelty	Animal Cruelty	2	0	-100.0%
	Narcotics	Drug/Narcotic Violations	152	137	-9.9%
		Drug Equipment Violations	151	141	-6.6%
	Gambling /Tampering	Betting/Wagering	0	0	
		Operation/Promoting/Assisting Gambling	0	0	
		Gambling Equipment Violation	0	0	
		Sports Tampering	0	0	
		TOTAL	359	315	-12.3%

NIBRS: CRIME RATE

2021 - 2022

	NIBRS Group	2021	2022	% CHANGE
Crimes Against Persons	Murder	3	1	-66.7%
	Kidnapping	11	12	9.1%
	Rape	34	20	-41.2%
	Robbery	26	15	-42.3%
	Assault	449	504	12.2%
	Trafficking	0	0	
	TOTAL	523	552	5.5%

In 2022, there were fewer felony crimes against persons offenses reported to Addison. Most offenses in these categories were assaults, and of those, most were simple assaults. Our personnel will continue to prosecute these crimes and work with victims to ensure the best outcomes possible.

	NIBRS Group	2021	2022	% CHANGE
Crimes Against Property	Arson	1	2	100.0%
	Burglary	124	109	-12.1%
	Vehicle Theft	239	256	7.1%
	Fraud	196	154	-21.4%
	Vandalism	175	175	0.0%
	Larceny-Theft	816	1123	37.6%
	Cybercrime	2	2	0.0%
	Coercion	0	0	
	TOTAL	1553	1821	17.3%

Our largest crime rate increase in 2022 was for property crime. The majority of these offenses were committed under opportunistic, low risk circumstances such as forgotten wallets, unlocked vehicles, or valuables left in plain sight. Common targets include work laptop bags, backpacks, and purses left visible in restaurant or bar parking lots. Our detectives work hard to find video footage and evidence when possible.

Officers and detectives have arrested multiple thieves in both groups this year, most of which are known to Addison or surrounding agencies as repeat offenders. The intelligence shared by our agency has solved dozens of offenses in other cities. These cities have also helped us link their suspects to our offenses.

NIBRS: CRIME RATE

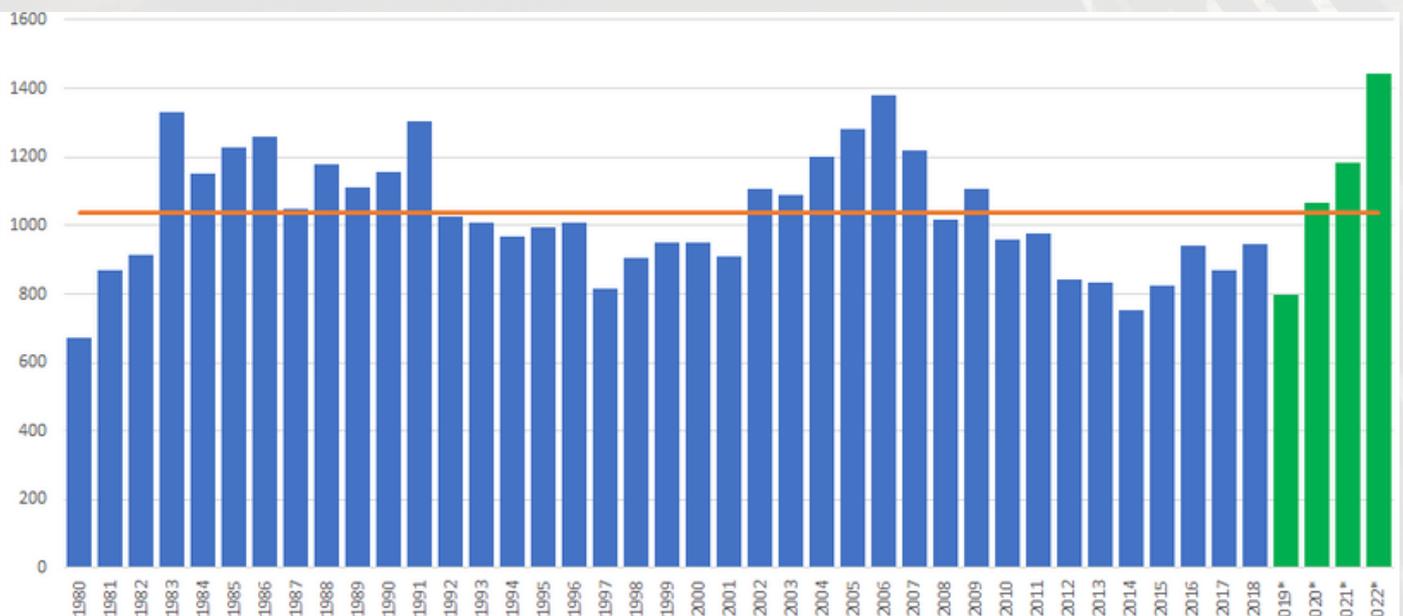
2021 - 2022



NIBRS	2021	2022	% CHANGE
Group B Offenses	619	619	0.0%
Persons Crimes	523	552	5.5%
Property Crimes	1553	1821	17.3%
Society Crimes	359	315	-12.3%
Total	3054	3307	8.3%

Historic UCR data shows crime rates are a cycle that includes a 7-9 year gradual increase followed by similar 7-9 year gradual decrease. Please see below for UCR offense totals over the history of our town.

Addison's Total UCR Part 1 Offenses:



2022 Achievements

Addison Police Department



In 2022, the Addison Police Department completed reaccreditation as a Texas Police Chief's Association Best Practices Agency.

Addison was one of the first agencies to participate in this program, which began in 2006. Since then, Addison has applied for and received accreditation five times.

Addison complies with 170 policies designed to protect individuals' rights, provide thorough service to the public, ensure proper incident documentation, and use safe training practices.



Certificate of Merit: Officers Womer, Sidwell, McDuffie, and Meraz (pictured, left)

Metrocrest First Responder of the Year: Motor Team Lead Chambers (pictured, right)

Life Saving Awards: Detective Schmidt

Mothers Against Drunk Driving Commitment Hero Award: Officers McDuffie and Wallace

ILEA Police Supervisor School Graduation: Sergeant Aller

2022 Achievements

Addison Police Personnel



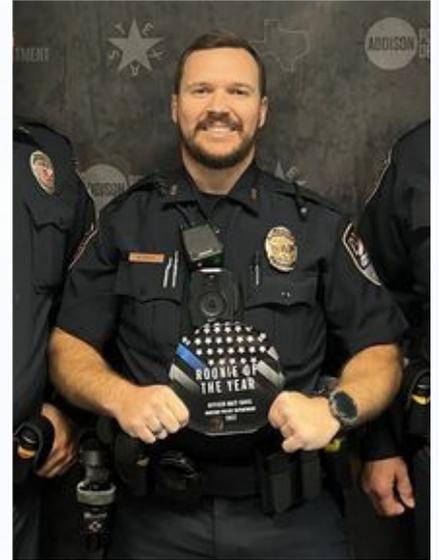
Supervisor of the Year:
Utley

- Days A Supervisor
- Years of Service: 12



Officer of the Year:
Chambers

- Motor Unit Team Leader
- Years of Service: 17



Rookie of the Year:
Davis

- Nights A Officer
- Years of Service: 3



Detective of the Year:
Miller

- CAPERS Detective
- Years of Service: 14



Civilian of the Year:
Morgan

- Records Supervisor
- Years of Service: 19



K-9 of the Year:
Utah

- Deployments: 30
- Years of Service: 3

Online Resources

Crime Maps, Emailed Alerts, And More

<https://communitycrimemap.com>

Very similar to Google Maps, this website plots a variety of crimes on a map so citizens can see what offenses are occurring in surrounding neighborhoods, in prospective towns, or across the United States.

- Date Range: Select a time frame of data.
- Event: Choose which offenses to view.
- Offenders: See where sexual offenders reside.
- Density Map: Create Heat Maps to see concentrations of offenses.
- Agency Layers: Pick which police agency's reported offenses to view.

If you click "Sign up for crime alerts" at the top right of the screen you can subscribe to an email summary of crimes occurring within a certain distance of your address.

Customizable fields include distance radius, frequency of emails (daily, weekly, or monthly), and crime types. You can even specify the time you would like to receive your email summary.



www.addisontx.net

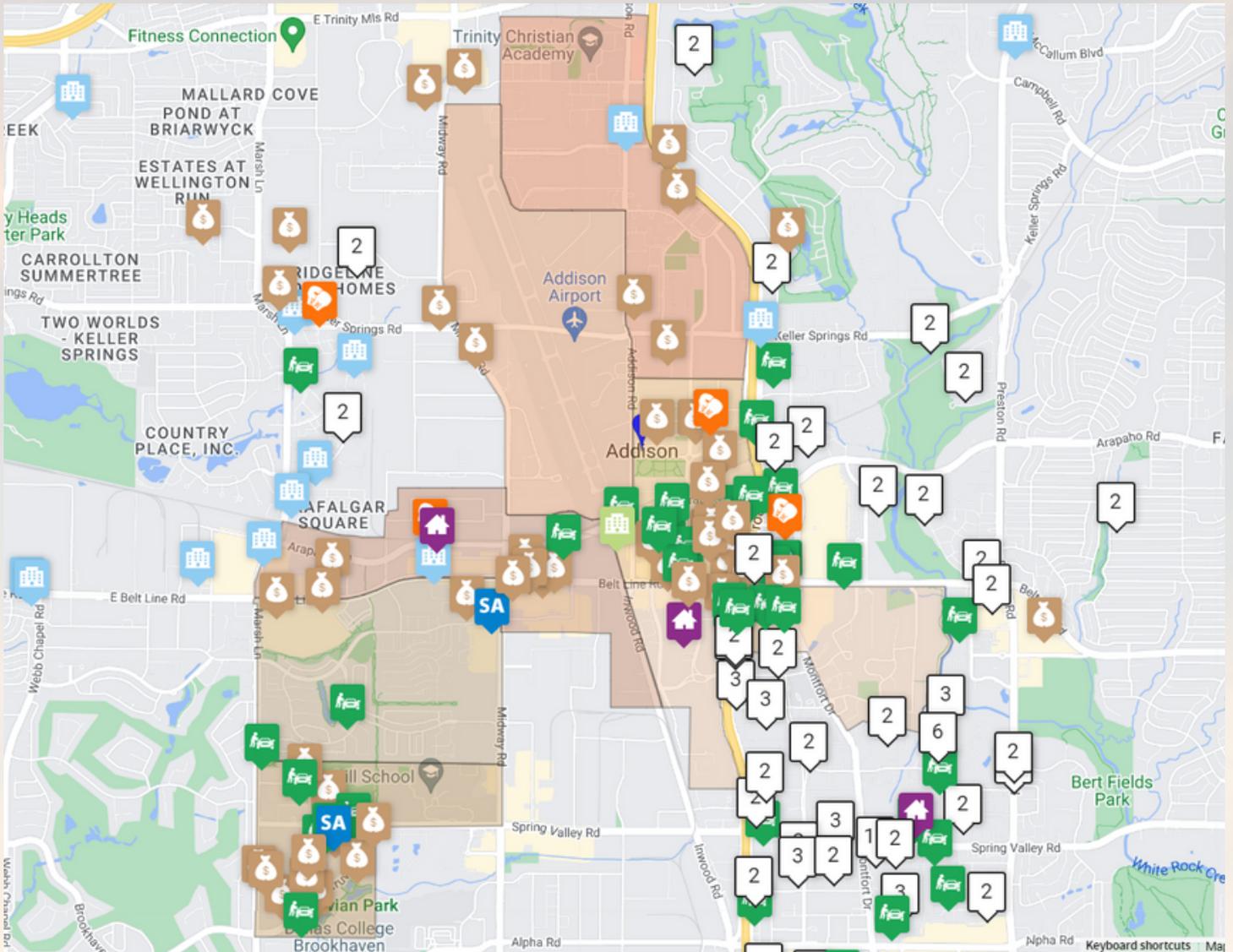
www.facebook.com/townofaddison/

www.facebook.com/townofaddisonpolicedepartment/

www.facebook.com/townofaddisonanimalcontrol/

Online Resources

Crime Maps, Emailed Alerts, And More



LexisNexis Community Crime Maps shows police call and report data so that citizens can see what offenses are happening in the town, other cities, or across the United States. Addison submits crime data for public viewing with the goal of transparency. Addison has been contributing to this database since 2015. Reports and calls are pulled, organized, and automatically uploaded every 24 hours. Community Crime Maps offers a viewing portal and several options including email subscriptions, customizable searches, and police beat layers.

Several of our neighbors, including Dallas, Carrollton, Coppell, and Irving, also upload at least partial report and call information. Addison aims for full reporting but does choose to withhold sensitive information, including juvenile offenses, assaults against police officers, and medical reports, out of respect for victim privacy.

While this data show a great bird's-eye view, this information is not and was never intended to represent every incident's final outcome. Call and report types are not updated as the nature changes, no lesser-included offenses are shown, and no clearances are available. The map only tells part of the story, as there are many stages where a supervisor, detective, prosecutor, or grand jury could alter the case's outcome.



April 3, 2023

Mr. David Gaines,

Reference: 2022 Annual Report Addendum, License Plate Recognition and Optical Camera Audits

Background

Based on Council direction to explore technologies assisting Addison's public safety efforts, the police department identified two key programs: License Plate Recognition (LPR) and optical cameras.

The Addison Police Department receives most of its calls for service out of the business community. On a busy day, or night, our officers may not be able to spend the time within our residential areas that many of our citizens expect or desire. Not being able to meet that expectation may lead some residents to perceive a lack of safety within their neighborhoods. Envisioned to be a force multiplier for the police department, this system will assist them in keeping the community safe. This will happen two ways. First, by alerting Addison Police when a criminal enters an area protected by the system. Second, providing valuable forensic evidence should a crime occur.

Town of Addison Public Safety Data Management Policy

Policy Statement: These principles will act as policy guidelines for the police department as they develop and implement their standard operating procedures. Transparency and accountability for these systems are incredibly important and at the forefront of all our decision-making processes. Cooperation between law enforcement and the community it serves is the key to any program's success. These policy guidelines serve that purpose. Giving clear direction and boundaries, from the community, regarding how the police department will manage data collected via license plate recognition and optical cameras.

It shall be the policy of the Town of Addison that the data collected by License Plate Recognition and Optical Camera technologies be managed according to the following principles:

1. License Plate Recognition systems will be used by the police department for legitimate law enforcement purposes only. Investigating circumstances in which law enforcement officers reasonably believe that the plate data is relevant to an ongoing criminal investigation.
2. Unless plate data has been flagged, retention periods should be measured in days and weeks, not months and years. The Town will not store data about innocent people for more than 45 days and will only keep flagged data when it is necessary for legitimate law enforcement investigative purposes.
3. Citizens will be able to find out if plate data of vehicles registered to them are contained in the data base used by the police department.

POLICE

4799 Airport Parkway
Addison, TX 75001

phone: 972.450.7156
fax: 972.450.7183

ADDISONTXAS.NET

IT ALL COMES
TOGETHER.



4. The Town will not share plate data with non-law enforcement, third parties. The Town will comply with the Texas DPS License Plate Recognition Depository program and abide by their rules.
5. The police department will report data usage publicly and on an annual basis.
6. The Town will not collect personally identifiable information.

Audits

Since the LPR system went live on April 12, 2019, the Addison Police Department's License Plate Recognition and Optical Camera system has operated according to Council's policy direction. The APD's internal policy and procedures, that are aligned with Council adopted policies, are being followed. The following internal and external audits were conducted, and the activities were found to be in line with adopted policies and procedures:

Audit Period January 2021-2022

1. *Agency Data Sharing:* The Addison Police Department is not sharing our LPR data with any third-party entities. We are currently participating, as required, with Texas DPS and their data collection program.
2. *User Permissions:* Audit conducted and verified access only allowed to supervisors and Criminal Investigative section personnel per the Chief of Police.
3. *Log-in Tracking:* Audit conducted, and no unauthorized access detected.
4. *Search Queries:* Audit conducted to ensure queries are for legitimate law enforcement purposes only; no discrepancies detected.
5. *Records Viewed:* Audit conducted to ensure viewed records are for legitimate law enforcement purposes; no discrepancies detected.
6. *Camera Status:* Audit confirmed all cameras are online and functioning without errors. Our vendor also confirmed, to date, there has not been any reported physical or electronic breaches of the enclosures since the time of installation.

Respectfully Submitted,

Paul Spencer
Chief of Police

POLICE

4799 Airport Parkway
Addison, TX 75001

phone: 972.450.7156
fax: 972.450.7183

ADDISONTEXAS.NET

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TOGETHER.

Council Meeting 2023

3.

Meeting Date: 04/11/2023

Department: Finance

Pillars: Gold Standard in Financial Health

Milestones: Continue development and implementation of Long Term Financial Plan

AGENDA CAPTION:

Present and Discuss **Mayor and City Council Compensation**.

BACKGROUND:

Compensation for the Mayor and City Council can be found in Article II, Section 2-31 of the Town's code of ordinances. Currently, the Mayor is paid \$200 on a bi-weekly basis, or \$5,200 annually, while City Councilmembers are paid \$100 on a bi-weekly basis, or \$2,600 annually. This section of the code of ordinances was last updated on April 9, 2002.

RECOMMENDATION:

Staff seeks Council direction.

Attachments

Presentation - Council/Mayor Compensation

City Council and Mayor Compensation

The logo for the City of Addison, featuring the word "ADDISON" in blue, uppercase, sans-serif font centered within 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 diagonal white lines and a grey triangle in the top right corner.

ADDISON

Article II, Section 2-31 Code of Ordinances

Compensation shall be in accordance with the following schedule:

A blue rectangular button with a white arrow icon pointing up and to the right, followed by the word "EXPAND" in white capital letters.

Mayor	\$200.00 per bi-weekly pay period
	(\$200.00 × 26 = \$5,200 per year)
Councilmembers:	\$100.00 per bi-weekly pay period
	(\$100.00 × 26 = \$2,600 per year)

(Ord. No. 099-008, § 2, 3-9-99; Ord. No. 002-012, § 2, 4-9-02)

Council Meeting 2023

4.

Meeting Date: 04/11/2023

Department: City Secretary

AGENDA CAPTION:

Consider Action on the Minutes from the March 28, 2023 City Council Meeting.

BACKGROUND:

The minutes for the March 28, 2023 City Council Meeting have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - March 28, 2023

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

March 28, 2023

Addison Treehouse
14681 Midway Road, Suite 200, Addison, TX 75001
6:00 p.m. Executive Session & Work Session
7:30 Regular Meeting

Present: Mayor Joe Chow; Deputy Mayor Pro-Tempore Lori Ward; Council Member Tom Braun; Council Member Darren Gardner; Council Member Guillermo Quintanilla; Council Member Eileen Resnik

Live Stream: Mayor Pro-Tempore Kathryn Wheeler

Call Meeting to Order: Mayor Chow called the meeting to order at 6:00 PM.

Pledge of Allegiance: Mayor Chow lead the Pledge of Allegiance.

EXECUTIVE SESSION

Closed (Executive) Session of the Addison City Council pursuant to authorization contained in Texas Government Code as follows:

- *Section 551.087(1)*. Deliberation Regarding Economic Development Negotiations - to discuss commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, state, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations.
 - Transit Oriented Development (TOD) Project

Mayor Chow closed the regular session at 6:02 PM to convene the City Council into Closed Executive Session.

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

Mayor Chow reconvened the City Council into regular open session at 6:44 PM. No action taken as a result of Closed Executive Session.

WORK SESSION

1. **Present and Discuss a Status Update on the Unified Development Code Project.** *[Ken Schmidt, Development Services Director]*

This work session item was presented at the request of Mayor Pro Tempore Wheeler and Council Member Resnik. The purpose of this item is to provide a status update on the Unified Development Code (UDC) project. Proposed schedule and completion of project:

NUMBER	PROJECT TITLE	TASKS	COMPLETION DATE(S)
1	Project Orientation	<ul style="list-style-type: none"> • Background Research • Project Orientation Meeting & Tour • Initial Advisory Committee Meeting 	Complete Complete Complete
2	Assessment	<ul style="list-style-type: none"> • Draft Assessment 	Complete
3	Prepare Draft UDC	<ul style="list-style-type: none"> • Part 1: Districts & Uses • Part 2: Development & Design Standards • Part 3: Administration & Procedures • Part 4: Signs • Consolidated Draft • Adoption Draft 	Complete Complete March – July 2023 April – July 2023 August – November 2023 August – November 2023
4	Adoption	<ul style="list-style-type: none"> • Executive Summary • Public Meetings • Final UDC 	December 2023 – February 2024

No action taken. Information only of this ongoing program.

2. **Present and Discuss the Results of Phase II of the Facilities Utilization Study.** *[Hamid Khaleghipour, Executive Director of Business Performance and Innovation;]*

Erica Bish, TSK Architecture, updated the City Council. In January of 2022 the Town of Addison hired MPI to study the utilization of Town facilities, and to make recommendations for the efficient use of existing facilities, as well as alternates including consolidation. Due to the continued growth in population, increased business density along Dallas North Tollway and Belt Line Road, increased tourism and activities; and with daily Addison visitors estimated to be 150,000 people, the town is concerned if current facilities will continue to serve the citizens and public well.

Review, updates and recommendations included: (1) analysis of the existing facilities utilization; (2) recommendations for repurposing existing facilities; (3) suggestions for improving delivery of city services to the community; (4) improvement of functional department adjacencies and efficiencies; (5) implementation of a covid & global health response protocol; and (6)

recommendations for a strategic location of city services in a central facility or adjacent facility. No action taken. Information only for this ongoing program.

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.*

The following individuals addressed the City Council: Ryan Barnett, 3030 N. Josey Lane, Suite 150, Carrollton, TX.; and Jason Hoar, 900 Westbrook Drive, Plano - Opposed to Town's prohibition of Cannabis/Hemp being sold at Reggae Festival. Requested reconsideration of policy.

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.*

3. **Consider Action on the Minutes from the March 14, 2023 City Council Meeting.**
 4. **Consider Action on a Resolution Approving a Contract Services Agreement with Mike Sandone Productions for Tent Rentals and Services for Addison Special Events and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$258,235.**
 5. **Consider Action on a Resolution Approving a Contract Services Agreement with Big D Party Rentals for Furniture Rentals and Services for Addison Special Events and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$89,617.06.**
 6. **Consider Action on a Resolution Approving an Entertainment Agreement Between the Town of Addison and BLG Touring, Inc. to Provide Entertainment at the Taste Addison Event and Authorizing the City Manager to Execute the Agreement in the Amount Not to Exceed \$55,000.**
 7. **Consider Action on a Resolution Approving a Purchase Order with Affiliated Communications Inc. for the Purchase and Installation of New Telephone System**
-

Equipment and Authorizing the City Manager to Execute the Purchase Order in an Amount Not to Exceed \$128,204.28.

8. **Consider Action on a Resolution Approving an Agreement Between the Town of Addison and Felix Construction Company for the Surveyor Pump Station Electrical Improvements and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$620,100.**
9. **Consider Action on an Ordinance Approving a Developer Participation Agreement with Sky Squared, LLC for the Construction of Certain Public Improvements within Addison Airport to a Portion of the Airport Vehicle Service Road along Taxiway Alpha; Providing for the Town's Participation in the Costs of the Improvements in Conformance with Chapter 212 of the Texas Local Government Code; and, Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$314,985.**
10. **Consider Action on a Resolution Approving an Agreement Between the Town of Addison, Texas and Lynndom Holdings, LLC dba TriVAN Roofing for Roof Restoration Work at 4581 Claire Chennault Drive and 4551 Glenn Curtiss Drive at Addison Airport and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$170,170.**

MOTION: Deputy Mayor Pro-Tempore Ward moved to adopt CONSENT AGENDA Items 3-10 as presented. Council Member Resnik seconded the motion. Motion carried.

Resolution No. R23-026: Agreement Mike Sandone Productions -Tent Rentals Special Events

Resolution No. R23-027: Agreement Big D Party Rentals – Furniture Special Events

Resolution No. R23-028: Agreement BLG Touring, Inc. – Entertainment Special Events

Resolution No. R23-029: Purchase/Installation phone system, Affiliated Communications, Inc.

Resolution No. R23-030: Agreement Felix Construction Co., Surveyor Pump Station Electrical

Resolution No. R23-031: Agreement Lynndom Holdings, LLC dba TriVAN Roofing, 4581 Claire Chennault Dr/4551 Glen Curtiss Drive

Ordinance No. O23-17: Developer Participation Agreement Sky Squared, LLC

Regular Items

11. **Present, Discuss, and Consider Action on a Resolution Approving the Installation of a Public Art Piece Created by Artist Pascale Pryor to be Located at the Vitruvian Park Amphitheatre.** *[Janna Tidwell, Park & Recreation Director]*

Addison Arbor Foundation President Dr. Jay Ihrig and Vice President Barbara Papas presented the artist concept of a new public art sculpture consisting of five (5) glass and steel fish to be located in Vitruvian Park at the amphitheater.

The Addison Arbor Foundation (AAF) is a 501(c)(3) nonprofit organization with a mission to promote and enhance landscaping, public art, public parks and parks and recreation programs for the Town of Addison.



MOTION: Council Member Resnik moved to approve artwork and location as presented. Council Member Braun seconded the motion. Motion carried unanimously.

Resolution No. R23-032: Vitruvian Park Amphitheatre Public Art by Artist Pascale Pryor

12. **Present, Discuss, and Consider Action on an Ordinance Granting a Meritorious Exception to Chapter 62 of the Code of Ordinances for Sweetgreen and Postino, Located at 5280 Belt Line Road, to Allow the Conversion of an Existing Single-Tenant Detached Pole Sign to a Multi-Tenant Detached Pole Sign by Allowing a Reduction of the Required Height, Effective Area, Sign Cabinet Dimensions, Sign Supports, and Setbacks for a Multi-Tenant Detached Pole Sign. (Case MR2023-1/5280 Belt Line Road - Sweetgreen/Postino).** [Lesley Nyp, Planning & Development Manager]

Sweetgreen and Postino are two new restaurants, located at the southwest corner of Belt Line Road and Montfort Drive. Sweetgreen is nearing completion, while Postino is still under construction. It was determined during the sign permit review process that the request did not comply with the Town's sign code. The property owner, Northwood Development Group, is requesting a Meritorious Exception to the Town's Sign Ordinance in order to utilize an existing pole sign on site for the new restaurants.

The existing pole sign is defined as a detached sign by the Town's Sign Ordinance. The sign was initially designed and constructed for a single-tenant pole sign and the property owner is requesting to convert it to a multi-tenant pole sign. A multi-tenant pole sign must be 20 feet in height and have an effective area of 72 square feet, with the prescribed sign cabinet dimensions of 6'-10" wide by 11'-6" high by 12" deep, with dual sign supports. Additionally, the setback requirement is 20 feet from the adjacent right-of-way curbs.

The request includes a reduction of the sign height to 17 feet, a reduction of the overall effective area to 33 square feet, and a reduction of the overall sign cabinet dimensions to 6'-0" wide by 5'-6" high by 12" deep. The sign would utilize the existing single masonry wrapped support, rather than the required dual supports. The existing sign does not meet the required 20-foot setback and the following exceptions are also requested to allow an 8'-6" setback from the curb of Belt Line Road and a 14'-7" setback from the curb of Montfort Drive.

The applicant is pursuing a Meritorious Exception to the sign ordinance based on the following code provision:

Code of Ordinances, Chapter 62 (Signs)

Section 62-33 Meritorious Exceptions

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

Staff believes that the hardship criteria of the Meritorious Exception requirement is met for the existing detached pole sign. The detached pole sign has existed on site since the 1980s and has served as a single-tenant sign for several restaurants that have occupied the site. In May 2022, City Council approved a Special Use Permit (SUP) to allow the division of the building for two new restaurant concepts, while generally retaining the overall site layout. The applicant is requesting to utilize the existing sign as a multi-tenant sign without modifications to the height, effective area, cabinet dimensions, or setbacks. Strict compliance of the sign ordinance would require the property owner to construct a new, larger sign, that would interfere with other existing site improvements including parking and emergency access.

MOTION: Council Member Braun moved to approve Meritorious Exception to Allow the Conversion of an Existing Single-Tenant Detached Pole Sign to a Multi-Tenant Detached Pole Sign Case MR2023-1/5280 Belt Line Road - Sweetgreen/Postino as presented. Council Member Quintanilla seconded the motion. Motion carried unanimously.

Ordinance No. O23-18: Case MR12023-1/5280 Belt Line Road, Sweetgreen/Postino

13. **Present, Discuss, and Consider Action on an Ordinance Granting a Meritorious Exception to Chapter 62 of the Code of Ordinances for Zoli's NY Pizza, Located at 14910 Midway Road, to Exceed the Maximum Permitted Letter/Logo Height for an Attached Sign. (Case MR2023-02/14910 Midway Road - Zoli's NY Pizza).** [Lesley Nyp, Planning & Development Manager]

Zoli's NY Pizza is an existing restaurant, located at 14910 Midway Road. The business has been operating since 2017. The applicant contacted staff to request new signage and staff determined that the proposed new sign did not comply with the Town's sign ordinance. The proposed sign is 36 inches tall and 180 inches long, with an effective sign area of 45 square feet. The bottom of the sign will be situated appropriately 20 feet above grade. The sign letters are 30 inches tall, and the logo is 36 inches tall. The sign includes the business name and logo and will be internally illuminated with white LED lights. The applicant is seeking a meritorious exception to allow the proposed sign to exceed the maximum permitted letter/logo height. Per the Sign Code, the maximum permitted letter/logo height is 16 inches, with up to 50 percent of the sign letters permitted to be up to 25 percent taller, achieving a maximum height of 20 inches. The proposed 36-inch-tall sign exceed the maximum height requirement by 16 inches.

The applicant is pursuing a Meritorious Exception to the sign ordinance based on the following code provision:

Code of Ordinances, Chapter 62 (Signs)

Section 62-33 Meritorious Exceptions

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

Zoli's ownership has shared their belief that the Midway Road Revitalization Project has created a hardship for their business. While major roadway projects do impact adjacent businesses and residents, infrastructure maintenance is an essential duty of municipalities. More appropriate justification for a hardship related to this request is its location as the southernmost Addison property at the east frontage of Midway Road. As you traverse further south in the corridor you see much larger, more visible signage on Farmers Branch properties, which makes the current sign on the Zoli's west facade appear poorly scaled and out of character with the eastern frontage of the Midway corridor. The proposed sign is appropriately scaled for the building and the corridor and will provide additional visibility from Midway Road.

MOTION: Deputy Mayor Pro-Tempore Ward moved to approve Meritorious Exception to for Zoli's NY Pizza, located at 14910 Midway Road, to Exceed the Maximum Permitted Letter/Logo Height for an Attached Sign. (Case MR2023-02/14910 Midway Road - Zoli's NY Pizza) as presented. Council Member Gardner seconded the motion. Motion carried unanimously.

Ordinance No. O23-19: Approve Meritorious Exception Case MR2023-02/14910 Midway Road - Zoli's NY Pizza.

Adjourn Meeting

There being no further business to come before the City Council, Mayor Chow adjourned the meeting at 8:32 PM.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma G. Parker, City Secretary

Council Meeting 2023

5.

Meeting Date: 04/11/2023

Department: Infrastructure- Development Services

AGENDA CAPTION:

Consider Action on a **Resolution Approving a Settlement Agreement of Midway Road Improvements Litigation; and Authorizing the Conveyance of Certain Public Real Property and Authorizing the City Manager to Execute the Settlement Agreement.**

BACKGROUND:

The purpose of this item is to provide the final approval of the settlement agreement for the right of way eminent domain proceeding with Piedmont Partners on the property that is currently occupied by Nate's Seafood and Steakhouse located at 14951 Midway Rd.

As part of the settlement Agreement, the Town will convey a portion (Approximately 23,522 sf) of the land directly adjacent to the Piedmont property that was donated to the Town by the InTown developer.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Piedmont Settlement

Piedmont Settlement Agreement

RESOLUTION NO. R23-_____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, AUTHORIZING THE SETTLEMENT OF MIDWAY ROAD IMPROVEMENT PROJECT LITIGATION; AND AUTHORIZING THE CONVEYANCE OF CERTAIN PUBLIC REAL PROPERTY; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT.

WHEREAS, the Town of Addison, Texas (“Town”) authorized the acquisition of property for the reconstruction of Midway Road, installation of utilities, enhancing the streetscape, and making public sidewalks more pedestrian friendly (the “Project”), all as set forth in Resolution No. R19-023; and

WHEREAS, to accomplish the above public purposes the Town instituted eminent domain proceedings in a case styled “*The Town of Addison, Texas v. Piedmont Midway Partners, L.P., Nates Seafood and Steakhouse, Inc., and Truist Bank f/k/a BB&T, f/k/a Branch Banking and Trust Company* (collectively, the “Condemnees”), in Cause No. CC-20-03614-B” (the “Litigation”); and

WHEREAS, Piedmont Midway Partners LP (“Piedmont”) asserted claims in the Litigation for damages in that action related to the loss of public parking on its property due to the acquisition of a portion of its property for the Project; and,

WHEREAS, the Town owns certain real property consisting of approximately 0.55 acres of land adjacent to Piedmont’s property, being described and depicted as Lot 18X-2 in Exhibit “A” attached hereto (the “Addison Property”); and

WHEREAS, the City Council finds that the Addison Property is surplus to the needs of the Town and can be used to replace the parking area lost as a result of the Project; and

WHEREAS, the Town has reached an agreement with Condemnees to settle all claims in the Litigation whereby the Town will pay the amount of the Special Commissioner’s Award from the Litigation and convey the Addison Property to Piedmont (the “Settlement Agreement”); and

WHEREAS, the Town is authorized by law to transfer the Addison Property pursuant to the terms of the Settlement Agreement without the necessity of advertising or accepting bids for the sale of said property; and

WHEREAS, the City Council finds it is in the best interest of the Town to approve the Settlement Agreement and authorize the City Manager to execute the same.

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

SECTION 1. The City Council hereby approves the Settlement Agreement, including payment of the Special Commissioners Award to Piedmont and conveyance of the Addison Property to Piedmont in conformance the agreement.

SECTION 2. The City Manager is hereby authorized to execute all documents necessary to effectuate the Settlement Agreement, including the conveyance of the Addison Property to Piedmont in conformance with the same.

SECTION 3. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **11th** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

Cause No. CC-20-03614-B

TOWN OF ADDISON, TEXAS	§	IN THE COUNTY COURT
	§	
Condemnor,	§	
	§	
v.	§	
	§	
PIEDMONT MIDWAY	§	AT LAW
PARTNERS, L.P., NATES	§	
SEAFOOD AND STEAKHOUSE,	§	
INC., and TRUIST BANK, f/k/a	§	
BB&T, f/k/a BRANCH BANKING	§	
AND TRUST COMPANY,	§	
	§	
Condemnees.	§	DALLAS COUNTY, TEXAS

SETTLEMENT AGREEMENT

1. This Agreement is entered into between the **TOWN OF ADDISON, TEXAS** ("Addison"), **PIEDMONT MIDWAY PARTNERS, L.P.** ("Piedmont") and **NATE'S SEAFOOD AND STEAKHOUSE, INC.** ("Nates") for the purpose of setting forth the terms and conditions under which Piedmont will grant and convey to Addison the right-of-way ("ROW") and temporary construction easement ("TCE") required for Addison's Midway Road Reconstruction Project (the "Project"). Conveyance of the ROW and TCE shall be made by the entry of the Agreed Judgment attached hereto as Exhibit A. Addison shall amend its pleadings in this action to reflect the revised acquisition of the ROW area and TCE being acquired in this action. In addition to the rights being acquired through the Agreed Judgment, this Agreement contains the other terms and conditions related

to the granting of the ROW and TCE and the settlement of all claims asserted or which could have been asserted by the parties in this action.

2. On or about December 15, 2020 the parties appeared at the Special Commissioners hearing in this matter. After hearing the evidence, the Commissioners made their Award in the amount of \$290,000. Piedmont timely filed and served its Objections to the Award and has asserted damages greatly in excess of the Award. By agreement, the parties have reached an Agreement to reduce the area being acquired by Addison for ROW and TCE for the Project. Although that area being acquired by Addison has been reduced, Piedmont will be required to incur substantial Cost to Cure expenses necessary to continue the use of the property as a restaurant. In addition, due to Addison's substantial revisions of the taking in this action Piedmont contends that it is entitled to recover certain expenses from Addison as provided by the Texas Property Code. The aggregate of the expenses claimed by Piedmont, along with the value of the ROW and TCE are greatly in excess of the Award. Nate's agrees that it is not entitled to receive compensation for the taking or damages related to the taking pursuant to the terms of its lease on the subject property and hereby waives any such claims.

3. In order to compromise and settle the claims in this action the parties have agreed that Piedmont shall accept the amount of the Commissioners' Award as partial settlement of its claims for compensation for the value of the ROW and

TCE, claims for cost to cure and other damages, as well as its claims for allowable expenses to which it may be entitled under the Texas Property Code. In addition, Addison has agreed to convey, and Piedmont has agreed to accept the conveyance approximately 23,522 of square feet of property owned by Addison (the “Transfer Property”) adjacent to Piedmont’s property which is the subject of this action. Addison’s conveyance of the Transfer Property shall include a title policy in favor of Piedmont and be made by execution and recording of a deed prepared by Addison and approved by Piedmont, which is attached hereto as Exhibit B. Payment of the Award, conveyance of the Transfer Property, and use of the Transfer Property as parking for Nate’s restaurant shall constitute the full consideration for the conveyance of the rights set forth in the Agreed Judgment and as full and final settlement of all claims for compensation and damages claimed or asserted by Piedmont.

4. Addison shall, at its expense, plat the Transfer Property prior to conveying it to Piedmont. Addison shall use its best reasonable efforts to accomplish the re-platting, re-zoning, and permitting of the Transfer Property and the subject property, as set forth in paragraph 5 below, within ninety (90) days of the date of this agreement. The Parties agree to cooperate in any rezoning efforts required to allow the Transfer Property to be used as parking for Nate’s restaurant. Simultaneously with the platting of the Transfer Property, Piedmont shall apply for

all permits required to allow it to use the Transfer Property as a parking lot in connection with the operation of Nate's restaurant. Addison shall reasonably cooperate in granting Piedmont's permit application, provided said applications comply with Addison's Ordinances and Codes. The simultaneous entry of the Agreed Judgment and conveyance of the Transfer Property shall occur within fourteen (14) days of the re-platting, re-zoning, and permitting of the Transfer Property.

5. In the event the Transfer Property and subject property cannot be re-platted, re-zoned, or permitted as set forth above, Piedmont may, at its option reject this settlement or accept the Transfer Property without re-platting and/or re-zoning and abide by the terms of this Settlement Agreement. In the event Piedmont chooses to reject this settlement, the parties shall not be bound by the terms of this Agreement and Addison may proceed with condemnation.

6. Piedmont on behalf of itself and its successors, heirs, and assigns does hereby release and forever discharge, Addison, its employees, council members, mayor, attorneys, insurers, contractors, subcontractors, successors, and assigns, from any and all claims, demands, obligations, losses, causes of action, costs, expenses, attorney's fees and liability of any nature whatsoever, whether known or unknown, which Piedmont has or claims to have against Addison which relate to, arise from, or are in any manner connected to the value of the rights being acquired

in this action, claims for damages, costs, attorney's fees, loss of value or impact to its property related to, or arising out of the taking of its property in this action.

7. Nate's Seafood and Steakhouse, Inc. on behalf of itself and its successors, heirs, and assigns does hereby release and forever discharge, Addison, its employees, council members, mayor, attorneys, insurers, contractors, subcontractors, successors, and assigns, from any and all claims, demands, obligations, losses, causes of action, costs, expenses, attorney's fees and liability of any nature whatsoever, whether known or unknown, which Piedmont has or claims to have against Addison which relate to, arise from, or are in any manner connected to the value of the rights being acquired in this action, claims for damages, costs, attorney's fees, loss of value or impact to its property related to, or arising out of the taking of its property in this action.

8. This Agreement contains the entire agreement of the parties and supersedes all other prior agreements among or between any of the parties. No representations were made or relied upon by any of the parties, other than those expressly set forth herein. No party or representative of a party is empowered to alter any of the terms hereof, unless done in writing and signed by the party.

9. Piedmont represents that it is the sole entity entitled to receive the consideration paid hereunder. Piedmont agrees to indemnify and hold harmless Addison against any claims, demands, or causes of action asserted against Addison

related to the subject matter of this Agreement, or the consideration paid as settlement of this action.

10. Each party hereto acknowledges that (s)he has read and understands the effect of this agreement, has been advised by counsel as to the effect of this agreement, and executes the agreement of his/her own free will and accord for the purposes and considerations set forth. Each party hereto represents and warrants that it has the authority to enter into this agreement. Each party further warrants and represents that the claims, suits, rights, and interests that are the subject matter of this agreement are owned by the party asserting same and have not been assigned, transferred or sold.

11. This Agreement shall be construed under and in accordance with the laws of the State of Texas. Each party shall pay the reasonable attorneys' fees and expenses incurred by them in this action.

12. The Parties represent and warrant that they have not relied on any promises statements, omissions or representations that are not expressly set forth in this Agreement, and that no promises, statements, or representations have been made by an Party or their agents to induce any other Party to enter into this Agreement other than those expressly set forth or referenced in this Agreement. In entering into this Agreement, the Parties have relied solely on the statements, representations, and/or warranties expressly set forth or referenced in this

Agreement, their own independent judgment, and the advice of their counsel. The Parties expressly disclaim reliance on any representations by any other Party outside of those made in writing in this Agreement.

13. This Agreement cannot be modified by an oral agreement and can only be modified or amended hereafter by written agreement signed by all Parties.

14. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall otherwise remain in full force and effect.

15. No breach of any provisions of this Agreement can be waived except in writing and signed by the waiving Party. The waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other provision hereof.

16. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page by facsimile transmission shall be as effective as delivery of a manually executed counterpart.

17. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such

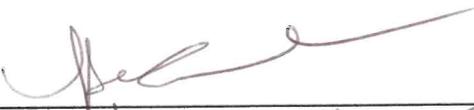
invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement shall, if possible, be construed as if such invalid, illegal, or unenforceable provision had been drafted to be valid, legal, or enforceable.

18. This Agreement contains the entire understanding and agreement among the Parties, and it supersedes any prior or contemporaneous agreements, promises, statements, understandings, or representations, oral or written. There are no agreements by the Parties to perform any further act unless expressly stated in this Agreement.

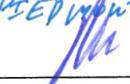
WE FURTHER STATE THAT WE HAVE CAREFULLY READ THE FOREGOING SETTLEMENT AGREEMENT AND RELEASE, AND KNOW THE CONTENTS THEREOF, AND ARE SIGNING SAME AS OUR OWN FREE ACTS.

SIGNED this _____ day of October 2022, by:

THE TOWN OF ADDISON, TEXAS

By: 
Name: Ashley Shroyer
Title: Deputy City Manager

PIEDMONT MIDWAY PARTNERS, L.P.

BY: PIEDMONT PARTNERS, L.P., a TEXAS limited partnership
BY: PIEDMONT CAPITAL CORPORATION, a TEXAS CORPORATION, general partner
By: 
Name: ROBERT L. MENCKLE
Title: VICE PRESIDENT

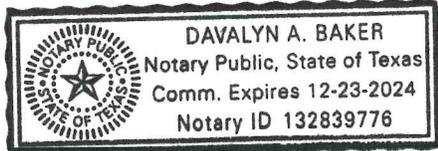
NATES SEAFOOD & STEAKHOUSE, INC.

By: [Signature]
Name: JONATHAN PECK
Title: PRESIDENT

STATE OF TEXAS §
 §
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared Ashley Shroyer, for and on behalf of **TOWN OF ADDISON, TEXAS**, who, being by me first duly sworn, upon oath stated that he/she has read the above and foregoing Settlement Agreement and Release, and that he/she has executed the same on behalf of Town of Addison, Texas for the consideration therein state.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of November, 2022.



[Signature: Davalyn Baker]
NOTARY PUBLIC, State of Texas

My Commission Expires:

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

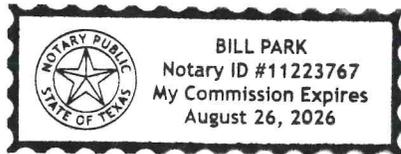
BEFORE ME, the undersigned authority, on this day personally appeared ROBERT L. MEWCKE, for and behalf of **PIEDMONT MIDWAY PARTNERS, L.P.**, who, being by me first duly sworn, upon oath stated that he/she has read the above and foregoing Settlement Agreement and Release, and that he/she has executed the same on behalf of Piedmont Midway Partners, L.P. for the consideration therein state.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8TH day of NOVEMBER 2022.

Bill Park

NOTARY PUBLIC, State of Texas

My Commission Expires:



STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared JONATHAN PECK, for and behalf of **NATES SEAFOOD AND STEAKHOUSE, INC.**, who, being by me first duly sworn, upon oath stated that he/she has read the above and foregoing Settlement Agreement and Release, and that he/she has executed the same on behalf of Nates Seafood and Steakhouse, Inc., for the consideration therein state.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2ND day of November 2022.

William A Smith

NOTARY PUBLIC, State of Texas

My Commission Expires:

EXHIBIT A

Agreed Judgment

a result of the condemnation of the Property; and that this Court has jurisdiction of such issue and this cause of action.

II.

From the papers filed in this cause and the agreements and stipulations made by the parties, the Court finds:

(1) Addison, as a municipal corporation, and in accordance with powers conferred upon Addison by the sovereign State of Texas, found it necessary to reconstruct and now intends to reconstruct Midway Road from the intersection of Keller Springs Road to Spring Valley Road for the public health, safety and welfare, and that the purpose of the Midway Road Reconstruction Project (hereinafter “the Project”) is to reconstruct the roadway, include median replacement, water, sewer and stormwater line replacement, sidewalk replacement meeting Americans with Disabilities Act requirements, and landscaping replacement.

(2) Through *Condemnor’s Second Amended Petition in Condemnation*, filed September 20, 2022 with the Clerk of this Court, Addison sought the acquisition of the Property from Piedmont for the Project.

(3) The Court appointed three disinterested real property owners of this County as Special Commissioners. The Special Commissioners subsequently met, took their oaths of office, set a date of hearing, and caused notice of hearing to be served as prescribed by law. The Special Commissioners held the hearing.

(4) All parties appeared at the hearing, either in person or by their attorneys, or after being served with proper notice of hearing declined to appear. After the hearing, the Special Commissioners rendered their decision and Award in writing and filed the Award with the judge of this Court.

(5) By written Award, the Special Commissioners awarded to Piedmont the sum of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000.00)**.

(6) Piedmont timely filed an objection to the Award of Special Commissioners and caused all parties to be cited accordingly.

III.

Piedmont, Nate's and Addison have agreed that the sum of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000)** is the sum to which Piedmont is entitled by virtue of the condemnation of the Property on the date the Property was condemned and for damages, if any, to the remainder of Piedmont's lands lying adjacent to the Property condemned. Nate's has agreed that it will not receive any portion of the Award. Upon due consideration, the Court finds the following:

(1) All proceedings necessary to vest this Court with jurisdiction of the parties and the subject matter of this cause have been instituted, maintained, and complied with as required by law; therefore, this court has jurisdiction of the parties and of the subject matter of this cause.

(2) Piedmont is the owner in fee simple of the Property. Addison is condemning and acquiring fee simple title to 3,029 square feet of land and an additional 541 square feet for a temporary construction easement land both being described in "Exhibit A." Addison is authorized to condemn the Property.

(3) From the pleadings and agreement of the parties, Piedmont should recover from Addison the sum of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000)**, inclusive of prejudgment interest.

(4) By agreement Nate's shall take nothing by this action.

(5) Truist Bank, f/k/a BB&T, f/k/s Branch Banking and Trust Company having been duly cited and served but having failed to answer or make an appearance shall take nothing by this action.

(6) Addison should have and recover from Piedmont fee simple title to 3,029 square feet of land and an additional 541 square feet for a temporary construction easement both described in “Exhibit A.”

(7) On December 30, 2020, Addison deposited into the Registry of the Court the sum of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000.00)** for the use and benefit of Piedmont. On January 7, 2021, Piedmont filed *Defendant’s Motion to Withdraw Funds Deposited in the Registry of the Court*, and on February 8, 2021, the Court entered its Order to pay the full balance on deposit in the registry of the Court to be paid to Piedmont.

(6) All costs of court shall be taxed against the party incurring said costs.

IV.

It is, therefore, ORDERED that Addison is hereby granted and awarded from Piedmont fee simple title to 3,029 square feet of land as described in “Exhibit A.”

V.

It is further ORDERED that the setback and landscaping requirements applicable to Piedmont’s remaining lands shall be subject to, and governed by, Town of Addison Ordinance No. 21-16 with respect to noncompliance and deficiencies resulting from this right-of-way acquisition.

VI.

It is further ORDERED that Addison shall install landscaping after the construction along with all necessary irrigation to maintain said landscaping. Furthermore, Addison's contractor will warrant this landscaping for a period of one (1) year after construction of the Project is complete at which point Piedmont will be responsible for maintaining all landscaping thereafter.

VII.

It is further ORDERED that Addison recovers from Piedmont a 541 square foot temporary construction easement, as described in "Exhibit A," for the purpose of constructing the public facilities and improvements described herein. Addison shall take and hold the temporary construction easement for the purpose of constructing, installing and relocating utilities within the temporary construction easement for such a period of time as is required for the completion of construction of the Project, but no longer than February 28, 2023; provided however, that the actual use of the temporary construction easement by Addison shall not exceed a maximum of one hundred twenty (120) days total. Upon completion of construction, Addison shall restore the grade of the land to substantially the same condition as contemplated by the Project. Following completion of work within the temporary construction easement, Addison shall restore the land to substantially the same condition as contemplated by the Project; including the restoration of improvements, herbage, or landscaping damaged or removed by Addison within the easement or on Piedmont's remaining lands at Addison's expense. Addison may exercise its rights on, over, and across the temporary construction easement directly by its employees, contractors, and any duly authorized agent or representative.

VIII.

It is further ORDERED that Addison and its contractors shall not use any portion of the temporary construction easement for storage or staging of materials or equipment within the driveways and parking lots, or otherwise block, or impair the use of, parking lots, parking spaces, or drives during the term of the temporary construction easement.

IX.

It is further ORDERED that fee simple title to 3,029 square feet of land and an additional 541 square feet for a temporary construction easement as described in “Exhibit A” is decreed to and vested in Addison; however, there is excluded from the estate vested in Addison all of the oil, gas, sulfur, and other minerals which can be removed from the Property. The owners of such oil, gas, sulfur, or other this Judgment does not convey to Addison any rights to the oil, gas, sulphur, or other minerals shall not have any right of ingress or egress to or from the surface of the Property for the purpose of exploring, drilling, developing, or mining of the same.

X.

It is further ORDERED that Piedmont recover from Addison a judgment in the amount of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000)** for the interests in the Property and for damages, if any, to Piedmont’s remaining lands.

XI.

It is further ordered that Addison shall convey to Piedmont 23,522 square feet of property adjacent to Piedmont’s property that is the subject of this action and Addison shall allow its use as parking for Nate’s restaurant. It is further ordered that the existing sign located within the area acquired by Addison in this proceeding shall be allowed to encroach into Addison’s area acquired in this proceeding, provided that the height of the sign is sufficient to not interfere with pedestrian

travel on the sidepath trail and provided the supporting structure or base of the sign must be located on Piedmont's property and must otherwise comply with Addison's ordinances and regulations.

XII.

It is further ORDERED that Piedmont recover from Addison a judgment in the amount of **TWO HUNDRED NINETY THOUSAND AND NO/100 DOLLARS (\$290,000)** for the interest in the Property for damages, if any, to Piedmont's remaining land. Addison having paid the above amount by dispensing the Award with the Court shall be Released and Discharged of its constitutional obligation to pay adequate compensation for the rights acquired in this action.

XIII.

It is further ORDERED that all costs of Court are hereby adjudged against the party incurring said costs.

XIV.

It is, finally, ORDERED that this judgement disposes of all parties and claims raised in this cause and is appealable. All relief not expressly granted is denied.

SIGNED this _____ day of _____ 2022.

JUDGE PRESIDING

APPROVED AS TO SUBSTANCE AND FORM:

LEWIS L. ISAACKS
Attorney for Town of Addison, Texas

DANIEL P. TOBIN
Attorney for Piedmont Midway Partners, LP

ANDREW HAWKINS
Attorney for Nate's Seafood and Steakhouse, Inc.

EXHIBIT "A"

EXHIBIT "A"

"RIGHT-OF-WAY"

PARCEL 12

Being 3,450 square feet of land situated in the remainder of Tract 2, Addison Plaza, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 79069, Page 1416, Plat Records of Dallas County, Texas (P.R.D.C.T.), and being a portion of a tract of land described in deed to Piedmont Midway Partners, L.P., a Texas limited partnership, according to the deed filed in Volume 2004009, Page 6138, Deed Records of Dallas County, Texas (D.R.D.C.T.); and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in the west Right-of-Way (R-O-W) line of Midway Road (variable width), at the northeast corner of the remainder of said Tract 2, also being the southeast corner of Lot 1A, Addison Plaza Addition, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 2005164, Page 94, P.R.D.C.T., and being the beginning of a curve to the left whose radius is 908.50 feet and whose long chord bears S 04°29'31" E, a distance of 19.35 feet;

THENCE along the east line of the remainder of said Tract 2, and along the west R-O-W line of said Midway Road, the following courses and distances;

Along said curve in a southeasterly direction through a central angle of 01°13'14", an arc length of 19.35 feet to a 1/2 inch iron rod found at the beginning of a reverse curve to the right whose radius is 891.50 feet and whose long chord bears S 03°22'36" E, a distance of 36.79 feet;

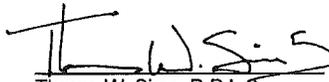
Along said curve in a southeasterly direction through a central angle of 02°21'53", an arc length of 36.79 feet to a 1/2 inch iron rod found at the end of said curve;

S 00°30'50" E, a distance of 243.85 feet to a 5/8 inch pipe found at the southeast corner of the remainder of said Tract 2, also being the northeast corner of Lot 3, Block A, Sam's Club Addition, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 92109, Page 3687, P.R.D.C.T.;

THENCE S 89°24'48" W, along the south line of the remainder of said Tract 2, and along the north line of said Lot 3, a distance of 11.44 feet to a 5/8 inch iron rod with cap stamped "TNP" set;

THENCE N 00°38'09" W, over and across the remainder of said Tract 2, a distance of 299.91 feet to a 5/8 inch iron rod with cap stamped "TNP" set in the north line of the remainder of said Tract 2, also being in the south line of said Lot 1A, from which a 1/2 inch iron rod found at the northwest corner of the remainder of said Tract 2, also being the southwest corner of said Lot 1A, and also being in the east line of Lot 2, Block A, Sam's Club Addition, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 92109, Page 3687, P.R.D.C.T., bears S 89°27'36" W, a distance of 129.03 feet;

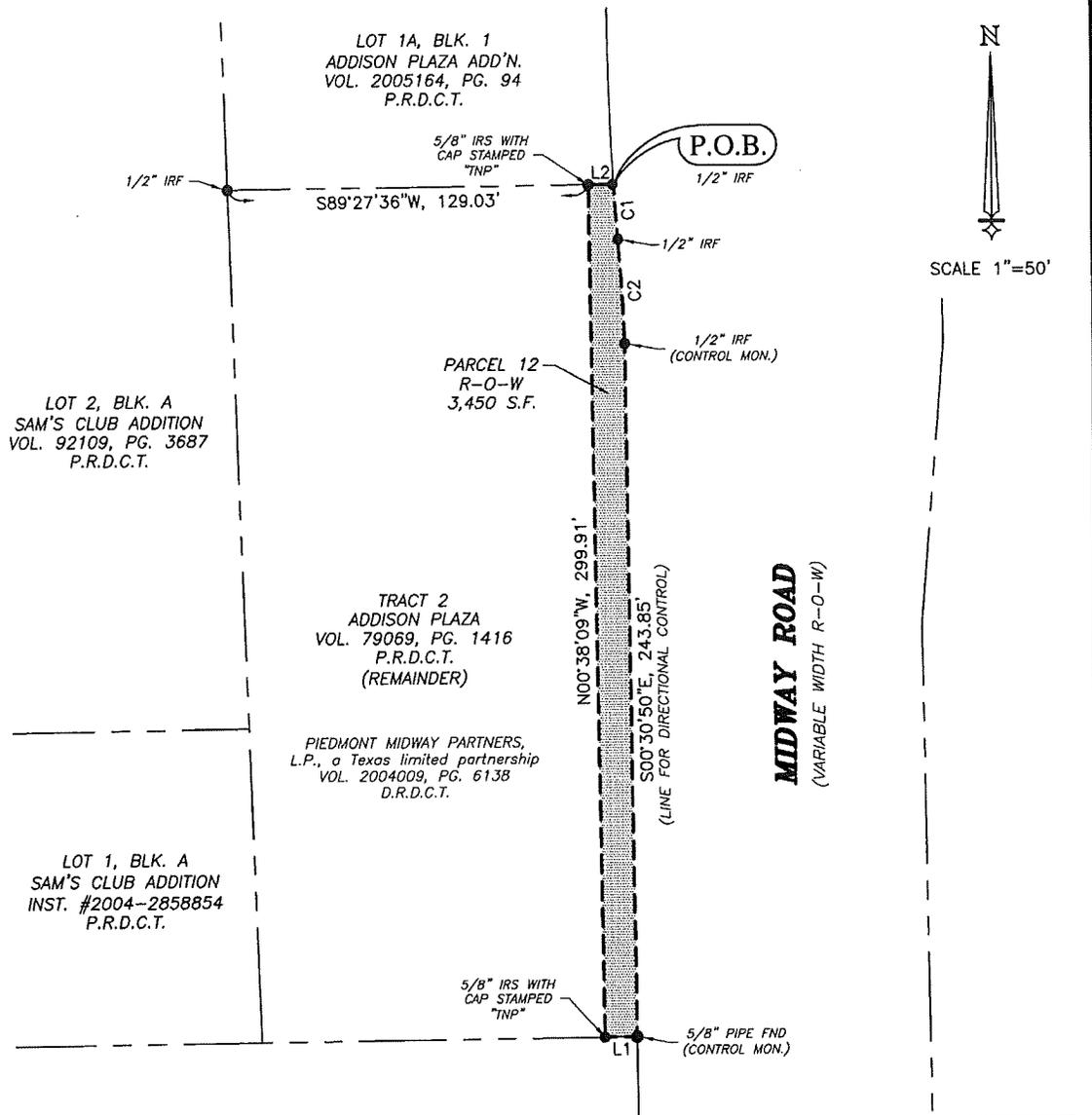
THENCE N 89°27'36" E, along the north line of the remainder of said Tract 2, and along the south line of said Lot 1A, a distance of 8.90 feet to the **POINT OF BEGINNING** and containing 3,450 square feet or 0.079 of an acre of land.


Theron W. Sims, R.P.L.S.
Texas Registration No. 5887
Surveyed on the ground May 16, 2022



1. Bearings of lines shown hereon refer to Grid North of the Texas Coordinate System of 1983 (North Central Zone; NAD83 (2011) Epoch 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. An average Combination Factor of 1.0001365060 was used to scale grid coordinates and distances to surface.

2. Integral parts of this survey:
- a. Legal Description
 - b. Sketch



N
SCALE 1"=50'

LOT 1A, BLK. 1
ADDISON PLAZA ADD'N.
VOL. 2005164, PG. 94
P.R.D.C.T.

LOT 2, BLK. A
SAM'S CLUB ADDITION
VOL. 92109, PG. 3687
P.R.D.C.T.

TRACT 2
ADDISON PLAZA
VOL. 79069, PG. 1416
P.R.D.C.T.
(REMAINDER)

PIEDMONT MIDWAY PARTNERS,
L.P., a Texas limited partnership
VOL. 2004009, PG. 6138
D.R.D.C.T.

LOT 1, BLK. A
SAM'S CLUB ADDITION
INST. #2004-2858854
P.R.D.C.T.

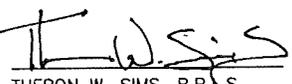
LOT 3, BLK. A
SAM'S CLUB ADDITION
VOL. 92109, PG. 3687
P.R.D.C.T.

MIDWAY ROAD
(VARIABLE WIDTH R-O-W)

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S89°24'48"W	11.44'
L2	N89°27'36"E	8.90'

- NOTES:**
- Bearings of lines shown hereon refer to Grid North of the Texas Coordinate System of 1983 (North Central Zone; NAD83 (2011) Epoch 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. An average Combination Factor of 1.0001365060 was used to scale grid coordinates and distances to surface.
 - Additional easements may exist and not shown.
 - Integral parts of this survey:
 - Legal Description
 - Sketch

CURVE TABLE					
CURVE#	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	19.35'	908.50'	01°13'14"	S04°29'31"E	19.35'
C2	36.79'	891.50'	02°21'53"	S03°22'36"E	36.79'


 THERON W. SIMS, R.P.L.S.
 TEXAS REGISTRATION NO. 5887
 Date: May 17, 2022
 Surveyed on the ground
 May 16, 2022



**PARCEL 12
RIGHT-OF-WAY**

Situated in the remainder of Tract 2, Addison Plaza, an addition to the Town of Addison, Dallas County, Texas, according to the plat filed in Volume 79069, Page 1416, Plat Records of Dallas County, Texas.



teague nail & perkins
 5237 N. Riverside Drive, Suite 100
 Fort Worth, Texas 76137
 817.336.5773 ph 817.332.7756 fx
 www.tnpsc.com / TBPLS Registration No. 100116-00

EXHIBIT "A"

"TEMPORARY CONSTRUCTION EASEMENT"

PARCEL 12

Being 483 square feet of land situated in the remainder of Tract 2, Addison Plaza, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 79069, Page 1416, Plat Records of Dallas County, Texas (P.R.D.C.T.), and being a portion of a tract of land described in deed to Piedmont Midway Partners, L.P., a Texas limited partnership, according to the deed filed in Volume 2004009, Page 6138, Deed Records of Dallas County, Texas (D.R.D.C.T.); and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod set with cap stamped "TNP", at the northwest corner of a proposed R-O-W dedication, also being in the south line of Lot 1A, Block 1, Addison Plaza Addition, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 2005164, Page 94, P.R.D.C.T., and also being in the north line of the remainder of said Tract 2, from which a 1/2 inch iron rod found at the northwest corner of the remainder of said Tract 2, also being the southwest corner of said Lot 1A, and also being in the east line of Lot 2, Block A, Sam's Club Addition, an addition to the Town of Addison, Dallas County, Texas, as filed in Volume 92109, Page 3687, P.R.D.C.T., bears S 89°27'36" W, a distance of 129.03 feet;

THENCE S 00°38'09" E, over and across the remainder of said Tract 2, and along the west line of said proposed R-O-W dedication, a distance of 191.93 feet to the **POINT OF BEGINNING** of the hereafter described tract of land;

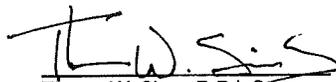
THENCE continuing over and across the remainder of said Tract 2, the following courses, and distances;

S 00°38'09" E, continuing along the west line of said proposed R-O-W dedication, a distance of 40.21 feet;

S 89°21'51" W, leaving said line, a distance of 12.00 feet;

N 00°38'09" W, a distance of 40.21 feet;

N 89°21'51" E, a distance of 12.00 feet to the **POINT OF BEGINNING** and containing 483 square feet or 0.011 of an acre of land.

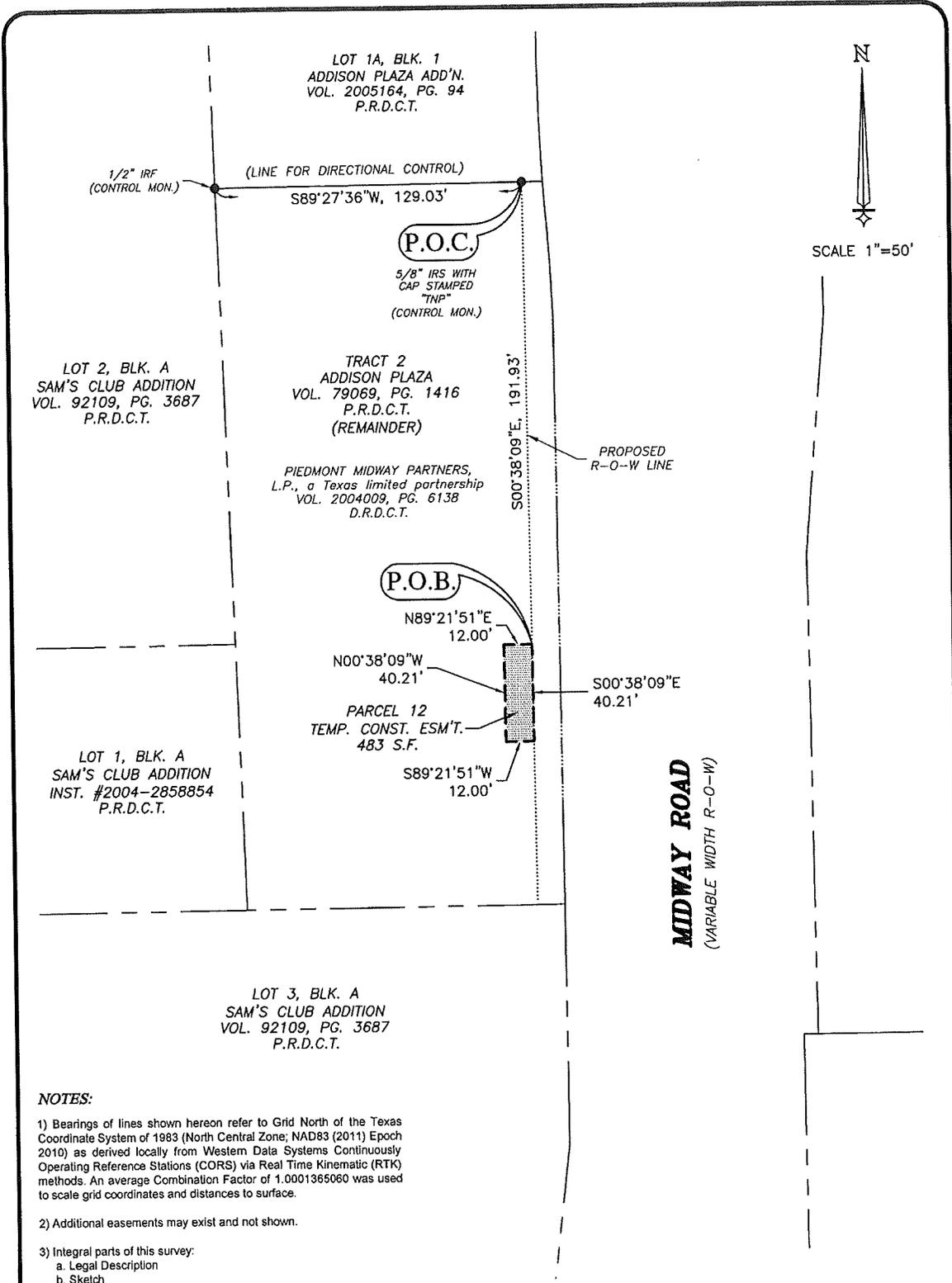

Date: May 17, 2022
Theron W. Sims, R.P.L.S.
Texas Registration No. 5887



Surveyed on the ground May 16, 2022

1. Bearings of lines shown hereon refer to Grid North of the Texas Coordinate System of 1983 (North Central Zone; NAD83 (2011) Epoch 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. An average Combination Factor of 1.0001365060 was used to scale grid coordinates and distances to surface.

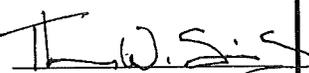
2. Integral parts of this survey:
a. Legal Description
b. Sketch



SCALE 1"=50'

- NOTES:**
- Bearings of lines shown hereon refer to Grid North of the Texas Coordinate System of 1983 (North Central Zone; NAD83 (2011) Epoch 2010) as derived locally from Western Data Systems Continuously Operating Reference Stations (CORS) via Real Time Kinematic (RTK) methods. An average Combination Factor of 1.0001365060 was used to scale grid coordinates and distances to surface.
 - Additional easements may exist and not shown.
 - Integral parts of this survey:
 - Legal Description
 - Sketch

PARCEL 12
**TEMPORARY
CONSTRUCTION EASEMENT**


THERON W. SIMS, R.P.L.S.
TEXAS REGISTRATION NO. 5887



Date: May 17, 2022
Surveyed on the ground
May 16, 2022

Situated in the remainder of Tract 2, Addison Plaza, an addition to the Town of Addison, Dallas County, Texas, according to the plat filed in Volume 79069, Page 1416, Plat Records of Dallas County, Texas.



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EXHIBIT B

Deed

Council Meeting 2023

6.

Meeting Date: 04/11/2023

Department: Special Events

Pillars: Optimize the Addison Brand

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Entertainment Agreement Between the Town of Addison and Swae Lee, Inc. to Provide Entertainment at the Taste Addison Event and Authorize the City Manager to Execute the Agreement** in the Amount Not to Exceed \$115,000.

BACKGROUND:

The Town is using the professional services of Degy Booking International, Inc. to negotiate and secure performing talent for Town of Addison events. The company's reputation for securing and routing talent is highly regarded in the industry. This is the town's fifth year using the agency's services, and the Town has been pleased with its ability to secure talent within the parameters of our music genres, the artists' routing availability, and remain within budget. As the talent producer, a representative of Degy Booking International, Inc. will be onsite for all performances booked through the agency. The fee for the company's services is 10% of the band's proceeds, with no commission from the gate or merchandise sales.

Festival survey results have indicated that the highest age range in attendance is 20-39. In an effort to attract this demographic, music artist, Swae Lee, will perform on Friday evening at Taste Addison 2023 for 75 minutes as the headlining act. American rapper and singer/songwriter Swae Lee first found success as part of the Southern sibling hip-hop duo Rae Sremmurd. At the height of the pair's mainstream success in 2016, he branched out as a solo artist issuing his defacto solo debut, Swaecation. He maintained a strong chart presence with a series of collaborations with French Montana, Camila Cabello, Travis Scott, Ellie Goulding and Diplo, and Alicia Keys. His duet with Post Malone pushed Lee to the fore of the mainstream for much of 2019. That same year, Lee collaborated with Madonna as part of her Madame X album. The cost for this talent is not to exceed \$115,000. Funding for this entertainment agreement will come from the Hotel Fund.

The resolution approves the agreement between the Town of Addison and Swae Lee, Inc. for Taste Addison 2023.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Addison Entertainment Agreement - Swae Lee

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN ENTERTAINER AGREEMENT BETWEEN THE TOWN OF ADDISON AND SWAE LEE, INC. TO PROVIDE ENTERTAINMENT AT THE TASTE ADDISON EVENT LOCATED AT ADDISON CIRCLE PARK ON JUNE 2, 2023, IN AN AMOUNT NOT TO EXCEED \$115,000; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Swae Lee, Inc. to provide entertainment at the Taste Addison special event on June 2, 2023, in conformance with the terms therein.

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 and Swae Lee, Inc. to provide entertainment at the Taste Addison special event on June 2, 2023, in an amount not to exceed \$115,000, 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 **11th** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary



ENTERTAINMENT AGREEMENT ENTERTAINMENT AGREEMENT

Event

Taste Addison

Venue

Addison Circle Park
4970 Addison Circle, Addison, TX 75001

Entertainer Name

Swae Lee Inc. ("Entertainer") f/s/o Swae Lee ("Artist")

Performance Date(s) & Times

June 2, 2023: 10:45pm – 12:00am (60-75 minutes)

Total Compensation

\$115,000

Agreement Effective Date

January 24, 2023

Deposit*

\$28,750

**To be paid upon execution of this Agreement, plus receipt of Certificate of Insurance, W-9, Invoice, and completion of Form 1295 Certificate of Interested Parties. Additional \$28,750 to be paid 30 days prior to Performance Date, with the balance to be paid upon completion of the Performance in conformance with the terms and conditions of this Agreement.*

Description of Performance:

Entertainer to provide live music performance, including vocals and instruments.

Entertainer Agreement Documents and Authorized Signatures

The following constitute the contract documents for this Agreement and shall be collectively referred to herein as the "Agreement":

1. This Entertainment Agreement Summary Page
2. Terms and Conditions
3. Addendum A – Standard Performance Addendum
4. Addendum B – Insurance Requirements
5. Addendum C – Main Stage Production Rider
6. Addendum D – Entertainer Riders and WME Performance Addendum

THIS ENTERTAINMENT AGREEMENT ("AGREEMENT") IS MADE AS OF THE EFFECTIVE DATE BETWEEN THE TOWN OF ADDISON AND ENTERTAINER FOR THE PURPOSE OF DEFINING THEIR RESPECTIVE RIGHTS AND RESPONSIBILITIES AND MEMORIALIZING THE TERMS AND CONDITIONS PURSUANT TO WHICH ENTERTAINER WILL PROVIDE THE PERFORMANCE DESCRIBED HEREIN. EACH PERSON SIGNING THIS AGREEMENT REPRESENTS AND WARRANTS THAT THE SIGNER IS DULY AUTHORIZED TO EXECUTE THIS AGREEMENT AND TO BIND THE PARTY AUTHORIZING SUCH SIGNATURE.

For Town of Addison:

David Gaines
City Manager

Date

For Entertainer:

Jeremy Ellis
Artist Manager

3/27/2023

Date

Legal Notice Address:*

Town of Addison
Attn: City Manager's Office
5300 Belt Line Road
Addison, Texas 75254

Legal Notice Address:

Swae Lee Inc.
15821 Ventura Blvd.
Ste. 970
Encino, CA 91436

**Legal notices only - Please contact Special Events (specialeventsinfo@addisontx.gov) or the Addison Representative identified in Addendum A for all other matters related to this Agreement.*

EXHIBIT A
ENTERTAINMENT AGREEMENT
TERMS AND CONDITIONS

IN CONSIDERATION OF the mutual promises and agreements contained in this Agreement, the Town of Addison and Entertainer (each being a 'party' and collectively the 'parties' to this Agreement) hereby agree as follows:

1. Definitions

- 1.1. "**Addison**" or "**City**" means the Town of Addison, Texas.
- 1.2. "**Addison or City Representative**" means the individual representative(s) identified in Addenda A to this Agreement.
- 1.3. "**Agreement**" means this entertainer agreement, including all contract documents described on the summary page of this Agreement.
- 1.4. "**Effective Date**" means the agreement effective date identified on the summary page of this Agreement.
- 1.5. "**Entertainer**" means the individual or legal entity identified on the summary page of this Agreement, including Entertainer's officers, employees, agents, servants, contractors, subcontractors, or representatives. Unless the context clearly indicates otherwise, the term further includes all persons participating in the Performance, including Entertainer's members, crew, security personnel, and all other persons under Entertainer's direction or control during the Performance (the latter being occasionally referred to in this Agreement as "Entertainer's Crew").
- 1.6. "**Event**" means the event identified in the summary page of this Agreement where the Performance will take place.
- 1.7. "**Event Location**" means the location of the Event, including the entirety of the venue and premises of the Event. The foregoing definition shall include all parking lots, alleys, streets, sidewalks, pedestrian access ways, and all other City owned property in the immediate vicinity of the Event Location.
- 1.8. "**Performance**" means the performance described on the summary page of this Agreement, including all labor, services, materials, and other equipment to be provided by Entertainer in connection therewith. The term Performance shall include the pre- and post-performance activities of Entertainer, including all load-in and load-out activities in connection with the Performance.

2. Agreement Term; Performance Guidelines

- 2.1 Term. The term of this Agreement shall begin upon the Effective Date and shall expire upon completion of the Performance.
- 2.2 Conformance with Agreement Terms. Entertainer expressly agrees to conduct the Performance in strict conformance with the express terms, conditions, and provisions of this Agreement, including all addenda hereto. Entertainer represents and warrants that it has the authority to enter into this Agreement and to fully perform its obligations contained herein.
- 2.3 Time for Performance. Entertainer shall be fully prepared and ready to conduct the Performance in a prompt and timely manner on the date(s) and at the time(s) stated on the summary page, unless otherwise agreed by the parties in writing. Notwithstanding the foregoing or any provision of this Agreement to the contrary, the City reserves the right, subject to written approval by Entertainer, to modify the Event and/or Performance schedule at any time.
- 2.4 Manner of Performance. Entertainer shall have the exclusive and sole creative control over the means and methods employed by Entertainer in conducting the Performance, subject to the terms and conditions of this Agreement. The Performance and all of Entertainer's activities in connection with or related to this Agreement shall be conducted in a clean, orderly, and safe manner and to the extent applicable to Entertainer or Artist in accordance with all applicable federal, state and local laws, rules, regulations, codes, ordinances, and policies. The essence of this Agreement concerns the specific individual(s) and the unique personality(ies) and talents of Entertainer, consequently, Entertainer shall not omit or substitute any person that is expected to participate in the Performance without the prior written permission of City. Moreover, Entertainer shall not be under the influence of any intoxicating beverages, narcotics, illegal drugs, or other illegal substance. Entertainer shall at all times be responsible and liable for the sole negligent and intentional wrongful acts and omissions of Entertainer in connection with or related to the Performance.
- 2.5 Performance Content. Addison supports artistic freedom and expression and takes pride in providing an environment for musicians and entertainers alike to perform without restrictions that might otherwise hinder or infringe on an individual's creativity. Addison also has a responsibility to our guests and patrons to provide a safe, family friendly environment that takes into consideration all persons' gender, age, physical capabilities, choice of lifestyle, and cultural background. In that regard we ask that all of our musicians and entertainers be mindful to those considerations, to conduct themselves in a manner appropriate to the event and to refrain from gestures or language that could be deemed offensive. Notwithstanding the foregoing, City acknowledges the professional reputation of Artist as of the execution of this Addendum. Provided that Artist does not substantially deviate from such professional reputation, Artist shall not be in breach of this Agreement. City shall make Entertainer reasonably aware in writing of any specific expectations in advance.

- 2.6 Equipment. All goods, equipment, and other materials provided by Entertainer shall be safe, fully operational, and shall not cause injury or damage to any person or property **directly resulting from the sole negligence or intentional wrongful conduct of Entertainer or Artist.**
- 2.7 Merchandise Sales. If Entertainer desires to sell merchandise on-site at the Event on the day of the Performance, Entertainer shall obtain prior approval from the City Representative. Entertainer is responsible to provide staffing and operation of merchandise sales, and comply with all applicable local, state, and federal laws.
- 2.8 Photographs and Images. The Entertainer does hereby grant City **permission to take and use, display, reproduce,** distribute, transmit, and modify (including to create derivative works) any and all photographs or images of the Performance.
- 2.9 Entertainer Use of City Logo. Entertainer shall not be entitled to use the City's logo or brand without prior written consent of City. Any use of the City's logo or brand shall be in conformance with the City's brand usage policy.
- 2.10 Security. City typically provides security for the general public during City events but Entertainer is solely responsible for the **personal** security of Entertainer, Entertainer's Crew, and all personal property belonging to the same during the Event. The parties may mutually agree to an alternative security arrangement by written addendum to this Agreement.
- 2.11 City Authority. City has the right to control and manage the Event and to implement and enforce its laws, codes, rules, standards, and policies in connection therewith. City may, through its duly appointed representatives, remove any objectionable person(s) from the Event Site, and Entertainer waives any claims for damages against City or any of its officers, agents or employees resulting from the exercise of this authority. **unless due to the gross negligence or intentional wrongful conduct of City or its respective its officers, agents or employees**
- 2.12 Entertainer Rider(s). Entertainer shall notify City in writing no later than sixty (60) days prior to the initial date of the Performance if Entertainer desires to include one or more entertainment riders with this Agreement. The City Representative will work with Entertainer to include any mutually agreed upon rider(s) as an addendum to this Agreement. Notwithstanding the foregoing, the City reserves the right to deny any rider and/or provision therein that, in the City's sole discretion, is in conflict with this Agreement.
- 2.13 Violation of These Performance Guidelines. Should Entertainer be in violation of any of the provisions of this Section 2 **and fails to cure as set forth in Section 4.2 herein,** City shall, in its sole discretion, have the right **to suspend, postpone ,or cancel** the Performance. If the City cancels the Performance pursuant to this section City shall be entitled to immediately terminate this Agreement in conformance with Section 4 below. **If the City suspends or postpones the Performance pursuant to this section, any reschedule including the Artist shall be subject to Artist's professional availability.**

3. Compensation

- 3.1. Compensation. Entertainer will be compensated in accordance with the terms and conditions of this Agreement. The total amount of compensation paid to Entertainer shall not exceed the total compensation amount identified on the summary page to this Agreement, which is inclusive of all expenses related to the Performance, including Entertainer's travel, accommodations, freight, local ground transportation, backline, and security expenses.
- 3.2. Method of Payment. Payment(s) by City shall be by business check or such other method as City may determine in City's sole discretion. Entertainer shall be required to provide a completed Form W-9 and Addison Vendor Information Form prior to receiving payment.
- 3.3. Deposit; Payment Balance. In the event an advance deposit is paid to Entertainer, the remaining balance due under this Agreement will be paid by City **following Entertainer's completion** of the Performance, **unless otherwise agreed between the parties.**
- 3.4. Entertainer's Payment Obligations. Entertainer shall be solely responsible for all other costs and expenses related to the Performance, including any and all insurance premiums, taxes, fees (including agent's fees), union dues, or commissions incurred as a result of or in any way related to the Performance.

4. Termination, Postponement and Cancellation

- ~~4.1. Termination for Convenience. Either party may terminate this Agreement for convenience by providing written notice to the other party at least sixty (60) days prior to the initial date of Performance. Upon notice of termination by either party under this section this Agreement shall be deemed cancelled and Entertainer shall return all funds paid to Entertainer by City, including the deposit (if any), within ten (10) business days following the date of cancellation.~~
- 4.2. Termination for Breach. If Entertainer is in breach of any provision of this Agreement and fails or refuses to cure the same **following a reasonable opportunity to do so** upon reasonable notification (oral or written) by City, then City shall have the right to (i) immediately suspend or postpone the Performance **subject to Artist's professional availability,** or (ii) cancel and terminate this Agreement.
- 4.3. Postponement or Cancellation of the Event. City reserves the right, in its sole **and reasonable** discretion, to postpone or cancel the Event for or as a result of fire, casualty, strikes, lockouts, labor trouble, inability to procure materials or supplies, failure of power, governmental authority, inclement weather, war or terrorism or the potential or actual threat thereof, public safety or

EXHIBIT A

public welfare considerations, riots, strikes, or local, national or international emergencies, act of God, or other reason of like nature making the Performance infeasible, impossible, or unsafe (any such event or reason being a "Force Majeure Event").

- a. If the Event is cancelled by City due to a Force Majeure Event at least 72 hours prior to the initial Performance start time identified in the summary page to this Agreement, Entertainer shall retain the deposit, if any, and City shall retain the remaining balance of the total amount payable to Entertainer under this Agreement.
- b. If the Event is cancelled by City due to a Force Majeure Event less than 72 hours prior to the initial Performance start time identified in the summary page to this Agreement, Entertainer shall be paid in full, provided that Entertainer is on-site or in transit and remains ready, willing, and able to perform.
- c. If, as the result of a Force Majeure Event, either party is unable to, or is prevented from, performing the Engagement or any portion thereof or any material obligation under this Agreement, then City's, Entertainer's, and Artist's obligations hereunder will be fully excused, there shall be no claim for damages or expenses by City, Entertainer, or Artist, and each party shall bear its own costs and expenses in connection with this Agreement, unless otherwise specified below.
- d. Additionally, Entertainer/Artist may cancel due to death, disability, illness, injury or other inability to perform of Artist, any of Artist's musicians, other performers, crew, representatives or advisors, any of Artist's family members, any of Entertainer's key personnel, or any other person personally known to Artist whose death, disability, illness adversely impacts Artist's ability to perform in connection with the Engagement. In such case, Entertainer shall return any amounts (if any) received from City.

4.4. Postponement or Cancellation of the Performance. The Performance may be postponed or cancelled in any one or more of the following situations:

- a. Either party may, with the consent of the other party (which shall not be unreasonably withheld) postpone or cancel the Performance for or as a result of inclement weather that renders the Performance impossible.
- b. City may cancel the Performance and immediately terminate this Agreement upon City's reasonable determination that Entertainer will or has failed to appear or conduct the Performance in conformance with this Agreement for any reason without the City's prior written consent and without excuse as enumerated in this Agreement (e.g. Force Majeure, Inclement Weather, City's uncured breach).
- c. City may cancel the Performance and immediately terminate this Agreement pursuant Section 2.14 above.

4.5. Damages Upon Termination. The parties agree that upon termination of this Agreement pursuant to Sections 4.2, 4.4(b) or 4.4(c) above, the damages that would be suffered by City would be difficult or impossible to determine and that in such case City shall be entitled to (i) receive a refund of all amounts previously paid to Entertainer under this Agreement and (ii) retain the remaining balance due to Entertainer under this Agreement. ~~In addition, Entertainer shall be liable to City for damages in an amount equal to fifty (50%) of the total compensation amount identified on the summary page of this Agreement. The parties acknowledge and agree that the foregoing is not a penalty but represents a reasonable calculation of the actual damages that would be sustained by City as a result of such termination.~~

5. Indemnification; Assumption of the Risk

5.1. Indemnification. Entertainer ^{and directors} shall, at its sole cost and expense, defend, indemnify, and ^{outside} hold harmless the Town of Addison, its officers, employees, agents, ~~contractors, licensees, invitees, and volunteers~~ (collectively "City Indemnitees") from and against all ^{third party} claims, liability, damages, costs, fines, penalties, expenses, and reasonable ^{directly} attorneys' fees incurred by City Indemnitees, or amounts paid by City in any settlement based on a third-party claim that ~~results from (i) a violation by Entertainer, it's officers, directors, employees, agents, contractors, licensees, or invitees, including Entertainer's Crew (collectively referred to in this indemnification section as "Entertainer") of any applicable law and/or City ordinance, regulation, policy, rule, or directive in connection with the performance of its obligations under this Agreement, (ii) any act or omission of Entertainer arising from or related to Entertainer's performance of this Agreement, and/or (iii) any act or omission of Entertainer that would be a breach or violation of this Agreement.~~ Such defense, indemnity, and hold harmless obligation includes claims alleged or found to have ^{sole negligent or intentionally wrongful} been caused in whole or in part by the negligence of a City Indemnitee. ^{the express terms of} #

5.2. Indemnification Procedures. Entertainer shall promptly advise City in writing of any notice, claim or demand against a City Indemnitee or Entertainer related to or arising out of this Agreement and shall investigate and defend the same at Entertainer's sole cost and expense. Notwithstanding the foregoing, City shall have the right, at any time, to participate in the defense of

To the extent permitted by law, City shall, at its sole cost and expense, defend, indemnify, and hold harmless the Entertainer, its officers, employees, agents, and directors, including Entertainer's Crew (collectively "Entertainer Indemnities") from and against all third party claims, liability, damages, costs, fines, penalties, expenses, and reasonable outside attorneys' fees incurred by Entertainer Indemnities, or amounts paid by Entertainer in any settlement based on a third-party claim that directly results from (i) a violation by City Indemnities of any applicable law and/or City ordinance, regulation, policy, rule, or directive in connection with the performance of its obligations under this Agreement, (ii) any sole negligent or intentionally wrongful act or omission of City Indemnities arising from or related to City's performance of this Agreement, and/or (iii) any breach or violation of the express terms of this Agreement.

EXHIBIT A

at the reasonable cost, expense, and risk of Entertainer, and Entertainer shall promptly reimburse City for all such costs and expenses. third party claims for death, personal injury or property damage

5.3. Assumption of the Risk. Entertainer acknowledges and voluntarily assumes the risk for all damage and/or injury that may be caused in whole or in part or result directly or indirectly as a result of Entertainer's own ~~actions or inactions, the actions or inactions of others participating in the Event, or the negligent acts or omissions of any City Indemnitee in connection with the Event~~. The foregoing assumption of the risk includes all conditions and defects, whether known or unknown by either party, in, on or about the Event Location. sole negligent or intentionally wrongful

6. Miscellaneous Provisions

(a) Any action related to this Agreement will be governed by Texas law and controlling federal law. No choice of law rules of any jurisdiction will apply. (b) Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Performance shall be subject to the exclusive jurisdiction of the state and federal courts located in Dallas County, Texas. (c) This Agreement, including any amendments thereto, together with the addenda attached hereto, represents the parties' entire understanding relating to the subject matter hereof and supersedes any prior or contemporaneous, conflicting or additional, communications or agreements between the parties. (d) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. (e) No joint venture, partnership, employment, or agency relationship exists between Entertainer and City as a result of this Agreement or Entertainer's participation in the Event. (f) The failure of City to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision. (g) Any notice required or permitted under the terms of this Agreement or required by law must be in writing to the parties' respective notice contact(s) identified in the summary page to this Agreement, and must be (i) delivered in person, (ii) sent by registered or certified mail return receipt requested, (iii) sent by overnight courier, or (iv) by email whose receipt is acknowledged by the party's notice contact. (h) Entertainer verifies that it does not Boycott Israel, and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. (i) The provisions contained in Section 5 of this Agreement shall survive termination.

- End of Terms and Conditions -

Addendum A Performance Addendum

GENERAL INFORMATION

Addison Representative

Name: Yesenia Saldivar, Interim Director of Special Events
Phone: 214-693-5439
Email: ysaldivar@addisontx.gov

Entertainer Representative

Name: _____
Phone: _____
Email: _____

All communications regarding the Event and Performance should be directed to the Addison's Representative identified above.

EVENT SITE ACCESS; PARKING

Load-in/out

City will provide a reasonable amount of time for Entertainer to set up prior to its commencement and to tear down after its conclusion. Set up and tear down shall be conducted **in a reasonable manner.**

Parking

The City is responsible for the management and control all parking facilities on the Event Location. Entertainer shall be provided access to sufficient parking for the number of vehicles specified above. If no quantity is specified above, Entertainer shall be provided access to a minimum of 2 parking spaces at the Venue.

PRODUCTION INFORMATION

Stage Productions

Unless otherwise agreed by the parties, Addison will provide professional sound and lighting production equipment and labor for stage performances as outlined on Addendum C. Entertainer will be consulted regarding sound and lighting production equipment selection and design; however, Addison retains sole discretion in the selection and execution of sound and lighting production. All stage productions shall be subject to the following conditions:

(or a lesser time that is reasonable under the circumstances)

1. Entertainer shall, at least sixty (60) days prior to the first day of the Performance, provide Addison a detailed outline of the Performance including all stage, lighting and sound requests.
2. The parties acknowledge there shall be no charges to Entertainer for sound and lighting production equipment or labor unless such charge is agreed to by the Parties in writing.
3. Unless otherwise agreed by the Parties in writing, Addison shall provide DJ backline only. All other necessary equipment for the Performance at Entertainer's sole expense.

Catering and Hospitality

Addison will provide the following catering and hospitality services to Entertainer at the Event venue on the Performance day(s) only:

- Catering – A \$50 per person meal buyout will be provided by Addison upon arrival; no meals to be provided.
- Green Room – Addison to provide Entertainer with a private backstage travel trailer on the performance date only; green room is tobacco-free and smoke-free. All Entertainer green room hospitality items shall be per advance. Entertainer to work within Addison's onsite limits at venue. Addison reserves the right to change the green room accommodations at its sole discretion.
- Comp Tickets – Entertainer to receive up to 20 general admission festival tickets for the performance date upon request.

Deal Point Review

The total amount of compensation paid to Entertainer shall not exceed the total compensation amount identified on the summary page to this Agreement, which is inclusive of all expenses related to the Performance. The items listed below are the Entertainer's responsibility, and are included in the compensation:

- Travel/airfare
- Accommodations/hotel
- Freight

Addendum A

Addison Entertainment Agreement

Town of Addison, Texas

Resolution No. _____

EXHIBIT A

- Local ground transportation
- Backline (except as specifically stated herein)

Addendum B Insurance Requirements

- a. The ENTERTAINER shall maintain, during the term of the contract and any option period, the types of insurance and coverage listed below. All liability insurance coverage will name **The Town of Addison and its officials, officers, agents, representatives, volunteers, and employees** as an additional insured for claims, demands, suits, judgments, costs, charges, and expenses arising out of or in connection with any loss, damage, or injury resulting from the negligence or other fault of the ENTERTAINER, ENTERTAINER's agents, representatives, or employees.

<u>TYPE OF INSURANCE</u>	<u>MINIMUM AMOUNTS</u>
(i) Workers' Compensation -Employers' Liability-Accident -Employers' Liability-Disease	Texas statutory limits \$1,000,000 / Occurrence \$1,000,000 / Aggregate
(ii) Commercial General Liability (Comprehensive) -Bodily Injury and Property -Contractual Liability	\$1,000,000 / Occurrence \$2,000,000 / Aggregate
(iii) Commercial Automobile Liability (Comprehensive) -Bodily Injury -Property Damage *Includes owned, non-owned and hired car coverage	\$1,000,000 / Occurrence

In all liability policies, provide that such policies are primary insurance to any other insurance available to the additional insured's, with respect to any claims arising out of activities conducted hereunder.

Upon request,

~~Contain a waiver of subrogation endorsement in favor of the Town of Addison, Texas.~~

- b. Prior to the commencement of work hereunder and **not more than thirty (30) days** after contract has been executed, the ENTERTAINER shall furnish to ADDISON a certificate of the above required insurance.

Insurance "Certificate Holder" shall be made out to the following:

Town of Addison
ATTN: Addison Special Events
PO Box 9010
Addison, TX 75001

- c. Should the ENTERTAINER's business reside outside of the United States, insurance coverage shall be maintained in the above referenced categories in equivalent coverage amounts.

Addendum C Main Stage Production Rider

Audio			
24	RCF TTL55a Line Array	Flown 12 per Side	
12	RCF TTS56 Subs		
4	RCF TTL33a Line Array	Front Fills on Subs	
1	TBC - Avid/Digico/Yamaha	FOH Console	
1	TBC - Avid/Digico/Yamaha	MON Console	
1	FOH Rack		
	XTA MX36 Mixswitch		
	Lake LM44		
	RDNet Control 8		
10	DB Technologies DM15TH Floor Monitors		
4	Shure ULXD Combo Pack	HH and BP each	
1	A Level Microphone Pack		
1	Microphone Stand Pack		
1	Microphone Cable Pack		
1	48ch Microphone Splitter		
2	Behringer B205D	Skwawk to FOH/MON	
1	All Needed Cabling		
4	CM Lodestar 1T Motors		
1	Audio Rigging Package		
Lighting			
1	TBC - GrandMA/Hog 4/Chamsys Lighting Console		
16	Beam or Hybrid Moving Light		
16	Hydrowash X19		
4	Chauvet Strike 1		
2	Smoke Factory Tour Hazer II		
Video			
1	16' x 9' Video Wall	on Stage Left Wing	
1	16' x 9' Video Wall	Behing FOH	
1	HD Camera Chain	at FOH	
1	HD PTZ Camera		
2	Static HD Camera		
1	Production Switcher		
2	Video Wall Controller		

EXHIBIT A

Production equipment list is subject to change based on festival needs and is at the sole discretion of Addison.

Staging/Rigging			
1	40x40 Rooftop	with Wings	
2	20x30 Wings		
1	Climbing Truss Structure	FOH Video Wall	
2	40' Truss Flown	1 - DS 1 - US	
Power			
1	Audio Distro		
1	Lighting Distro		
1	Video Distro		
1	Cable Package	as Required	
Labor			
1	A1	FOH	
1	A1	MON	
1	A2	Patch	
1	L1		
1	LED Tech		
1	TD		
2	Camera Ops		

**Addendum D and E
Entertainer Riders**

SEE FOLLOWING PAGES FOR ENTERTAINER RIDERS

Any updates to this rider or new riders issued after issuance of the agreement attached hereto is by mutual advance only.

FOH

CONSOLE Per Advance and contingent on the availability of the gear locally in the Addison TX area.

- (1) Digico SD12 with External Screen
- (1) Waves Server with Mercury Bundle Plug In Licenses
- (1) Neve Portico II MBP
- (2) Neve 5035 Shelford Channel
- (1) DiGiGrid MGB with BNC Cables

MICROPHONE RF Per Advance and contingent on the availability of the gear locally in the Addison TX area.

- (2) Sennheiser EM6000 Digital UHF 2 Channel Receiver 1U
- (2) Sennheiser 6000 II Black Handheld Transmitters with 9235 or 945 Capsules

PA SYSTEM See attached tech pack for what will be provided by Addison.

- Cohesion
- L-Acoustics
- D&B J Series

MONITOR WORLD

CONSOLE Per Advance and contingent on the availability of the gear locally in the Addison TX area.

- (1) Digico SD12 with External Screen
- Waves Server with Mercury Bundle Plug In Licenses

IEM & WIRELESS SYSTEMS Per Advance and contingent on the availability of the gear locally in the Addison TX area.

- (6) Shure PSM 1000 In-Ear Transmitters
- (6) Shure PSM 1000 Belt Packs
- (1) Shure Active Directional Wireless Antenna for IEMS
- (2) Professional Wireless Helical Antennas for Wireless RF
- (1) Professional Wireless GX-8 Antenna Combiner
- (3) 20' BNC Cables 50 ohm
- (2) 50' BNC Cables 50 ohm
- (12) 2' BNC Patch Cables 50 ohm)
- (2) Furman Power Conditioner & Light Module
- (6) 24 pack of AA Batteries
- (3) US Standard 25' Edison Quad Boxes

SUBSNAKES, CABLES & STAGE EQUIPMENT

- (2) 12-channel W1 subsnake boxes – RF, Playback
- (2) 25' 12-channel W1 Hose – RF, Playback
- (20) 10'-15' XLR Cables
- (10) 25' XLR Cables

STANDS

- (3) Heavy-Base Tall Boom Stand for Wireless (Black)
- (4) Round Base Straight Stands (Black)
- (4) Tri-Base Tall Boom Stands (Black)
- (2) Short Boom

STAGE POWER

- (4) US Standard 25' Edison Quad Boxes



Alcohol cannot be purchased or provided by Addison and thus will not be provided. Artist is permitted to consume alcohol in moderation while on site in approved areas only (i.e. green room).

BOTTLE RIDER

~~(12) Belaire Gold Bottles (Belaire Rose when Gold is not available)~~

~~(4) Hennessy~~

~~(4) 1942 Don Julio~~

(15) Fiji Waters

(12) Red Bull's

Assorted Juices and Chasers (Orange, Pineapple, Cranberry, Coke, Sprite, Etc.) ~~If club has a restaurant 10 to go meals approved by management.~~ Buyout provided as prescribed in the attached agreement.

~~When bottles come out a complete movie has to be made. All music must stop, the DJ must announce SWAE LEE is the building, drop SWAE LEE's new single "Won't Be Late", and the bottle girls should bring out complete bottle rider with doubled the amount of normal sparklers, Artist's bottles must brought out soon as SWAE LEE arrives into section. Please have all bottle girls and bottles prepped 15 minutes before SWAE LEE's arrival.~~

TRANSPORTATION Ground Transportation is the responsibility of the Entertainer.

~~TWO (2) Cadillac Escalades, or the equivalent, must be provided for local ground transportation, or otherwise approved by management. Roundtrip transportation with same drivers is required and pick up for 11pm on standby to be inspected by security/mgmt.~~

PARKING

There must be at least three (3) parking spots provided for the artists next to the artist entrance, or of the equivalent convenience.

SECURITY All security deployment and briefing is at the sole discretion of Addison.

At least two (2) security guards provided by the venue must escort SWAE LEE from the vehicle to section. Artist entry/exit must be through the artist/backdoor entrance. The provided security must remain with SWAE LEE for the entire duration of the hosting and/or performance, and escort group back to the vehicle.

SECTION

~~VIP Section must be the biggest section in the club. If section is small two (2) sections will be required. This section must be completely cleared prior to artist's arrival. Artist section must be smoking friendly. Please ensure all venues provided security is aware of such.~~

All hospitality is per advance, contingent on budget, and subject to the availability of the requested items in the Addison, TX area. A reduced and modified rider will be requested during the advance. Notwithstanding the foregoing, Entertainer rider will NOT be fulfilled exactly as requested herein.

SWEA LEE RIDER

DRESSING ROOM:

SNACKS (Organic or Name Brands)

- X1 almond milk
- X1 grapefruit juice
- X1 pineapple juice
- X1 apple juice
- X4 pressed Juices
- X1 Pedialyte (kiwi strawberry flavor)
- X4 Ginger Beer (Fever Tree Brand)
- X6 green tea (organic, hot&cold)
- X6 coconut water (organic)
- X6 aloe vera water (organic w pulp)
- X12 Evian water (Evian Brand specifically)
- X4 ORGAIN Organic Nutrition (vanilla flavor protein drink)
(ORGAIN BRAND SPECIFICALLY)
- X1 raw organic honey
- ~~X1 Fruity Pebbles~~
- ~~X1 Cinnamon Toast Crunch~~
- X1 honey buns (little debbies brand)
- X1 oatmeal cream pies (little debbies brand)
- X1 fig newtons
- ~~X1 loaf of bread (nature's own - HONEY wheat)~~
- ~~X1 peanut butter (skippy - smooth mix)~~
- ~~X1 strawberry jelly~~
- X4 twix
- X4 almond joy
- X4 snickers
- X1 Doritos (Variety Pack or Funyons, Nacho, Cool Ranch)
- X1 Walnuts/Mixed Nuts
- X1 Haribro Sour Gummie Bears

~~LIQOUR:~~

~~X1 Don Julio 1942~~

~~X1 Hennessy VS~~

~~X1 Patron Silver~~

ITEMS:

~~X5 Bic Lighters~~

~~X8 Backwoods (SWEET AROMATIC Flavor ONLY!!!!)~~

~~X12 Trojan Magnum Condoms~~

~~X2 iPhone Pro Chargers~~

ROOM VIBES:

~~X Speakers~~

~~X Candles~~

~~X Incense~~

~~X Bean Bags~~

~~X Blanket~~

~~BREAKFAST:~~

~~X French Toast (w/extra syrup)~~

~~X Scrambled eggs~~

~~X Turkey Bacon~~

~~X Hash Browns~~

~~X Grape Fruit Juice~~

~~X Ginger Shots~~

~~X Assorted Fruit Plate~~

~~X Oatmeal (plain)~~

~~X Turkey Sausage~~

- ~~X Baked Beans~~
- ~~X Almond Milk~~
- ~~X Cereal (wheaties, fruity pebbles, cinnamon toast crunch)~~
- ~~X Cold Press Juice~~
- ~~X Green Mint Tea~~

No meals provided. Buyout pursuant to the attached agreement will be provided.

~~DINNER/LUNCH:~~

- ~~X Rotisserie Chicken, Grilled Chicken~~
- ~~X Oxtail /Stew~~
- ~~X Pasta Bolognese~~
- ~~X Cheese Burger, American Cheese, Lettuce, BBQ sauce, Buns~~
- ~~X Tomato/Pea/Chicken Soup~~
- ~~X Edamame~~
- ~~X green beans~~
- ~~X Plain green Salad (no dressing or tomato)~~
- ~~X Peas~~
- ~~X White Rice~~
- ~~X Yams~~
- ~~X Brussel Sprouts~~
- ~~X Mashed Potatoes~~
- ~~X Baked Potato (Plain)~~
- ~~X Corn on the Cobb~~
- ~~X Fruit Bananas, Pineapple, Grapes, Melons, Exotic Fruits~~

~~CLOTHING:~~

- ~~X White T-Shirt (XS, H&M/Zara)~~
- ~~X White Crew Socks (Tall/No Logo, 9-11)~~
- ~~X White Boxer Briefs (S, Calvin Klein)~~

~~MISCELLANEOUS:~~

- ~~X package of Bic Lighters~~
- ~~X iPhone X/XS charger~~
- ~~X Shea Butter Soap (Organic Brand)~~
- ~~X Organic Toothpaste (Fluoride Free)~~
- ~~X Deodorant (Toms/Organic Aluminum Free Brands)~~
- ~~X Hair Ties~~
- ~~X Condoms (Trojan Magnum)~~
- ~~X Tooth Brush (Soft Bristle)~~
- ~~X Organic Shampoo & Conditioner (Coconut, Morocco)~~
- ~~X Candles~~

Good Vibes Only

EXHIBIT A

SWAE LEE

FOH Zachary Stansberry 470-558-5200
 MONITORS Lester Purnell 321-356-9107
 PRODUCTION MANAGER Anthony Moore 314-610-5005

INPUT	RACK	ALT.	INSTRUMENT	MIC/DI	STAND/NOTES ETC	STAGE POSITION	STAGE BOX
1	1		ABELTON DRUMS L	DI		MONITOR WORLD	A1
2	2		ABELTON DRUMS R	DI		MONITOR WORLD	A2
3	3		ABELTON MUSIC L	DI		MONITOR WORLD	A3
4	4		ABELTON MUSIC R	DI		MONITOR WORLD	A4
5	5		ABELTON BGV L	DI		MONITOR WORLD	A5
6	6		ABELTON BGV R	DI		MONITOR WORLD	A6
7	7		ABELTON LEAD VOX	DI		MONITOR WORLD	A7
8	8		ABELTON TIME CODE	DI		MONITOR WORLD	A8
9	9		SWAE DRY			MONITOR WORLD	A9
10	10		SWAE SPR DRY			MONITOR WORLD	A10
11	11		SWAE FX (AUTOTUNE)	Y CABLE		MONITOR WORLD	A11
12	12		SWAE SPARE FX (AUTOTUNE)			MONITOR WORLD	A12
13	13		GUEST 1	WIRELESS MIC			
14	14		GUEST 2	WIRELESS MIC			
15	15						
16	16						
17	17						
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19	19						
20	20						
21	21						
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31	31						
32	32						
33	33						
34	34						
36	36		STAGE/TALK BACK	SM58SW	STRAIGHT ROUND BASE	UPSTAGE CENTER	
37	37		PLAYBACK/TALK BACK	SM58SW		MONITORWORLD	
38	38		SR TECH SHOUT/TALK BACK	SM58SW			
39	39		FOH SHOUT/TALBACK	SM58SW			
40	40		MONITOR SHOUT/TALKBACK	SM58SW			

SUB BOXES
A - DSL - ABELTON



1201 Demonbreun Street, 15th Floor
Nashville, TN 37203
USA
Phone: +1 615-963-3382
email: MURPH@wmeagency.com

SWAE LEE

SWAE LEE INCORPORATED

ARTIST RIDER AND ADDENDA ATTACHED HERETO HEREBY MADE A PART OF THIS CONTRACT

Agreement made 14 Feb 2023 between **SWAE LEE INCORPORATED** (hereinafter referred to as "PRODUCER") furnishing the services of **SWAE LEE** (hereinafter referred to as "ARTIST") and **TOWN OF ADDISON/Yesenia Saldivar** (hereinafter referred to as "PURCHASER")

It is mutually agreed between the parties as follows:

The PURCHASER hereby engages the PRODUCER to furnish the services of ARTIST for the Engagement (as described herein) upon all the terms and conditions herein set forth, including, without limitation, Addendum "A" (Additional Terms and Conditions), the Artist Rider, and any other PRODUCER addenda referenced herein (if any), all of which are attached hereto and fully incorporated herein by reference.

mutually agreed upon

as amended

Notwithstanding the foregoing, the "Addison Entertainment Agreement" is expressly attached, fully incorporated into this agreement, and shall be the controlling document in the event of a conflict.

1. ENGAGEMENT VENUE(S):

ADDISON CIRCLE PARK
4970 Addison Circle
Addison, TX 75001
USA

2. DATE(S) OF ENGAGEMENT:

Fri 02 Jun 2023

a. Number of Shows:

1

b. Show Schedule(s):

TBA: Doors

06:30 PM: Support - TBA; (90 min.)

08:30 PM: Support - Pending: Emerald City Band; (90 min.)

10:30 PM: SWAE LEE; (60-75 min.); Confirmed; to close

12:00 AM: Curfew; Not hard out

3. BILLING (in all forms of advertising):

Festival Billing

4. COMPENSATION:

Compensation includes ground transportation, airfare, hotel, and backline, all Artist responsibility.

\$115,000.00 USD (One Hundred Fifteen Thousand U.S. Dollars) flat GUARANTEE.

DEPOSIT requirements and PAYMENT TERMS are further set forth below in Section 10.

5. PRODUCTION AND CATERING:

- Purchaser to provide and pay for FESTIVAL production, to be advanced. See attached technical pack of the equipment provided for this engagement.

Production Contact:

Samantha Juels
+1(732) 818-9600 (off.)
samantha@degv.com

6. TRANSPORTATION AND ACCOMMODATIONS:

a) Air transportation: Artist responsibility

b) Accommodations: Artist responsibility

c) Air freight and excess baggage: Artist Responsibility

d) Ground transportation: ~~Purchaser to provide and pay for professional car service as required by Artist between venue and hotel, provided the hotel is within event city.~~ Artist Responsibility.

- e) Meals and incidentals: Festival catering or a buyout in the amount of \$50 / person will be provided at Purchaser sole discretion.
- f) Other: Backline is Artist Responsibility.

Any changes to the above-mentioned arrangements are subject to the ~~sole and exclusive~~ prior written approval of PRODUCER and PURCHASER ~~mutual agreement~~

7. **SPECIAL PROVISIONS:**

Artist may not perform within 100 miles of Addison, TX for six (6) months prior and zero (0) days after the show date, without the written consent of Purchaser.

8. **ARTIST RIDER:**

PURCHASER shall provide and pay for all ~~terms and conditions~~ ^{mutually agreed on} contained in the ARTIST rider and shall fully comply with all ~~provisions~~ ^{mutually agreed on} thereof.

9. **CURRENCY AND EXCHANGE RATE:**

~~Notwithstanding the foregoing, PRODUCER shall provide and pay for all mutually agreed on terms and conditions contained in the Addison Entertainment Agreement attached hereto and comply with all provisions thereof.~~

where expressly stated

10. **PAYMENT TERMS:**

a. **DEPOSIT in the amount of \$28,750.00 USD** shall be paid to and in the name of PRODUCER's agent, WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC (25% deposit upon receipt of Fully Executed Contract, Certificate of Insurance, W-9 and Invoice.)

DEPOSIT in the amount of \$28,750.00 USD shall be paid to and in the name of PRODUCER's agent, WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC, to be received not later than **02 May 2023**; (25% deposit at 30 days prior to performance.)

All deposit payments shall be paid via ~~certified or cashier's~~ ^{Town of Addison company} check sent to:

WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC
 ATTN: Carrie Murphy
 1201 Demonbreun Street, 15th Floor
 Nashville, TN 37203
 USA

Final balance to be paid directly to Swae Lee Incorporated via Town of Addison company check handed to the Producer representative immediately following the Artist performance.

OR via bank wire as follows:

CITY NATIONAL BANK
 54 Music Square East
 Nashville, TN 37203

ABA no.: 064009445
 William Morris Endeavor Account No.: 684001426
 ORG: Town of Addison / REF: Swae Lee / Jun 02, 2023
 WME booking code: PAC 997977

Please be sure to specify the following to avoid confusion and/or misapplication of funds: your company name (as sender), name of the artist, start date of the Engagement(s).

b. BALANCE of the monies shall be paid to and in the name of PRODUCER by ~~certified or cashier's~~ ^{Town of Addison company} check or bank wire (as designated by PURCHASER), PRODUCER), to be received by PRODUCER not later than ~~prior to the first show of the Engagement.~~

~~e. Earned percentages, overages and/or bonuses, if applicable, are to be paid to PRODUCER in cash (if requested by PRODUCER, and to the extent permitted by law), or by certified or cashier's check or bank wire (as designated by PRODUCER), immediately following the last show of the Engagement.~~

~~d. In the event the full price agreed upon to be paid by PURCHASER does not include percentages or overages, and the actual gross box office receipts from the Engagement exceed the gross potential as stated herein, such amounts shall be paid in full to PRODUCER in cash (if required by PRODUCER and to the extent permitted by law) or by certified or cashier's check or bank wire (as designated by PRODUCER), immediately following the last show of the Engagement.~~

11. SCALING AND TICKET PRICES:

EXHIBIT A

	CAP.	TYPE	PRICE	COMPS	KILLS	SELLABLE	FAC.FEE	PARKING	CHARITY	TIC.FEE	VIP	SCNDRY	OTHER	NET PRICE	GROSS POT.
Fri 02 Jun 1:30 PM	10,000	GA Standing	\$15.00	0	0	10,000								\$15.00	\$150,000.00
	10,000			0	0	10,000									\$150,000.00

SCALING NOTES:

- Outdoor Show / Rain or Shine
- GA admission: \$15
- Children 6-12 admission: \$5
- Artist Comps: TBD

ADJUSTED GROSS POTENTIAL:	\$150,000.00
TAX:	
NET POTENTIAL:	\$150,000.00

12. EXPENSES:

N/A

13. MERCHANDISING:

Artist sells; All Merchandise: 80.00% of proceeds to ARTIST. MFN

14. VISAS AND WORK PERMITS:

Artist Responsibility.

15. TAXES:

PRODUCER is required to pay income tax on net earnings in accordance with the laws of the Internal Revenue Service (IRS). For the avoidance of doubt, the compensation paid to the Producer for this engagement is not considered income tax free regardless of the tax status of the PURCHASER.

MUTUALLY AGREEABLE PROVISIONS OF

AND PURCHASER

~~ADDENDUM "A" (ADDITIONAL TERMS AND CONDITIONS), ARTIST RIDER, AND ANY OTHER PRODUCER ADDENDA REFERENCED HEREIN (IF ANY), ARE ALL ATTACHED HERETO AND FULLY INCORPORATED HEREIN BY REFERENCE.~~ **NOTWITHSTANDING THE FOREGOING, THE ADDISON ENTERTAINMENT AGREEMENT ATTACHED HERETO SHALL BE THE CONTROLLING DOCUMENT. IN THE EVENT OF A CONFLICT, THE PROVISION IN THE ADDISON ENTERTAINMENT CONTRACT SHALL PREVAIL.**

IN WITNESS WHEREOF, the parties hereto have hereunto set their names and seals on the day and year first above written.

By:

TOWN OF ADDISON
~~Yesenia Saldivar~~ **David Gaines, City Manager**
 5300 Belt Line
 Bedford, TX 75001
 USA

 Care of: Jeff Hyman
 Degy Booking International, Inc.
 3803 Brookfield Dr.
 Champaign, IL 61822
 USA

By:

Jeremy Ellis
 SWAE LEE INCORPORATED
 Fed ID: 84-2612011

Return all signed contracts to WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC at the address above; Attention: Murphy

Notwithstanding the foregoing, PRODUCER shall provide and pay for all mutually agreed on terms and conditions contained in the Addison Entertainment Agreement attached hereto and comply with all provisions thereof.

where expressly stated

ADDITIONAL TERMS AND CONDITIONS

A. COMPENSATION

- (1) Unless otherwise specified, all payments shall be made in full without any deductions whatsoever. ~~If not already indicated on the face page of this Agreement, PURCHASER will advise PRODUCER, or PRODUCER's agent, promptly upon request (but in no event later than the on-sale date), of the net admissions prices for the entertainment presentation and shall further disclose any added charges and applicable tax in connection therewith.~~
- (2) ~~In the event the payment to PRODUCER shall be based in whole or in part on receipts of the performance(s) hereunder, PURCHASER agrees to deliver to PRODUCER a certified statement of the gross receipts of each performance within two (2) hours following such performance. PRODUCER shall have the right to have a representative present in the box office at all times and such representative shall have access to box office records of PURCHASER relating to gross receipts of the Engagement.~~
- (3) ~~In the event that the payment of PRODUCER's share of said performance(s) receipts is based in whole or in part upon expenses related to the Engagement, PURCHASER shall verify by paid receipts, cancelled check or similar documents all such expenses, or they shall not be included as an expense of the Engagement.~~
- (4) In the event the payment to PRODUCER does not include a percentage payment, if the actual gross box office receipts from the Engagement exceed the gross potential as stated on the face of this Agreement or as otherwise agreed in writing between the parties, such excess shall be immediately paid in full to PRODUCER in-cash via Town of Addison Check

B. TICKETS

- (1) PURCHASER shall not announce, advertise, promote or sell tickets to the Engagement until authorization in writing has been received from PRODUCER.
- (2) ~~ALL TICKETS MUST BE NUMBERED. NO TICKETS SHALL BE PRICED AT MORE THAN THE AGREED UPON PRICE EXCLUSIVE OF VALUE ADDED TAX OR OTHER SALES-BASED TAX WITHOUT PRODUCER'S PRIOR APPROVAL.~~
- (3) ~~If ticket price scaling shall be varied in any respect, the percentage of compensation payable to PRODUCER shall be based upon whichever of the following is more favorable to PRODUCER: (i) the ticket price scaling set forth on the face page of this Agreement or as otherwise agreed in writing by the parties, or (ii) the actual ticket price scaling in effect for the Engagement.~~
- (4) ~~The PRODUCER's representative shall have the right to inspect ticket racks and all box office and other records with respect to such receipts, including, but not limited to, unsold tickets, printed but unsold tickets (so-called "deadwood") and stubs of tickets sold, for the purpose of verifying the statements. PRODUCER's representative will upon request be admitted to the box office at all times during the sale of tickets for the Engagement hereunder.~~
- (5) ~~There shall be no dynamic ticket pricing unless mutually agreed upon by PRODUCER and PURCHASER in writing. In the event the parties agree to participate in dynamic ticket pricing all terms thereof shall be subject to mutual written approval including, without limitation, all ticket prices and adjustments thereto, scaling, gross box office potential and additional ticketing charges (if any). All elements thereof, including, without limitation, all ticket pricing/scaling/adjustments, ticketing charges (if any) and final gross revenue must be transparent and presented at settlement in writing to PRODUCER to evidence compliance with the foregoing.~~
- (6) PURCHASER agrees that any inclusion of ARTIST's performance hereunder in a subscription or other type of series is subject to the prior written consent of PRODUCER.
- (7) PURCHASER shall not commit ARTIST to any interviews, promotional appearances, meet & greets, or otherwise without PRODUCER's prior, written consent, which shall be given or withheld in PRODUCER's sole discretion.

C. FACILITIES

- (1) PURCHASER agrees to furnish at its sole cost and expense on the date(s), time(s) and place(s) of the performance(s) all that is necessary for the proper and lawful presentation of the Engagement, including, without limitation, a suitable venue, well-heated, ventilated, lighted, clean and in good order, ~~stage curtains, properly tuned grand piano or pianos~~ reasonable and industry standard and all necessary ~~first class~~ reasonable sound equipment in perfect working condition including amplifiers, microphones in number and quality required by PRODUCER, dressing rooms (clean, comfortable, properly heated and air-conditioned and near the stage), all necessary electricians and stage hands, all necessary ~~first class~~ reasonable and industry standard lighting, tickets, house programs, all licenses (including musical performing rights licenses), adequate security, ushers, ticket sellers, ticket takers, appropriate and sufficient advertising in all media and PURCHASER shall pay all other necessary expenses in connection therewith.
- (2) PURCHASER shall also provide at its sole cost and expense all necessary equipment for the Engagement hereunder as provided on the face of the Agreement, or as designated in the attached ARTIST Rider, unless otherwise agreed by PRODUCER and PURCHASER in writing. Exact requirements to be advised if same differs from ARTIST Rider specifications. Reasonable efforts will be made to meet the needs of the ARTIST rider. ARTIST acknowledges that not all the requested equipment may be available due to engagement location.
- (3) PURCHASER will pay all music royalties in connection with PRODUCER's use of music, ~~and in addition, the costs of any musicians (including contractor) other than those furnished by PRODUCER as part of PRODUCER's regular company.~~
- (4) PURCHASER agrees to pay all amusement taxes, if applicable.
- (5) PURCHASER shall comply with all regulations and requirements of any union(s) that may have jurisdiction over any of the said materials, facilities and personnel to be furnished by PURCHASER and PRODUCER.
- (6) If PRODUCER so requires, PURCHASER will furnish at its expense all necessary facilities, electricians, stage hands and other personnel for lighting ~~and dress rehearsals. PURCHASER shall furnish at its own expense all other items and personnel including, but not limited to, any and all personnel, including musicians, as may be required by any national or local union(s) required for the proper presentation of the performance hereunder and any rehearsals therefore, except for those items and personnel which PRODUCER herein specifically agrees to furnish.~~ and PRODUCER (to the extent applicable to PRODUCER/ARTIST) for the Purchaser's responsibilities
- (7) PURCHASER shall ensure compliance with all applicable requirements of laws and regulations as to health and safety, licensing, insurance, hygiene, fire, access, egress, security, and generally in relation to the performance(s) and the venue(s) for such performance(s). unless a result of PRODUCER/ARTIST negligence and willful misconduct.
- (8) PURCHASER shall be solely responsible for providing a safe environment for the Engagement, including but not limited to with respect to the staging, stage covering, grounding, supervision and direction of the Engagement, and security, so that the Engagement and all persons and equipment are free from adverse weather and other conditions, situations and events ("Adverse Conditions"). PRODUCER/ARTIST shall not have any liability for any damage or injury caused by such Adverse Conditions. sole intentional wrongful conduct

D. PRODUCTION CONTROL

EXHIBIT A

- (1) PRODUCER shall have the sole exclusive creative control over the production and presentation of ^{only this} ARTIST's performance at the Engagement hereunder, including, but not limited to, the details, means and methods of the performance of the performing artists hereunder, and PRODUCER shall have the sole right, as PRODUCER may see fit, to designate and change at any time the performing personnel other than the ARTIST herein specifically named. ~~PRODUCER/ARTIST must notify PURCHASER if such time a performing personnel is changed.~~
- (2) ARTIST shall at all times be the headline act and will be the closing act of each show, unless otherwise specified herein. ~~PURCHASER agrees that no performers other than those to be ^{approved} ~~furnished~~ by PRODUCER hereunder will appear on or in connection with the Engagement hereunder. PURCHASER agrees to supply and pay for all supporting acts, if any, which must be requested and/or approved by PRODUCER.~~
- (3) PURCHASER agrees to ~~promptly~~ ^{reasonably} comply with PRODUCER's directions as to stage settings for the performance hereunder. ~~pending Purchaser approval.~~
- (4) It is understood that no stage seats are to be sold or used without PRODUCER's prior written consent.

E. EXCUSED PERFORMANCE Addison Entertainer Agreement section 4.3(c) controls

~~If, as the result of a Force Majeure Event (as defined below), PRODUCER or ARTIST is unable to, or is prevented from, performing the Engagement or any portion thereof or any material obligation under this Agreement, then PRODUCER's and ARTIST's obligations hereunder will be fully excused, there shall be no claim for damages or expenses by PURCHASER, and PURCHASER shall bear its own costs and expenses in connection with this Agreement. Notwithstanding the foregoing: (i) PURCHASER shall be obligated and liable to PRODUCER for such proportionate amount of the payment provided for herein as may be due hereunder for any performance(s) which PRODUCER may have rendered up to the time of the inability to perform by reason of such Force Majeure Event; and (ii) in the event of such non-performance as a result of a Force Majeure Event, if ARTIST is ready, willing, and able to perform (but for the occurrence of such Force Majeure Event), then PURCHASER shall nevertheless pay PRODUCER an amount equal to the full GUARANTEE plus all other payments and compensation due hereunder. For clarification, in the event of cancellation due to any Force Majeure Event, and whether or not ARTIST is ready, willing and able to perform, PURCHASER shall remain responsible for all transportation, accommodations, expense reimbursements and any other payments or compensation for PRODUCER/ARTIST and entourage pursuant to the terms of this Agreement.~~

~~A "Force Majeure Event" shall mean any one or more of the following acts which makes any performance(s) by PRODUCER or ARTIST contemplated by this Agreement impossible, infeasible or unsafe: acts of God; act(s) or regulation(s) of any public authority or bureau, civil tumult, epidemic, act(s) of the public enemy; act(s) or threats of terrorism; threats; insurrections; riots or other forms of civil disorder in, or around, the Engagement venue or which PRODUCER and/or ARTIST reasonably believe jeopardizes the safety of ARTIST, any of ARTIST's equipment, musicians or other performers, or any of PRODUCER's key personnel; embargoes; labor disputes (including, without limitation, strikes, lockouts, job actions, or boycotts); fires; explosions; floods; shortages of energy or other essential services; failure of technical facilities; failure or delay of transportation; death, disability, illness, injury or other inability to perform of ARTIST, any of ARTIST's musicians, other performers, crew, representatives or advisors, any of ARTIST's family members, any of PRODUCER's key personnel, or any other person personally known to ARTIST whose death, disability, illness or injury adversely impacts ARTIST's ability to perform in connection with the Engagement, or other similar or dissimilar causes beyond the control of ARTIST or PRODUCER which make any performance(s) contemplated by this Agreement impossible, infeasible or unsafe.~~

F. INCLEMENT WEATHER Purchaser reserves the ^{reasonably} right to delay the performance due to safety concerns.

Notwithstanding anything contained to the contrary herein, inclement weather shall not be deemed a Force Majeure event and PURCHASER shall remain liable for payment to PRODUCER of the full GUARANTEE ~~plus all other compensation~~ due hereunder if the performance(s) is rendered impossible, infeasible or unsafe by such weather conditions. For clarification, PURCHASER shall remain responsible for all other terms and conditions of this Agreement, including, without limitation accommodations, transportation, and ~~expense reimbursements for ARTIST and touring party.~~ ^{reasonable and documented} ~~Condition deemed unsafe by state or local public safety officials~~

G. PRODUCER'S RIGHT TO CANCEL

No cancellation policy will be granted.

~~PURCHASER agrees that PRODUCER may cancel the Engagement hereunder without liability by giving the PURCHASER notice thereof at least thirty (30) days prior to the commencement date of the Engagement hereunder. Upon termination of the Agreement in accordance with this Section G, PRODUCER shall return to PURCHASER any deposit previously received by PRODUCER in connection with the Engagement. Subject to the foregoing, upon such termination, the parties shall have no further rights or obligations hereunder, and each of the parties shall bear its own costs incurred in connection with this Agreement.~~

H. BILLING

- (1) ARTIST shall receive billing in such order, form, size and prominence as directed by PRODUCER in all advertising and publicity issued by or under the control of the PURCHASER, including, but not limited to, displays, newspapers, radio and television ads, electric lights, posters, houseboards and announcements.
- (2) PURCHASER may only use ARTIST's name and pre-approved: voice, likeness, materials, pictures, photographs, image, or other identification of ARTIST (collectively, "ARTIST's Likeness") in connection with PURCHASER's advertising and publicizing of the Engagement, however PURCHASER's use of ARTIST's Likeness shall not be as an endorsement or indication of use of any product or service and no corporate or product/service name or logo shall be included in any such advertising and publicity absent PRODUCER's prior written approval in each instance. Notwithstanding the foregoing, the placement, form, content, appearance, and all other aspects of PURCHASER's use of ARTIST's Likeness shall at all times be subject to the prior written approval of PRODUCER.

I. MERCHANDISING

ARTIST related

PRODUCER shall have the exclusive right to sell ~~any~~ ^{any} souvenir programs, ballet books, photographs, records and any and all types of merchandise including, but not limited to, articles of clothing (i.e. T-shirts, hats, etc.), posters, stickers, etc., on the premises of the place(s) of performance without any participation in the proceeds by PURCHASER subject, however, to concessionaire's requirements, if any, as specified in this Agreement. ~~85/15 (soft) 100 to Artist (hard)~~

Producer acknowledges that Purchaser cannot prevent attendees from non professional photography/recording, and use of cell phones by attendees will not put Purchaser in breach of this provision provided Purchaser use good faith efforts to prevent it and to stop either photography/recording should Purchaser become aware of it.

J. NO RECORDING/BROADCAST

PURCHASER shall not itself, nor shall it permit or authorize others (including, without limitation, PURCHASER or venue employees, representatives or contractors) to record, broadcast, televise, film, photograph, webcast, or otherwise reproduce the visual and/or audio performances hereunder (or any part thereof) and/or ARTIST and/or PRODUCER's personnel at any time during the Engagement. In the event PRODUCER does so grant any of the aforementioned rights, such rights shall be subject to a separate written agreement, and PURCHASER shall be responsible, at PURCHASER's sole cost and expense, for securing any and all necessary third party rights, licenses, clearances, and permissions (including, but not limited to, all necessary publishing and record label clearances) required in connection with PURCHASER's capture and/or exploitation of the same. Notwithstanding the foregoing, and further to any additional obligations of PURCHASER to indemnify PRODUCER/ARTIST contained in this Agreement, PURCHASER shall indemnify and hold harmless PRODUCER and ARTIST from any and all damage(s) it, or they, may sustain as a result of PURCHASER's failure to comply herewith, unless as a result of ARTIST and PRODUCER negligence and/or willful misconduct.

K. PURCHASER DEFAULT Purchaser must be notified in writing about possible breach, failure or the like. Upon receipt, the Purchaser shall have a reasonable amount of time to cure alleged breach, failure or the like.

prior to Performance that will materially and adversely affect the Engagement

(1) In the event PURCHASER refuses or neglects to provide any of the items herein stated or comply with any provisions hereunder, and/or fails to promptly make any of the payments as provided herein and/or fails to proceed with the Engagement and/or fails to furnish PRODUCER or ARTIST with any documentation, tickets or notice or proof thereof as required hereunder, at the times herein specified, then any such failure shall be deemed a substantial and material breach of this Agreement and PRODUCER shall have the right (in PRODUCER's sole discretion), without prejudice to any other rights and remedies to: (i) immediately terminate this Agreement and cancel any or all remaining Engagement hereunder; (ii) retain all amounts already paid to PRODUCER by PURCHASER as partial compensation for such breach; (iii) receive the full GUARANTEE (or the unpaid balance thereof) plus all other payments and other compensation due pursuant to this Agreement and all out of pocket expenses incurred by PRODUCER and ARTIST in connection with the Engagement or the transactions contemplated by this Agreement; and (iv) PRODUCER and ARTIST shall have no further liabilities and/or obligations in connection with the Engagement or the transactions contemplated by this Agreement. For the avoidance of doubt, in all instances PURCHASER shall remain responsible for all transportation, accommodations, and expense reimbursements for PRODUCER/ARTIST and entourage pursuant to the terms of this Agreement.

non-refundable, reasonable and documented

~~(2) If, on or before the date of any scheduled Engagement, PURCHASER has failed, neglected, or refused to perform any contract with PRODUCER/ARTIST, and/or any contract with any third party relating to this Engagement, and/or any other contract with any other performer for any other engagement (whether or not related), or if the financial standing or credit of PURCHASER has been impaired or is in PRODUCER's opinion unsatisfactory, PRODUCER shall have the right to demand payment of the full GUARANTEE and all other compensation due pursuant to this Agreement. If PURCHASER fails or refuses to make such payment forthwith, then any such failure shall be deemed a substantial and material breach of this Agreement, and PRODUCER shall have the right (in PRODUCER's sole discretion), without prejudice to any other rights and remedies, to: (i) immediately terminate this Agreement and cancel any or all remaining Engagement(s) hereunder; (ii) retain all amounts already paid to PRODUCER by PURCHASER as partial compensation for such anticipatory breach; (iii) receive the full GUARANTEE (or balance thereof) and all other compensation due pursuant to this Agreement and all out of pocket expenses incurred by PRODUCER and ARTIST in connection with the Engagement or the transactions contemplated by this Agreement; and (iv) PRODUCER and ARTIST shall have no further liabilities and/or obligations in connection with the Engagement or the transactions contemplated by this Agreement. For the avoidance of doubt, in all instances PURCHASER shall remain responsible for all transportation, accommodations, and expense reimbursements for PRODUCER/ARTIST and entourage pursuant to the terms of this Agreement.~~

L. INSURANCE/INDEMNIFICATION

Pursuant to the Town of Addison Insurance Addendum as amended

~~(1) PURCHASER shall obtain and maintain, from the date hereof through completion of the Engagement, commercial general liability insurance coverage, including a contractual liability endorsement as respects this Agreement, liquor liability (either from PURCHASER, if PURCHASER is furnishing liquor, or from PURCHASER's designated concessionaire), in an amount of not less than Five Million Dollars (\$5,000,000) per occurrence (but in no event in amounts less than the limits required by the venue and/or as set forth in the ARTIST rider, if any); business automobile liability insurance covering all owned, non-owned and hired vehicles used by or on behalf of PURCHASER with a minimum combined bodily injury and property damage liability limit of Five Million Dollars (\$5,000,000) per occurrence; and workers compensation and employer's liability insurance (including stop gap liability where applicable) with minimum limits of One Million Dollars (\$1,000,000) per claim (but in no event in limits less than those required by law and/or less than the limits required by the venue and/or as set forth in the ARTIST rider, if any.) Notwithstanding the foregoing, for any Engagement at which the allowable capacity is in excess of Twenty-Five Thousand (25,000) attendees, but less than Fifty Thousand (50,000) attendees, the required commercial general liability insurance coverage limit shall be in an amount of not less than Ten Million Dollars (\$10,000,000) per occurrence, and for any Engagement at which the allowable capacity is Fifty Thousand (50,000) or more attendees, the required commercial general liability insurance coverage limit shall be in an amount of not less than Fifteen Million Dollars (\$15,000,000) per occurrence. All of the insurance requirements set forth above shall not be construed as a limitation of any potential liability on behalf of PURCHASER. All such insurance required above shall be primary and non-contributory, and shall be written by insurance companies qualified to do business in the state(s) of the Engagement(s) with A.M. Best ratings not less than A minus or better. Such insurance policies shall contain a waiver(s) of subrogation with respect to the PRODUCER, ARTIST and their respective officers, directors, principals, agents, employees and representatives and shall provide that the coverage thereunder may not be materially changed, reduced or canceled unless thirty (30) days prior written notice thereof is furnished to PRODUCER/ARTIST. Not less than ten (10) days prior to each Engagement, PURCHASER shall furnish PRODUCER/ARTIST with an appropriate certificate(s) of insurance evidencing compliance with the insurance requirements set forth above and naming PRODUCER, ARTIST and PRODUCER/ARTIST's respective officers, directors, principals, agents, employees and representatives as additional insureds. PRODUCER's failure to request, review or comment on any such certificates shall not affect PRODUCER's rights or PURCHASER's obligations hereunder. Upon request, PURCHASER shall immediately furnish to PRODUCER/ARTIST a full and complete copy of all insurance policies required to be maintained by PURCHASER herein.~~

Each party is responsible for their own negligence and willful misconduct. Pursuant to Section 6 of the attached Addison Entertainment Agreement.

~~(2) PURCHASER hereby agrees to save, indemnify and hold harmless PRODUCER and ARTIST, and their respective agents, representatives, principals, employees, officers and directors, from and against any claims, suits, arbitrations, liabilities, penalties, losses, charges, costs, damages or expenses, including, without limitation, reasonable attorney's fees and legal expenses, incurred or suffered by or threatened against PRODUCER or ARTIST or any of the foregoing in connection with or as a result of any claim including without limitation, a claim for death, personal injury or property damage or otherwise brought by or on behalf of any third party person, firm or corporation as a result of or in connection with the Engagement, or any acts or omissions of PURCHASER or its employees, agents, or other representatives in connection with the transactions contemplated by this Agreement, which claim does not directly result from the gross negligence of the ARTIST and/or PRODUCER.~~

M. ROLE OF AGENT

EXHIBIT A

WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC acts only as agent for PRODUCER and assumes no liability hereunder and in furtherance thereof and for the benefit of William Morris Endeavor Entertainment, LLC, it is agreed that neither PURCHASER nor PRODUCER/ARTIST will name or join William Morris Endeavor Entertainment, LLC, or any of its parents, subsidiaries, officers, directors, principals, agents, employees and representatives (collectively, "WME") as a party in any civil action or suit anywhere in the world, arising out of, in connection with, or related to any acts of commission or omission pursuant to or in connection with this Agreement by either PURCHASER or PRODUCER/ARTIST. To the extent applicable, without limiting the generality of the foregoing and for the avoidance of doubt, WME expressly assumes no liability hereunder for any claims, losses, damages, complications, consequences, or other events that may occur as a result of the failure of either party hereto to obtain any of the visas, work permits, and/or other documentation required for the performance of the parties' obligations hereunder (hereinafter, the "Travel Documents"). It is agreed that neither PURCHASER nor PRODUCER/ARTIST will name or join WME as a party in any civil action or suit anywhere in the world, arising out of, in connection with, or related to any failure of either party hereto to obtain, secure, or procure the Travel Documents.

N. NOTICES

All notices required hereunder shall be given in writing at the addresses stated in the preamble of this Agreement. E-mail is an acceptable form of notice provided the receiver has provided evidence of receipt.

O. CONTROLLING PROVISIONS

In the event of any inconsistency or conflict between the provisions of this Agreement and the provisions of any riders, addenda, exhibits or any other attachments hereto, the parties agree that the provisions ~~most favorable to PRODUCER and ARTIST~~ contained within the Addison Entertainment Agreement shall control.

P. LIMITATION OF LIABILITY

~~unless as a result of PRODUCER and/or ARTIST negligence and willful misconduct~~

In no event shall PRODUCER and/or ARTIST (nor any of their respective agents, representatives, principals, employees, officers, directors and affiliates) be liable to PURCHASER (or any third party) for any indirect, incidental, consequential, special, punitive (or exemplary), or any similar damages, including, without limitation, lost profits, loss of revenue or income, cost of capital, or loss of business reputation or opportunity, as to any matter under, relating to, or arising out of the Engagement or the transactions contemplated by this Agreement, whether in contract, tort or otherwise, even if PRODUCER and/or ARTIST has been advised of the possibility of such damages. ~~Under no circumstances shall the liability of PRODUCER and/or ARTIST (or any of their respective agents, representatives, principals, employees, officers, directors or affiliates) exceed, in the aggregate, an amount equal to the lesser of (i) the amount of reasonably necessary out-of-pocket expenses directly incurred by PURCHASER in connection with ARTIST's performance at the Engagement taking into account any amounts PURCHASER has recovered using its best efforts to mitigate losses; or (ii) the amount of the GUARANTEE which ARTIST and/or PRODUCER have actually received in accordance with the terms of this Agreement.~~ PURCHASER agrees that it shall not (and shall cause its affiliates not to) seek indirect, incidental, consequential, special, punitive (or exemplary), or any other similar damages as to any matter under, relating to, or arising out of the Engagement or the transactions contemplated by this Agreement.

Q. MISCELLANEOUS PROVISIONS

- (1) Nothing in this Agreement shall require the commission of any act contrary to applicable law or to any rules or regulations of any union, guild or similar body having jurisdiction over the services and personnel to be furnished by PRODUCER to PURCHASER hereunder. In the event of any conflict between any provision of this Agreement and any such law, rule or regulation, such law, rule or regulation shall prevail and this Agreement shall be curtailed, modified, or limited only to the extent necessary to eliminate such conflict.
- (2) Purchaser shall comply, and shall ensure that its affiliates, subsidiaries, directors, managers, officers, employees, agents, and representatives comply, at Purchaser's expense, with all applicable laws, rules, and regulations in relation to its operations and performance of its obligations under this Agreement, including without limitation, any law, regulation, statute, prohibition, or other measure maintained by any agency or department of any national government, regional body, multilateral institution or other body which is responsible for the adoption, implementation or enforcement of sanction laws, including, but not limited to, the United Nations Security Council, the Council of the European Union, the European Commission, the relevant competent authorities of individual European Union Member States, the United States Department of Treasury's Office of Foreign Assets Control, the United States Department of Commerce, the relevant competent authorities of Australia, or any replacement or other regulatory body responsible for sanctions laws in any country relating to the implementation, application and enforcement of economic sanctions, export controls, trade embargos or any other restrictive measures, including but not limited to those measures which prohibit or otherwise restrict either party's ability to make a service available either directly or indirectly to a sanctioned person and those measures which restrict or prohibit either party from engaging in specified dealings with a specified class of person, whether defined by nationality, business sector or otherwise.
- (3) Purchaser represents and warrants that neither it nor its affiliates, subsidiaries, directors, managers, officers, employees, agents, or representatives is (i) a person or entity or, (ii) controlled by a person or entity, on the U.S. Treasury Department's list of Specially Designated Nationals and Foreign Sanctions Evaders List, the U.S. Commerce Department's Denied Persons List or Entity List, the U.K. HM Treasury Consolidated List of Financial Sanctions Targets, the U.K. Export Control Organisation's Iran List, the Australian Government Sanctions Consolidated List, or otherwise designated as subject to financial sanctions or prohibited from receiving Australian, U.S., or U.K. services, or any other equivalent local provisions. Purchaser agrees to notify both Producer and WME immediately in writing of any change in ownership or control that might violate this Section of the Agreement. Producer or WME may terminate this Agreement upon providing written notice of termination to Purchaser, if Producer or WME's performance of its obligations or receipt of consideration hereunder would, as reasonably determined by WME or Producer, result in non-compliance with any laws, rules and regulations applicable to Producer or WME.
- (4) Purchaser agrees to comply with all applicable laws and regulations, including, but not limited to, the US Foreign Corrupt Practices Act, the UK Bribery Act and the laws of the country in which any transactions are made or services are provided under this Agreement. Purchaser further agrees that Purchaser and any person or entity working on Purchaser's behalf in connection with the services provided under this Agreement shall not make any payment or transfer anything of value, directly or indirectly, to: (i) any governmental official or employee (including employees of government-owned and government-controlled corporations and public international organizations); (ii) any political party, official of a political party, or candidate for public office; (iii) any intermediary, including, but not limited to, agents, close associates or family members of government officials, for payment to any government official; (iv) any other person or entity in a corrupt or improper effort to obtain or retain business or any advantage, in

connection with Purchaser's affairs; or (v) any other person or entity; if such payment or transfer would violate the US Foreign Corrupt Practices Act, the UK Bribery Act, and/or laws of the country in which the transaction is made and/or services are provided under this Agreement. _____ and PURCHASER'S

(5) This (and any of PRODUCER's riders, addenda, exhibits or attachments hereto) constitutes the sole, complete and binding agreement between the parties hereto, and may not be amended, supplemented, altered or discharged except by an instrument in writing signed by the parties. If any part of this Agreement is determined to be void, invalid or unenforceable, such invalid or void portion shall be deemed to be separate and severable from the other portions of this Agreement, and the other portions shall be given full force and effect, as though the void and invalid portions or provisions were never a part of this Agreement.

(6) This Agreement shall be construed in accordance with the laws of the State of ~~Tennessee~~ ^{Texas} applicable to agreements entered into and wholly to be performed therein. Unless stipulated to the contrary in writing, all disputes arising out of this Agreement, wherever derived, shall be resolved in ~~Nashville, Davidson~~ ^{Addison, Dallas} County in the State of ~~Tennessee~~ ^{Texas} in accordance with the laws of that State; in the event of any such dispute, either party may effect service of process on the other party by certified mail, return receipt requested, and said service shall be equivalent to personal service and shall confer personal jurisdiction on the courts in ~~Nashville, Davidson~~ ^{Addison, Dallas} County in the State of ~~Tennessee~~ ^{Texas} and shall be deemed effective upon the earlier of the recipient's mail receipt date or ten (10) days after the mailing of such process, provided that a duplicate of such process shall have been mailed to the other party by ordinary mail at the same time as the certified mailing.

(7) PURCHASER shall not have the right to assign or transfer this Agreement, or any provision thereof.

(8) The waiver of any breach of any provision of this Agreement shall not be deemed a continuing waiver, and no delay in exercise of a right shall constitute a waiver.

(9) Nothing herein contained shall ever be construed as to constitute the parties hereto as a partnership, or joint venture, nor to make PRODUCER and/or ARTIST liable in whole or in part for any obligation that may be incurred by PURCHASER, in PURCHASER's carrying out any of the provisions hereof, or otherwise. THE PERSON EXECUTING THIS AGREEMENT ON PURCHASER'S BEHALF WARRANTS HIS/HER AUTHORITY TO DO SO, ~~AND SUCH PERSON HEREBY PERSONALLY ASSUMES LIABILITY FOR THE PAYMENT OF SAID PRICE IN FULL.~~

(10) The terms "ARTIST" and "PURCHASER" as used herein shall include and apply to the singular and the plural and to all genders.

(11) This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one (1) and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopier or electronic delivery (i.e. PDF format), including electronically signed versions of the same, shall be as effective as delivery of a manually executed counterpart of this Agreement and shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

Council Meeting 2023

7.

Meeting Date: 04/11/2023

Department: General Services

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and McKinstry Essention, LLC for the Turn-Key Construction Service Related to the Sloped Roof Replacements at the Addison Police Department, Fire Station 1, Fire Station 2, and the Addison Athletic Club and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$186,096.

BACKGROUND:

The sloped roofs on five of the Town's facilities are in need of replacement. General Services is requesting approval of a roof replacement contract with McKinstry Essention, LLC under the Omnia Cooperative Purchasing Contract #1158. McKinstry Essention, LLC has a positive track record of performing quality work for the Town. Purchasing cooperatives solicit competitive bids from many vendors offering 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.

Facility	Approved 2023 Budget	Turn-Key Replacement Costs
Police	\$90,000	\$86,204
Police Dormers	\$45,000	\$39,204
Fire Station 1	\$22,200	\$20,058
Fire Station 2	\$28,300	\$27,406
Athletic Club	\$14,500	\$13,224
Total	\$200,000	\$186,096

The Council approved the locations and costs of the sloped roof replacements in the FY 2023 Budget. This project is currently estimated at \$13,904 under budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Roof Replacement 2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A CONSTRUCTION SERVICES AGREEMENT BETWEEN THE TOWN OF ADDISON AND MCKINSTRY ESSENTION, LLC FOR THE ROOF REPLACEMENTS AT THE ADDISON POLICE DEPARTMENT, FIRE STATION #1 AND #2, AND THE ADDISON ATHLETIC CLUB; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with McKinstry Essention, LLC to provide construction services related to the sloped roof replacements at the Addison Police Department, Fire Station #1 and #2, and the Addison Athletic Club, in conformance with the terms of the contract documents.

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 and McKinstry Essention, LLC to provide construction services related to the sloped roof replacements at the Addison Police Department, Fire Station #1 and #2, and the Addison Athletic Club, in an amount not to exceed \$186,096.00, 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 **11th** day of **APRIL 2023.**

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

**CONSTRUCTION SERVICES AGREEMENT
ROOFING REPLACEMENT**

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between **McKinstry Essention, LLC**, 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, below; 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 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 the necessary services, labor, materials, equipment, and supplies to for the roof replacement project for the Addison Police Department, Addison Fire Stations #1 and #2 and the Addison Athletic Club (the "Project"), as described herein and pursuant to the Contract Documents (defined below).

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 in conformance with this Agreement.

Section 3. Contract Documents

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

- (1) This Agreement;
- (2) Contractor’s Scope of Work & Fee Schedule attached as **Exhibit A**;
- (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 services.

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 (which shall supersede any conflicting provision concerning priority of contract documents contained in the Bid Packet). If discrepancies are found that may impact Contractor’s performance of the services for 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) Performance of Services. 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. 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 Project.

(b) Quality Materials. Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials, construction, installation and other services furnished by Contractor under this Agreement. Unless otherwise specified in writing by City, 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 the Contract Documents that, so applied, have well known, technical or trade meaning shall be held to refer to such recognized standards. Contractor shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform as shown in the Project drawings and specifications.

(c) Additional Services. All minor details of the work not specifically mentioned in the Contract Documents 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. 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. The terms "extra work" and "additional services" 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 as shown on the Project plans and drawings. It is agreed that Contractor shall perform all extra work under the direction of the City's representative when presented with a written work/change 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. No claims for extra services, additional services or changes in the services whatsoever, including any change in pricing or time for performance related to the services will be made by Contractor without first obtaining the City's written agreement and approval of a work/change order reflecting the same.

(d) Independent Contractor. It is understood and agreed by and between the parties that Contractor, while performing under this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with Contractor's acts or omissions. 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.

(e) Inspection of Records. Contractor grants City and its designees the right to audit, examine, or inspect, at City's election, all of Contractor's Records relating to the performance of services under this Agreement, during the term of the Agreement and any retention period herein. City's audit, examination, or inspection of Contractor's Records may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Contractor agrees to retain Contractor's Records for a minimum of four (4) years following termination of the Agreement, unless there is an ongoing dispute

under the contract; then, such retention period shall extend until final resolution of the dispute. "Contractor's Records" shall include any and all information, materials and data of every kind and character generated as a result of the services under this Agreement. City agrees that it will exercise its right to audit, examine or inspect Contractor's Records only during regular business hours unless City has provided advance written notice of an alternate time. Contractor agrees to allow City and its designees access to all of Contractor's Records, Contractor's facilities and the current or former employees of Contractor, deemed necessary by City or its designee(s), to perform such audit, inspection, or examination.

(f) Certification of No Conflicts. Contractor hereby warrants to the City that Contractor has made full disclosure in writing of any existing or potential conflicts of interest related to Contractor's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Contractor hereby agrees immediately to make full disclosure to the City in writing.

(g) No Waiver of City's Rights. Neither City's review, approval or acceptance of, nor payment for any of the materials or 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.

(h) Rights-of-Access. City will endeavor to provide such rights of access on any project site as may be reasonably necessary for Contractor to perform any required preliminary site studies, surveys, tests, or other necessary investigations prior to mobilization for the Project. Contractor will take all necessary and reasonable precautions to minimize damage to all personal and real property in the performance of such surveys, tests, studies and investigations.

(i) Compliance with Laws. Contractor shall comply with all laws, ordinances, rules, policies, orders, directives, and other regulations governing Contractor's performance of this Agreement.

Section 5. Payment

(a) Compensation. City agrees to pay Contractor for all services authorized in writing and properly performed by Contractor in a total amount not to exceed ONE HUNDRED AND EIGHTY-SIX THOUSAND AND NINETY-SIX DOLLARS (\$186,096.00) ("Contract Price"), subject to additions or deletions for change orders and/or extra work agreed upon in writing.

(b) Method of Payment. Unless otherwise agreed by the parties in writing, payment to Contractor shall be monthly based on a monthly progress report and detailed monthly itemized statement for services submitted by Contractor that shows the names of the Contractor's employees, agents, or subcontractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form acceptable to City. City shall pay such monthly statements within thirty (30) days after receipt of a completed submission and City's verification of the services performed.

(c) Deductions; Withholding. 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 any third-party of a claim or lien against City, or the City's premises, arising out of Contractor's performance under 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 by Contractor. Additionally, 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 letter of credit, or similar guaranty satisfactory to City (to be determined in City's sole discretion) which will protect City in the amount withheld because of said grounds, City will release the amounts withheld.

Section 6. Performance Schedule

(a) Time for Performance. 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. Contractor understands and agrees that time is of the essence of this Agreement. In the event Contractor's performance under this Agreement is delayed or interfered with, regardless of reason, Contractor shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever (including an event of Force Majeure), shall be claimed by or granted to Contractor, unless (i) Contractor shall have made written request to City for such extension within forty-eight (48) hours after the cause for such extension occurred, and (ii) City and Contractor have agreed in writing that such additional time shall be granted. As used in this section, the term "Force Majeure" shall mean that Contractor's performance of the services under this Agreement is prevented or delayed, in whole or in part, to such an extent that Contractor would not be able to complete the services (or any partial component thereof) within the time for performance set forth herein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, pandemic, or other specific cause reasonably beyond Contractor's control and not attributable to its malfeasance, neglect or nonfeasance. Should Contractor timely request an extension of time due to an event of force majeure under this section, City and Contractor may agree in writing to suspended Contractor's performance until such disability to perform (other than a payment obligation) is removed; provided, that Contractor shall use commercially reasonable efforts to remove any such causes and resume performance of the services under this Agreement as soon as reasonably practicable.

Section 7. Ownership of Project; Bill of Sale; No Liens

(a) Title of Ownership. Contractor warrants that title to all services, 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 services 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) Assignment; Bill of Sale. Contractor agrees, no later than the time of completion of the Project, to assign to City all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees it will at all times perform the services in a manner that will, to the greatest extent possible, 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; provided, that City's rights related to the same shall not be subordinate to Contractor's enforcement rights.

CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND SAVE CITY HARMLESS FROM ALL CLAIMS RELATED TO ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN,

MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS DESCRIBED HEREIN HAVE BEEN PAID, DISCHARGED OR WAIVED UPON CITY'S WRITTEN REQUEST.

Section 8. Default; Termination; Abandonment

(a) Default by Contractor. Should Contractor fail to comply with any term or condition this Agreement applicable to Contractor, or become disabled and unable to comply with any provisions of this Agreement related to the quality or character of the services or time of performance, Contractor shall be deemed in default of this Agreement. If such default is not corrected within ten (10) days after written notice by City to Contractor, City may, at its sole discretion and without prejudice to any other right or remedy:

- (1) terminate this Agreement and be relieved of any further payment or consideration to Contractor except for all services determined by City to be satisfactorily completed prior to such termination. Payment for work satisfactorily completed shall be for actual costs incurred and non-refundable, 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. City may further proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by resubletting to others; or
- (2) 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 Contractor's sole expense.

(b) Suspension or Termination by City. 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 as of the date of suspension or termination. Such payment will become payable upon delivery of all instruments of service to City and City's acceptance of the same. If City requires a modification of the services under this Agreement, and in the event City and Contractor fail to agree upon such modification(s), 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 prior to such termination date.

(c) Abandonment. If 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 timely comply with the orders of the City, when such orders are consistent with the Contract Documents, then, and in that case, where a performance bond(s) exists, the surety on the bond(s) 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, having hereby acknowledged that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement. In the event a surety fails to comply with City's written notice provided for herein, then the City may provide for completion of the work in either of the following elective manners:

- (1) the City may employ such 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 Contractor, which shall be deducted and paid by City out of such amounts as may be due, or that may thereafter at any time become due to the Contractor under this Agreement. In case such expense is less than the sum which would have been payable under this Agreement if the same had been completed by the Contractor, then Contractor shall receive the difference. In case such expense is greater than the sum which would have been payable under this Agreement if the same had been completed by said Contractor, then the Contractor and/or its surety (ies) shall pay the amount of such excess to the City; or
- (2) the City may (under sealed bids when and in the manner required by law) let the contract to another Contractor 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 its surety (ies) 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/or its surety (ies) shall be credited therewith.

(d) Remedies Cumulative. The remedies in this section are cumulative and nothing herein shall be deemed a waiver of any other remedy available to the City under this Agreement, including its remedies upon default provided herein above.

Section 9. Insurance

Contractor shall during the term hereof maintain in full force and effect all policies of insurance reasonably required by City and in compliance with the Contract Documents. Contractor's obligation to provide acceptable certificates of insurance is a material condition of this Agreement, and services under this Agreement shall not commence until certificates of insurance have been received, reviewed, and accepted by City. The minimum coverages and limits of liability for the policies of insurance required under this Agreement are maintained by and accessible through the City's purchasing department.

Section 10. Indemnification

(a) Release of liability. 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 DIRECTLY AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER.

(b) Contractor's Indemnity Obligation. 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 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, IN WHOLE OR IN PART, FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OF CITY, 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 UPON FINAL ADJUDICATION BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

(c) Notice of Claim(s). Contractor shall promptly advise City in writing of any claim or demand against the City, related to or arising out of Contractor's acts or omissions under this Agreement and shall see to the investigation and defense of such claims or demand at Contractor's sole cost and expense; provided, that City, at its option and at its own expense, may participate in such defense without relieving Contractor of any of its obligations hereunder.

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. THE PROVISIONS OF THIS SECTION 11 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Section 11. Notice

All notices required by this Agreement shall be in writing and addressed to the parties at the addresses set forth on the signature page(s) of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All notices shall be delivered by (a) personal delivery, (b) certified or registered mail (in each case, return receipt requested, postage prepaid), (c) nationally recognized overnight courier (with all fees pre-paid), or (d) email of a pdf document containing the required notice. Such notice or document shall be deemed to be delivered or given, whether actually received or not, (i) when received if delivered or given in person, (ii) if sent by United States mail, three (3) business days after being deposited in the United States mail as set forth above, (iii) on the next business day after the day the notice or document is provided to a nationally recognized carrier to be delivered as set forth above, or (iv) if sent by email, the next business day. A confirmation of delivery report which reflects the time that the email was delivered to the recipient's last notified email address is prima facie evidence of its receipt by the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the recipient.

Section 12. 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 13. Texas Government Code Verifications

(a) Contractor's execution of this Agreement shall serve as its acknowledgement and written verification that:

(1) the requirements of Subchapter J, Chapter 552, Government Code, apply to this Agreement and Contractor agrees that the Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter;

(2) pursuant to Texas Government Code Chapter 2270, that Contractor's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement; and

(3) pursuant to Texas Government Code Chapter 2251, that Contractor's 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.

Section 14. Miscellaneous

(a) Contractor shall not assign or sublet this Agreement, in whole or in part, without the prior written consent of City. (b) Contractor shall comply with all federal, state, county and municipal laws, ordinances, resolutions, regulations, rules, policies, orders, and directives applicable to the services under this Agreement. (c) 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 courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said courts. (d) 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. (e) The exhibits attached hereto, if any, are incorporated herein and made a part hereof for all purposes. (f) Unless expressly provided otherwise herein, this Agreement may only be modified, amended, supplemented or waived by a mutual written agreement of the parties. (g) 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. (h) 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. (i) 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. (j) Each party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement. (k) 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.

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

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the Effective Date.

For City:

For Professional:

TOWN OF ADDISON, TEXAS

MCKINSTRY ESSENTION, LLC

By: _____
David Gaines
City Manager

By: _____
Brian Ratcliff
Vice President

Date: _____

Date: _____

Notice Address:

Notice Address:

Town of Addison
Attn: City Manager
P.O. Box 9010
Town of Addison, Texas 75001
E: dgaines@addisontx.gov

McKinstry Essention, LLC
Attn: Brian Ratcliff, Vice President
4201 Spring Valley Rd, Ste 250
Dallas, Texas 75244
E: brianra@mckinstry.com

[EXHIBIT A FOLLOWS]

Scope of Work

MCKINSTRY’s scope consists of roofing maintenance upgrades for the buildings listed below.

Facility	Address	Shingle Replacement	Dormer Removal
Addison Police Department	4799 Airport Pkwy, Addison, TX 75001	X	X
Fire Station 1	4798 Airport Pkwy, Addison, TX 75001	X	
Fire Station 2	3950 Beltway Dr, Addison, TX 75001	X	
Addison Athletic Club	3900 Beltway Dr, Addison, TX 75001	X	

Addison Police Department

- Remove and dispose of existing asphalt shingle roofing material and any loose existing underlayment.
- Remove and dispose of 25 existing dormers on the first-floor sloped parapet.
- Remove and dispose of existing gutters and downspouts.
- Install new dry-sheet over the entire affected area.
- Install new 30-year asphalt shingles.
- Install new ridge system in all areas as it existed prior to roof replacement.
- Install new metal valley and vent pipe flashing.
- Salvage and paint all other flashings after the new roof has been installed.
- Install new 5” wide metal K-style gutters and new downspouts.

Fire Station 1

- Remove and dispose of existing asphalt shingle roofing material and any loose existing underlayment.
- Remove and replace existing built-in EPDM gutter system.
- Install new dry-sheet over the entire affected area.
- Install new 30-year asphalt shingles.
- Install new ridge system in all areas as it existed prior to roof replacement.
- Install new metal valley and vent pipe flashing.
- Salvage and paint all other flashings after the new roof has been installed.

Fire Station 2

- Remove and dispose of existing asphalt shingle roofing material and any loose existing underlayment.
- Remove the abandoned exhaust vent and patch/shingle over the affected area.
- Install new dry-sheet over the entire affected area.
- Install new 30-year asphalt shingles.
- Install new ridge system in all areas as it existed prior to roof replacement.
- Install new metal valley and vent pipe flashing.
- Salvage and paint all other flashings after the new roof has been installed.

Addison Athletic Club

- Remove and dispose of existing asphalt shingle roofing material and any loose existing underlayment.
- Remove the abandoned exhaust vent and patch/shingle over the affected area.
- Install new dry-sheet over the entire affected area.



- Install new 30-year asphalt shingles.
- Install new ridge system in all areas as it existed prior to roof replacement.
- Install new metal valley and vent pipe flashing.
- Salvage and paint all other flashings after the new roof has been installed.

Construction Management

- Collect site specific safety plans for subcontractor prior to beginning work and ensure COI's are up to date.
- Meet with subcontractor to fill out job site safety orientations prior to beginning work.
- Perform at a minimum weekly check-in to ensure subcontractor is performing up to MCKINSTRY and manufacturer(s) standards of work.
- Provide weekly subcontractor communication and QA/QC of work environment to ensure clean up and safety standards are being met.
- Participate in bi-weekly progress meetings.

Allowances

- Replacement of damaged decking, up to \$5,000, is included in the scope.

Clarifications and Exclusions

- The dormers at the Addison Police Department are assumed to have wood decking underneath them and installation of new decking for these areas is excluded.
- Any work not explicitly included in the scope of work is excluded.
- Correction of deficiencies not explicitly listed in the scope of work is excluded.
- If existing equipment or components are reused, repairs to the existing equipment or components not explicitly listed in the scope of work is excluded.
- All work will be done during standard working hours unless explicitly stated in the scope of work.
- All hazardous material testing, removal, and/or abatement is excluded.
- Pricing is valid for 30 days. After this time, MCKINSTRY reserves the right to update pricing based on changes in labor rates, equipment, and/or material.
- Decking or insulation repair outside of the proposed scope is not included.

Council Meeting 2023

8.

Meeting Date: 04/11/2023

Department: General Services

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and McKinstry Essention, LLC for Turn-Key Construction Services Related to Generator Replacements at the Addison Police Department and Fire Station 1 and Authorizing the City Manger to Execute the Agreement** in an Amount Not to Exceed \$641,765.

BACKGROUND:

An Asset management System is utilized to track the Town's facilities and fleet assets. Staff reviews assets on an annual basis to determine which assets warrant replacement. The Police Department and Fire Station 1 facility generators are 24 years old and have exceeded their effective useful life of approximately 20 years.

Due to the complexity and importance of having reliable generators for these public safety facilities, General Services is requesting approval to procure and replace these generators with McKinstry Essention, LLC under the TIPS Cooperative Purchasing Contract # 21020302.

Purchasing cooperatives solicit competitive bids from many vendors offering 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.

McKinstry Essention, LLC provided professional service by assessing each generator and conducting the generator study. Additionally, they are working with the Town on Phase I and Phase II of the bond projects currently underway. McKinstry Essention, LLC has completed the entire bidding process to-date and is ready to move forward with the procurement and installation of the generators.

Facility	2023 Approved Budget	Turn-Key Replacement
Police Department	\$413,000	\$316,433
Fire Station 1	\$413,000	\$325,332
Total	\$826,000	\$641,765

The Council approved the locations and costs of the generator replacements in the FY 2023 Budget. This project is currently estimated at \$184,235 under budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Generator Replacement 2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A CONSTRUCTION SERVICES AGREEMENT BETWEEN THE TOWN OF ADDISON AND MCKINSTRY ESSENTION, LLC FOR EMERGENCY GENERATOR REPLACEMENT SERVICES FOR THE ADDISON POLICE DEPARTMENT AND FIRE STATION #1; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with McKinstry Essention, LLC to provide turn-key emergency generator replacement services for the Addison Police Department and Fire Station #1, in conformance with the terms of the contract documents.

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 and McKinstry Essention, LLC to provide emergency generator replacement services for the Addison Police Department and Fire Station #1, in an amount not to exceed \$641,765.00 , 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 **11th** day of **APRIL 2023**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

**CONSTRUCTION SERVICES AGREEMENT
EMERGENCY GENERATOR REPLACEMENT**

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between **McKinstry Essention, LLC**, 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, below; 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 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 to for emergency generator replacement for the Addison Police Department and Addison Fire Station #1 (the "Project"), such services being more fully described herein and pursuant to the Contract Documents (defined below).

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 in conformance with this Agreement.

Section 3. Contract Documents

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

- (1) This Agreement;
- (2) Contractor’s Scope of Work & Fee Schedule attached as **Exhibit A**;
- (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 services.

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 (which shall supersede any conflicting provision concerning priority of contract documents contained in the Bid Packet). If discrepancies are found that may impact Contractor’s performance of the services for 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) Performance of Services. 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. 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 Project.

(b) Quality Materials. Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials, construction, installation and other services furnished by Contractor under this Agreement. Unless otherwise specified in writing by City, 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 the Contract Documents that, so applied, have well known, technical or trade meaning shall be held to refer to such recognized standards. Contractor shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform as shown in the Project drawings and specifications.

(c) Additional Services. All minor details of the work not specifically mentioned in the Contract Documents 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. 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. The terms "extra work" and "additional services" 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 as shown on the Project plans and drawings. It is agreed that Contractor shall perform all extra work under the direction of the City's representative when presented with a written work/change 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. No claims for extra services, additional services or changes in the services whatsoever, including any change in pricing or time for performance related to the services will be made by Contractor without first obtaining the City's written agreement and approval of a work/change order reflecting the same.

(d) Independent Contractor. It is understood and agreed by and between the parties that Contractor, while performing under this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with Contractor's acts or omissions. 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.

(e) Inspection of Records. Contractor grants City and its designees the right to audit, examine, or inspect, at City's election, all of Contractor's Records relating to the performance of services under this Agreement, during the term of the Agreement and any retention period herein. City's audit, examination, or inspection of Contractor's Records may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Contractor agrees to retain Contractor's Records for a minimum of four (4) years following termination of the Agreement, unless there is an ongoing dispute

under the contract; then, such retention period shall extend until final resolution of the dispute. "Contractor's Records" shall include any and all information, materials and data of every kind and character generated as a result of the services under this Agreement. City agrees that it will exercise its right to audit, examine or inspect Contractor's Records only during regular business hours unless City has provided advance written notice of an alternate time. Contractor agrees to allow City and its designees access to all of Contractor's Records, Contractor's facilities and the current or former employees of Contractor, deemed necessary by City or its designee(s), to perform such audit, inspection, or examination.

(f) Certification of No Conflicts. Contractor hereby warrants to the City that Contractor has made full disclosure in writing of any existing or potential conflicts of interest related to Contractor's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Contractor hereby agrees immediately to make full disclosure to the City in writing.

(g) No Waiver of City's Rights. Neither City's review, approval or acceptance of, nor payment for any of the materials or 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.

(h) Rights-of-Access. City will endeavor to provide such rights of access on any project site as may be reasonably necessary for Contractor to perform any required preliminary site studies, surveys, tests, or other necessary investigations prior to mobilization for the Project. Contractor will take all necessary and reasonable precautions to minimize damage to all personal and real property in the performance of such surveys, tests, studies and investigations.

(i) Compliance with Laws. Contractor shall comply with all laws, ordinances, rules, policies, orders, directives, and other regulations governing Contractor's performance of this Agreement.

Section 5. Payment

(a) Compensation. City agrees to pay Contractor for all services authorized in writing and properly performed by Contractor in a total amount not to exceed SIX HUNDRED AND FORTY-ONE THOUSAND SEVEN HUNDRED AND SIXTY-FIVE DOLLARS (\$641,765.00) ("Contract Price"), subject to additions or deletions for change orders and/or extra work agreed upon in writing.

(b) Method of Payment. Unless otherwise agreed by the parties in writing, payment to Contractor shall be monthly based on a monthly progress report and detailed monthly itemized statement for services submitted by Contractor that shows the names of the Contractor's employees, agents, or subcontractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form acceptable to City. City shall pay such monthly statements within thirty (30) days after receipt of a completed submission and City's verification of the services performed.

(c) Deductions; Withholding. 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 any third-party of a claim or lien against City, or the City's premises, arising out of Contractor's performance under 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 by Contractor. Additionally, 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 letter of credit, or similar guaranty satisfactory to City (to be determined in City's sole discretion) which will protect City in the amount withheld because of said grounds, City will release the amounts withheld.

Section 6. Performance Schedule

(a) Time for Performance. 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. Contractor understands and agrees that time is of the essence of this Agreement. In the event Contractor's performance under this Agreement is delayed or interfered with, regardless of reason, Contractor shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever (including an event of Force Majeure), shall be claimed by or granted to Contractor, unless (i) Contractor shall have made written request to City for such extension within forty-eight (48) hours after the cause for such extension occurred, and (ii) City and Contractor have agreed in writing that such additional time shall be granted. As used in this section, the term "Force Majeure" shall mean that Contractor's performance of the services under this Agreement is prevented or delayed, in whole or in part, to such an extent that Contractor would not be able to complete the services (or any partial component thereof) within the time for performance set forth herein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, pandemic, or other specific cause reasonably beyond Contractor's control and not attributable to its malfeasance, neglect or nonfeasance. Should Contractor timely request an extension of time due to an event of force majeure under this section, City and Contractor may agree in writing to suspended Contractor's performance until such disability to perform (other than a payment obligation) is removed; provided, that Contractor shall use commercially reasonable efforts to remove any such causes and resume performance of the services under this Agreement as soon as reasonably practicable.

Section 7. Ownership of Project; Bill of Sale; No Liens

(a) Title of Ownership. Contractor warrants that title to all services, 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 services 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) Assignment; Bill of Sale. Contractor agrees, no later than the time of completion of the Project, to assign to City all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees it will at all times perform the services in a manner that will, to the greatest extent possible, 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; provided, that City's rights related to the same shall not be subordinate to Contractor's enforcement rights.

CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND SAVE CITY HARMLESS FROM ALL CLAIMS RELATED TO ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN,

MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS DESCRIBED HEREIN HAVE BEEN PAID, DISCHARGED OR WAIVED UPON CITY'S WRITTEN REQUEST.

Section 8. Default; Termination; Abandonment

(a) Default by Contractor. Should Contractor fail to comply with any term or condition this Agreement applicable to Contractor, or become disabled and unable to comply with any provisions of this Agreement related to the quality or character of the services or time of performance, Contractor shall be deemed in default of this Agreement. If such default is not corrected within ten (10) days after written notice by City to Contractor, City may, at its sole discretion and without prejudice to any other right or remedy:

- (1) terminate this Agreement and be relieved of any further payment or consideration to Contractor except for all services determined by City to be satisfactorily completed prior to such termination. Payment for work satisfactorily completed shall be for actual costs incurred and non-refundable, 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. City may further proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by resubletting to others; or
- (2) 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 Contractor's sole expense.

(b) Suspension or Termination by City. 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 as of the date of suspension or termination. Such payment will become payable upon delivery of all instruments of service to City and City's acceptance of the same. If City requires a modification of the services under this Agreement, and in the event City and Contractor fail to agree upon such modification(s), 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 prior to such termination date.

(c) Abandonment. If 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 timely comply with the orders of the City, when such orders are consistent with the Contract Documents, then, and in that case, where a performance bond(s) exists, the surety on the bond(s) 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, having hereby acknowledged that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement. In the event a surety fails to comply with City's written notice provided for herein, then the City may provide for completion of the work in either of the following elective manners:

- (1) the City may employ such 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 Contractor, which shall be deducted and paid by City out of such amounts as may be due, or that may thereafter at any time become due to the Contractor under this Agreement. In case such expense is less than the sum which would have been payable under this Agreement if the same had been completed by the Contractor, then Contractor shall receive the difference. In case such expense is greater than the sum which would have been payable under this Agreement if the same had been completed by said Contractor, then the Contractor and/or its surety (ies) shall pay the amount of such excess to the City; or
- (2) the City may (under sealed bids when and in the manner required by law) let the contract to another Contractor 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 its surety (ies) 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/or its surety (ies) shall be credited therewith.

(d) Remedies Cumulative. The remedies in this section are cumulative and nothing herein shall be deemed a waiver of any other remedy available to the City under this Agreement, including its remedies upon default provided herein above.

Section 9. Insurance

Contractor shall during the term hereof maintain in full force and effect all policies of insurance reasonably required by City and in compliance with the Contract Documents. Contractor's obligation to provide acceptable certificates of insurance is a material condition of this Agreement, and services under this Agreement shall not commence until certificates of insurance have been received, reviewed, and accepted by City. The minimum coverages and limits of liability for the policies of insurance required under this Agreement are maintained by and accessible through the City's purchasing department.

Section 10. Indemnification

(a) Release of liability. 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 DIRECTLY AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER.

(b) Contractor's Indemnity Obligation. 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 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, IN WHOLE OR IN PART, FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OF CITY, 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 UPON FINAL ADJUDICATION BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

(c) Notice of Claim(s). Contractor shall promptly advise City in writing of any claim or demand against the City, related to or arising out of Contractor's acts or omissions under this Agreement and shall see to the investigation and defense of such claims or demand at Contractor's sole cost and expense; provided, that City, at its option and at its own expense, may participate in such defense without relieving Contractor of any of its obligations hereunder.

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. THE PROVISIONS OF THIS SECTION 11 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Section 11. Notice

All notices required by this Agreement shall be in writing and addressed to the parties at the addresses set forth on the signature page(s) of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All notices shall be delivered by (a) personal delivery, (b) certified or registered mail (in each case, return receipt requested, postage prepaid), (c) nationally recognized overnight courier (with all fees pre-paid), or (d) email of a pdf document containing the required notice. Such notice or document shall be deemed to be delivered or given, whether actually received or not, (i) when received if delivered or given in person, (ii) if sent by United States mail, three (3) business days after being deposited in the United States mail as set forth above, (iii) on the next business day after the day the notice or document is provided to a nationally recognized carrier to be delivered as set forth above, or (iv) if sent by email, the next business day. A confirmation of delivery report which reflects the time that the email was delivered to the recipient's last notified email address is prima facie evidence of its receipt by the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the recipient.

Section 12. 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 13. Texas Government Code Verifications

(a) Contractor's execution of this Agreement shall serve as its acknowledgement and written verification that:

(1) the requirements of Subchapter J, Chapter 552, Government Code, apply to this Agreement and Contractor agrees that the Agreement can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter;

(2) pursuant to Texas Government Code Chapter 2270, that Contractor's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement; and

(3) pursuant to Texas Government Code Chapter 2251, that Contractor's 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.

Section 14. Miscellaneous

(a) Contractor shall not assign or sublet this Agreement, in whole or in part, without the prior written consent of City. (b) Contractor shall comply with all federal, state, county and municipal laws, ordinances, resolutions, regulations, rules, policies, orders, and directives applicable to the services under this Agreement. (c) 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 courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said courts. (d) 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. (e) The exhibits attached hereto, if any, are incorporated herein and made a part hereof for all purposes. (f) Unless expressly provided otherwise herein, this Agreement may only be modified, amended, supplemented or waived by a mutual written agreement of the parties. (g) 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. (h) 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. (i) 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. (j) Each party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement. (k) 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.

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

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the Effective Date.

For City:

For Professional:

TOWN OF ADDISON, TEXAS

MCKINSTRY ESSENTION, LLC

By: _____
David Gaines
City Manager

By: _____
Brian Ratcliff
Vice President

Date: _____

Date: _____

Notice Address:

Notice Address:

Town of Addison
Attn: City Manager
P.O. Box 9010
Town of Addison, Texas 75001
E: dgaines@addisontx.gov

McKinstry Essention, LLC
Attn: Brian Ratcliff, Vice President
4201 Spring Valley Rd, Ste 250
Dallas, Texas 75244
E: brianra@mckinstry.com

[EXHIBIT A FOLLOWS]

Exhibit A: Scope of Work & Fee Schedule

OVERVIEW

Based on MCKINSTRY's current knowledge and understanding of the Project, MCKINSTRY's scope of work will consist of engineering, design, procurement, implementation, construction management, and onsite supervision of all work regarding the Town of Addison Emergency Generator Replacement Turnkey project.

SCOPE OF SERVICES

The Town of Addison Emergency Generator Replacement project scope of work includes:

Turnkey services for an upgrade of the existing generators for the Police Department and Fire Station 1

Figure 1

#	Site	Address (Addison, TX)	Generator Size (kW)	Generator Voltage	ATS Size (A)	Fuel System
1	Police Department	4799 Airport Pkwy	230	208/120	800	Diesel
2	Fire Station #1	4798 Airport Pkwy	150	208/120	600	Diesel

TURNKEY SERVICES

MCKINSTRY shall, consistent with applicable state licensing laws, provide oversight and implementation of work with engineering designs. The planned scope of work to be managed under this Turnkey services agreement will include the items listed below:

- A. Engineering design of the new integration of a generator, or in the case of existing, upgrade of generator capability for the sites listed above:**
 - a. Work in conjunction with the town of Addison to determine location of upgraded generators at the Fire Station and Police Department.
 - b. Develop as-built conditions based on existing site evaluation and owner's existing drawings and specifications.
 - c. Design upgrade of existing generation and associated automatic transfer switches.
 - d. Cover integration of controls from new or upgraded generation to ATSs.
 - e. Provide one-line diagram of generation and ATS design.
 - f. Provide design specifications.
- B. Procurement of the New Generators:**
 - a. Specify and procure equipment of new generator and automatic transfer switch for the two buildings listed above according to generator specifications for scope of work:
 - b. Packaged engine generator set with the following standards and items:
 - i. In the case of diesel fuel, a belly-tank with capacity of fuel for 24 hours run-time at 100% load.
 - ii. Remote control and annunciator system for the engine gen set.



Exhibit A: Scope of Work & Fee Schedule

- iii. Mechanical and electrical start-up on each gen-set.
- iv. Engine Generator Set Ratings per Site
 - 1. Police Department: 230 kW Diesel, 208/120VAC
 - 2. Fire Station #1: 150 kW Diesel, 208/120VAC
 - 3. Auto-Transfer Switch Ratings per Site
 - a. Police Department: 800 Amp, UL Listed, 3 pole, 120/240 three phase, with 2 wire start circuit.
 - b. Fire Station #1: 600 Amp, UL Listed, 3 pole, 120/240 three phase, with 2 wire start circuit.
 - 4. Manufacturer's McKinstry may use for the procurement of gen-set:
 - a. MTU / Rolls
 - b. Generac
 - c. Caterpillar
 - d. Kohler
 - e. Cummins
 - f. Client approved equivalent
 - 5. Manufacturer's McKinstry may use for the procurement of ATS:
 - a. ASCO
 - b. Russelectric
 - c. Eaton
 - d. Generac
 - e. Caterpillar
 - f. Kohler
 - g. Cummins
 - h. Client approved equivalent
 - 6. Fuel Storage: no external fuel storage will be supplied unless the client requests longer than 24 hours' run time.

C. Construction:

Construction and installation of the new generators and ATS's will be per design docs that will be created and stamped by a licensed PE to include the below, but not limited to the following:

- a. Shipping and delivery of engine-generator and ATS to site.
- b. Offloading of gen set and ATS on to site.
- c. Construction of cement pad to mount engine-generator.
- d. Install all power and control cable and conduit required for generator and ATS.



Exhibit A: Scope of Work & Fee Schedule

- e. Construction of all underground for conduit or cable.
- f. Saw-cut for existing cement for routing of conduit and cable.
- g. Demo existing ATS.
- h. Install new ATS.
- i. Tie electrical controls to/from generator to/from ATS.
- j. Tie in feeder cables and install conduit from ATS to MDP.
- k. Return site to existing conditions

D. Commissioning:

- a. Commissioning process scope shall be completed for the generator and ATS systems listed above. Commissioning oversight scope includes producing test plans and testing scripts, witnessing of OEM install and start-up services along with documentation, testing and function testing by OEM provided load banks, and followed up with owner training on new equipment. All Cx will be conducted according to the NFPA 110 and NEC, and NETA- ATS standards.
- b. Testing Methods
 - i. Step Load
 - ii. Block Load
 - iii. 100% Burn in for a 2-hour duration.
 - iv. Test Generator Emergency Shutdowns
 - v. Power Quality and Transient Analysis of All Load Tests Above
 - vi. Automatic Transfer Switch (ATS): confirm controls and emergency transfer.

CLIENT RESPONSIBILITIES

For MCKINSTRY to effectively execute its obligations under this agreement within the timeframes specified in this agreement, CLIENT shall perform its responsibilities, obligations, and services, including its reviews and approvals of MCKINSTRY's submissions, in a timely manner so as not to delay or interfere with MCKINSTRY's performance of its obligations under this Agreement.

CLIENT shall provide, at its own cost and expense, for MCKINSTRY's information and use, the following, all of which MCKINSTRY is entitled to rely upon in performing its obligations hereunder:

1. As-builts of all mechanical, electrical, architectural, plumbing, and structural drawings.
2. Good Faith Survey for hazardous material.
3. Client shall be responsible for providing natural gas lines up to the point of interconnect to the natural gas generators and meeting the natural gas reequipments of flow and pressure as required by the engine manufacturer.
4. Any other information reasonably requested by MCKINSTRY.



Exhibit A: Scope of Work & Fee Schedule

5. Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;
6. Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;
7. Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use or necessary to permit the proper design and construction of the Project.
8. To the extent available, as-built and record drawings of any existing structures at the Site.
9. To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including, but not limited to, Hazardous Conditions, in existence at the Site.

EXCLUSIONS

The following exclusions and clarifications apply to this scope of work:

General Exclusions & Assumptions

- Correction of deficiencies not explicitly listed in the scope of work is excluded; if existing equipment or components are reused, repairs to existing equipment or components is excluded unless specifically noted in the scopes of work.
- Prices are valid for 30 days after proposal presentation. After 30 days, MCKINSTRY reserves the right to update pricing based on changes in labor rates, equipment and material.
- Demolition work not specified in the scopes of work is excluded.
- Any equipment or work not specifically identified in the scopes of work is excluded.
- Lightning protection is excluded.
- Arc Flash Study is excluded.
- Network or IT work not specifically called out in scope of work is excluded.
- Generator fencing, screens, bollards, or sound barriers are excluded.
- Demand limiting, load shedding controls are excluded.
- Asbestos abatement of any kind is excluded.
- It is assumed that, except as stated in the scopes of work, the existing structure is adequate to accommodate new and existing equipment.
- Correction of any existing code violations not identified in the scope of work is excluded.
- Furnishing or installing any access panels or doors not specifically identified is excluded.
- Repair of any pre-existing damage not specifically identified in the scopes of work is excluded from this scope.

Exhibit A: Scope of Work & Fee Schedule

- It is assumed that the existing electric utility services are operational and adequately sized to accommodate new equipment.
- Electric Utility – everything on the line side of the client’s utility meter is the responsibility of the client and any upgrades required by the utility “ONCOR” for any reason will be the responsibility of the client and or ONCOR to correct or upgrade.
- Client’s Existing Electrical System – if it is discovered that any of the client’s electrical system requires upgrades in order to allow integration of the generator and ATS due to National Electrical Code violations or for insufficient: ampacity, short circuit ratings or any other nominal ratings found in the design stage by the engineer of record for the project, operational or functional problems, or due to requirements from the inspectors and authority having jurisdiction; it will not be included in the current scope of this project for McKinstry. *Upon discovery of any aforementioned problems, by McKinstry, the engineer of record, or AHJ / inspector that would prevent integration, McKinstry will recommend to the client the corrective action or design and equipment changes or upgrades and can supply an additional project for that equipment and work.
- Commissioning systems not specifically called out in the scope of work are excluded.
- Readiness for assessment: 1 single commissioning trip is provided per station, and upon arrival, all electrical gear mentioned above shall be accessible by McKinstry personnel.
- It is assumed work will be executed during normal business hours (7am – 4pm, M-F).
- McKinstry will initiate this scope of work immediately upon proposal acceptance.

Equipment & Material Selections

- The Contract Sum Price is based on the scopes of work, exclusions, and clarifications. Where scopes of work reference particular equipment selections, material sizing, and dimensions, the selections are a basis of design and may change during the design period. Final equipment and material selections will be provided in 100% Construction Drawings.

Design

- The Lump Sum Price documents are assumed to be the 'Design Development' documents and as such the final design deliverables shall follow standards associated with the 'Construction Documents'. The construction documents will not include selections or specifications as neither is necessary for the scope of work to be performed.

Construction and Schedule

- MCKINSTRY will provide a construction schedule within 45 days from the execution of this agreement and will be added as an exhibit to this contract as a no cost change order.
- MCKINSTRY reserves the right to extend construction timelines and/or issue a change order as required to account for any delays in construction outside of MCKINSTRY’s control.
- Should above average inclement weather occur during the above construction period MCKINSTRY reserves the right to request a modification to the project delivery schedule and contractual end date. No extension of time will be allowed for weather unless the number of days of adverse weather is substantially greater than the average for the calendar period as recorded by a recognized weather



Exhibit A: Scope of Work & Fee Schedule

observation agency.

- Costs are based on prompt and safe access to all areas necessary to complete these scopes of work.
- Moving of facility equipment, finished and/or furniture is excluded.

Equipment Maintenance

- MCKINSTRY will provide no equipment maintenance or repairs after the warranty period. Warranty begins following Substantial Completion. Maintenance during the warranty period is the responsibility of the owner unless otherwise stated.

Asbestos / Hazardous Material

- No asbestos / hazardous abatement, testing and/or removal shall be performed by MCKINSTRY. All work-stoppage or delays due to asbestos materials will be at Client's expense.
- The Client will schedule removal or abatement in a manner that does not affect the project delivery schedule.
- Should asbestos removal cause work stoppage during the above construction period MCKINSTRY reserves the right to modify project delivery schedule.

Scheduled Shut-Downs

- MCKINSTRY will give notice for heating, cooling, controls or electrical related shutdowns required to complete the implementation of the scope measures listed in this document.

Building Structure Specific Exclusions

- Pre-existing damage to building foundation
- Pre-existing utilities damage

PRICE PROPOSAL

McKinstry's price for the scope of work in this agreement is as follows:

Generator Turnkey Replacement Projects	
Site Name	Contract Amount
Fire Station 1	\$332,429
Police Department	\$323,336
Total Contract Amount:	\$655,765



Council Meeting 2023

9.

Meeting Date: 04/11/2023

Department: Finance

Pillars: Gold Standard in Financial Health

Milestones: Continue development and implementation of Long Term Financial Plan

AGENDA CAPTION:

Consider Action on an **Ordinance Amending Chapter 2, of the Code of Ordinances of the Town by Amending Article III, Division I, Section 2-73, Reimbursement for Travel Expenses.**

BACKGROUND:

Section 2-73 of the Town's Code of Ordinances governs the reimbursement of travel expenses related to Town business for all elected or appointed officials and Town employees. Technology has changed dramatically since this ordinance was last updated in 2002. The proposed update authorizes the use of the Town's financial software (MUNIS) to replace the current Ordinance's paper-based, manual process requirements.

Finance staff began testing a module within MUNIS for travel authorization and reimbursements in 2022 and is ready to implement the new process for all Town departments. The software allows travelers to request authorization to travel for Town business and will route their request to the Finance department, their supervisor, department head, and if the travel is out of state, the city manager for approval. Any payments to travelers are approved by the Chief Financial Officer. Mileage rates within the software are automatically updated based on IRS guidelines. The current ordinance authorized a per diem of \$40 per day regardless of the destination. The proposed ordinance authorizes per diem rates based on the US General Services Administration per diem rates for travel destinations - these rates are automatically updated by MUNIS on a monthly basis. All travel requests, reimbursement, documentation, and approvals will be electronically stored in MUNIS.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - Travel Reimbursement

Redline - Travel Ordinance



ORDINANCE NO. O23-__

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 2, OF THE CODE OF ORDINANCES OF THE TOWN BY AMENDING ARTICLE III, DIVISION I, SECTION 2-73, REIMBURSEMENT FOR TRAVEL EXPENSES; UPDATING THE TOWN'S TRAVEL REIMBURSEMENT POLICIES FOR TOWN OFFICIALS AND EMPLOYEES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to update the Town's travel reimbursement policy for all Town officials and employees;

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

SECTION 1. The Town of Addison desires to update the Town's travel and reimbursement policy for all Town officials and employees by amending the Code of Ordinances of the Town of Addison, Texas, Chapter 2, Article III, Division I, Section 2-73, Reimbursement for Travel Expenses which is hereby amended and restated to read as follows:

“Sec. 2-73. Reimbursement for travel expenses.

- (a) *Purpose; Administration.* All elected or appointed officials of the town as well as town employees whose attendance at educational seminars, business meetings, criminal or civil trials, or public hearings is necessary to conduct town business or in some way benefits the town shall be reimbursed for reasonable expenses related to their attendance in conformance with the policies established in this article. The city manager shall be responsible for the administration and proper enforcement of these policies.
- (b) *Reimbursement Procedures*
 - (1) All requests for per diem advances or reimbursement of expenses incurred for travel by town employees shall be submitted through the Town's financial software.
 - (2) All requests by town employees to travel out-of-state must be approved by the city manager prior to attendance by submitting the estimate through the Town's financial software.
 - (3) All requests for per diem advances or reimbursement for travel by officials of the city council or appointed boards shall be approved by the mayor and forwarded to the finance department for processing.
 - (4) Receipts shall accompany all requests for reimbursement, excluding meals purchased through the per diem allowance. In the event adequate documentation of expenses incurred is not provided during business travel, the director of finance, with approval of the city manager, may withhold a portion or all of reimbursement requested by a traveler.
- (c) *Reimbursement Policies*

- (1) For no more than one trip each fiscal year, all eligible expenses incurred by spouses accompanying council members on town business trips may be reimbursed. In certain circumstances, a spouse or other family members may accompany town employees on town business trips but shall not be reimbursed or advanced for expenses or per diem related to their spouse or other family members' travel.
- (2) Town officials or employees shall be reimbursed for all reasonable and necessary expenses incurred when they travel on town related business. It is the responsibility of the traveler to select the most efficient and economical mode of travel to a particular location. The following guidelines shall apply to transportation related reimbursements:
 - a. Public transportation expenses shall be reimbursed.
 - b. Use of personal vehicle to travel to a particular destination shall be reimbursed for actual miles driven at the current mileage rate paid by the federal government to its employees. Town employees receiving a monthly car allowance shall receive reimbursement only for travel outside a 50-mile radius of the town limits; for such travel, employees shall be reimbursed for the actual miles driven at the current mileage rate paid by the federal government to its employees.
 - c. Use of town vehicles to travel to a particular destination is permitted with reimbursement made to the traveler of fuel expenses if not paid by a Town issued purchase card.
 - d. Expenses incurred for the rental of vehicles are permitted if public transportation facilities are inadequate or are more expensive than the cost of vehicle rental.
- (3) All reasonable and necessary lodging expenses (with the exception of meals and beverages) will be reimbursed if not paid by a town issued purchase card. An itemized hotel receipt must be provided to qualify for reimbursement.
- (4) Expenses for meals for overnight travel for all travelers on town business shall be advanced or reimbursed by per diem allowance. A per diem is based on the U.S. General Services Administration per diem rates for the travel destination and is authorized, for breakfast, lunch, and dinner.”

SECTION 2. 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 3. 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. 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 11th day of APRIL 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma G. Parker, City Secretary

Whitt Wyatt, City Attorney

Sec. 2-73. Reimbursement for travel expenses.

- (a) Purpose; Administration. All elected or appointed officials of the town as well as town employees whose attendance at educational seminars, business meetings, criminal or civil trials, or public hearings is necessary to conduct town business or in some way benefits the town shall be reimbursed for reasonable expenses related to their attendance in conformance with the policies established in this article. The city manager shall be responsible for the administration and proper enforcement of these policies. ~~Request for advance payment or reimbursement of travel expenses shall be made on forms maintained by the director of finance.~~
- ~~(b) (1) Prior to receiving advance payments in anticipation of expenses or reimbursement of incurred expenses, the town official or employee must explain the benefit the town would receive from the individual's attendance at the meeting.~~
(2)(b) Reimbursement Procedures
 - (1) All requests for per diem advances or reimbursement of expenses incurred ~~during attendance at meetings for travel~~ by town employees shall be ~~approved by the appropriate department head and forwarded to the finance department for processing~~ submitted through the Town's financial software.
 - (2) All requests by town employees to ~~attend business meetings~~ travel out-of-state must be approved by the city manager prior to attendance ~~by submitting the estimate through the Town's financial software.~~
 - (3) All requests for per diem advances or reimbursement ~~of expenses incurred during attendance at meetings for travel~~ by officials of the city council or appointed boards shall be approved by the mayor and forwarded to the finance department for processing.
 - (4) Receipts shall accompany all requests for reimbursement, excluding meals purchased through the per diem allowance. In the event adequate documentation of expenses incurred is not provided during business travel, the director of finance, with approval of the city manager, may withhold a portion or all of reimbursement requested by a traveler.
- (c) Reimbursement Policies
 - (1) ~~For no more than one trip each fiscal year, all eligible expenses incurred by spouses accompanying council members on town business trips may be reimbursed. Spouses in certain circumstances, a spouse or other family members may accompany town employees on town business trips but shall not be reimbursed or advanced for expenses or per diem related to their spouse or other family members' travel.~~
 - (2) Town officials or employees shall be reimbursed for all ~~registration fees~~ reasonable and ~~related~~ necessary expenses.
 - ~~(3) Travel expenses shall be reimbursed as incurred, when they travel on town related business. It is the responsibility of the traveler to select the least expensive and most expeditious form efficient and economical mode of travel to a particular location. The following guidelines shall apply to transportation related reimbursements:~~
 - a. Public transportation expenses shall be reimbursed ~~as incurred or billed directly to the town,~~
 - b. Use of personal vehicle to travel to a particular destination shall be reimbursed ~~at the mileage rate allowed by the Internal Revenue Service as a mileage deduction. Reimbursement for actual miles driven as indicated by a vehicle's odometer may be made if such mileage does not exceed the total distance indicated on the mileage chart by more than five percent for actual miles driven at the current mileage rate paid by the federal government to its employees.~~ Town employees receiving a monthly car allowance shall receive reimbursement only for travel outside a 50-mile radius of the town limits; for such travel, employees shall be reimbursed for the ~~total~~

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~~mileage traveled~~actual miles driven at the current mileage rate ~~allowed~~paid by the ~~Internal Revenue Service~~federal government to its employees.

- c. Use of town vehicles to travel to a particular destination is permitted with reimbursement made to the traveler of fuel expenses ~~as incurred~~if not paid by a Town issued purchase card.
- d. Expenses incurred for the rental of vehicles are permitted if public transportation facilities are inadequate or are more expensive than the cost of vehicle rental.

(43) All reasonable and necessary lodging expenses (with the exception of meals and beverages) will be reimbursed ~~as incurred~~if not paid by a town issued purchase card. An itemized hotel receipt must be provided to qualify for reimbursement.

~~(5) All travelers will be given a per diem meal allowance of \$40.00 for each full day spent on domestic travel. For partial days, reimbursement shall be made as follows: breakfast—\$8.00; lunch—\$12.00; and dinner—\$20.00. An allowance shall not be given for meals included as part of registration fees. For international travel, meals may be reimbursed as incurred in lieu of the meal allowance.~~

~~(6) Receipts shall accompany all requests for reimbursement. Receipts are not required for meals purchased through the per diem allowance. In the event adequate documentation is not provided of expenses incurred during business travel, the director of finance, with approval of the city manager, may withhold a portion or all of reimbursement requested by a traveler.~~

(Code 1982, § 2-70; Ord. No. 002-030, § 1A, 8-27-02)

State law reference(s) — Reimbursement of lodging, meal and travel expenses, V.T.C.A., Government Code ch. 611.

~~(4) Expenses for meals for overnight travel for all travelers on town business shall be advanced or reimbursed by per diem allowance. A per diem is based on the U.S. General Services Administration per diem rates for the travel destination and is authorized, for breakfast, lunch, and dinner.~~

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(Supp. No. 28, Update 4)

Meeting Date: 04/11/2023

Department: Development Services

AGENDA CAPTION:

Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving a Special Use Permit (SUP) for Property Located at 14975 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance No. 084-100, to allow the Sale of Alcoholic Beverages for On-Premises Consumption** Case 1876-SUP/14975 Quorum Drive (Residence Inn Addison).

BACKGROUND:

The Addison Planning and Zoning Commission, meeting in regular session on March 21, 2023, voted to recommend approval of an ordinance changing the zoning on property located at 14975 Quorum Drive, which property is currently zoned Planned Development (PD), Ordinance No. 084-100, with Special Use Permit (SUP), Ordinance No. 095-012, by approving an SUP to allow the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- The sale of alcoholic beverages shall be limited to hotel guests for on-premises consumption.
- The sale of alcoholic beverages is limited to the market pantry, located within the hotel lobby as depicted on the floor plan (Exhibit A). Any future expansion as it relates to the sale of alcoholic beverages will require approval of a Special Use Permit (SUP).

Voting Aye: Branson, Catalani, Chavez, DeFrancisco, Fansler, Souers

Voting Nay: none

Absent: Faircloth

SPEAKERS AT THE PUBLIC HEARING:

For: none

On: none

Against: none

Please refer to the Staff Report for additional details.

RECOMMENDATION:

Administration recommends approval.

Attachments

1876-SUP Presentation

1876-SUP Ordinance

1876-SUP Staff Report

1876-SUP Letter of Intent

1876-SUP Plans

**Residence Inn
Special Use Permit
(1876-SUP)**

The logo for Addison, featuring the word "ADDISON" in a bold, blue, sans-serif font centered within 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 diagonal white lines and a grey triangle in the top right corner.

ADDISON

Case 1876-SUP Residence Inn

ADDISON

LOCATION:

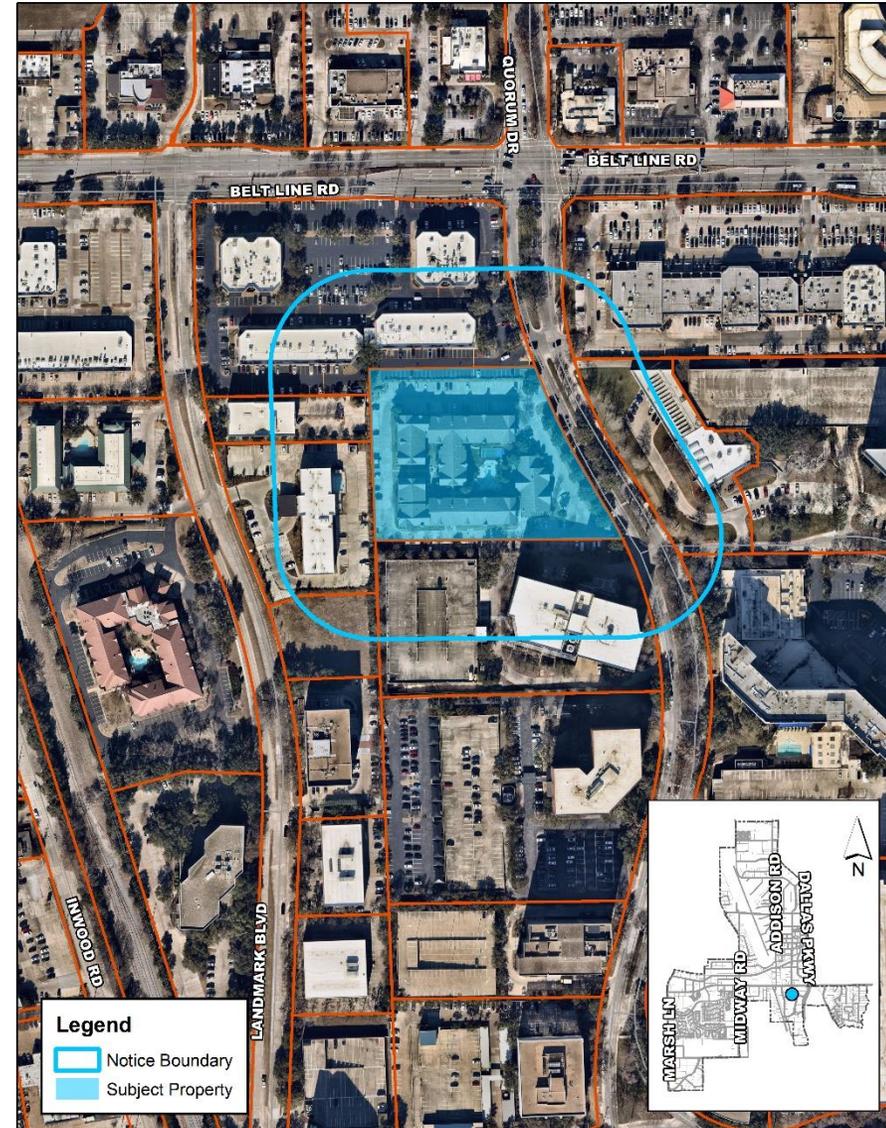
14975 Quorum Drive

REQUEST:

Approval of a Special Use Permit for the sale of alcohol for on-premises consumption.

ACTION REQUIRED:

Discuss, consider, and take action on the appropriateness of the proposed sale of alcohol for on-premises consumption at the subject property.



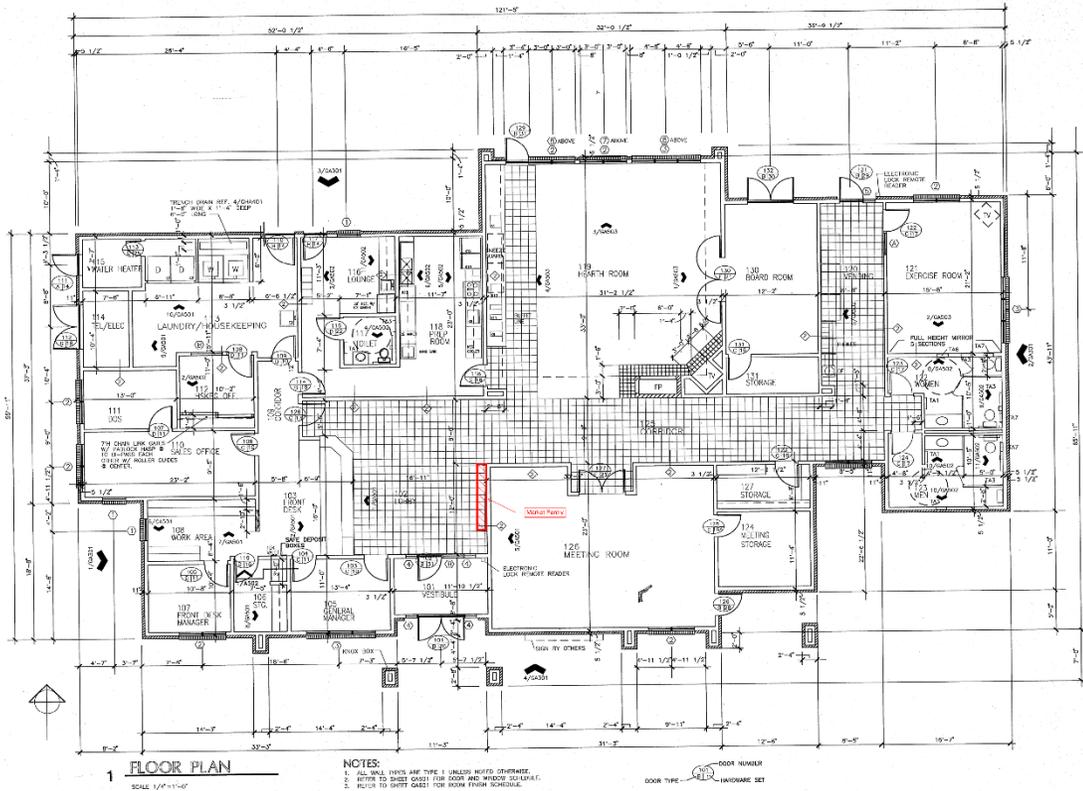
PROJECT HISTORY:

- 1984 – Rezoning from Industrial-1 to PD, Ord. No. 084-020.
- 1995 – SUP, Ord. No. 095-012, to allow a hotel.
- Present – Proposed SUP to allow the sale of alcohol for on-premises consumption.

Case 1876-SUP Residence Inn

FLOOR PLAN:

- Sale of beer and wine from Market Pantry within hotel lobby for guests



Case 1876-SUP Residence Inn

PUBLIC NOTICE:

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

NOTICE RECIPIENTS: 10

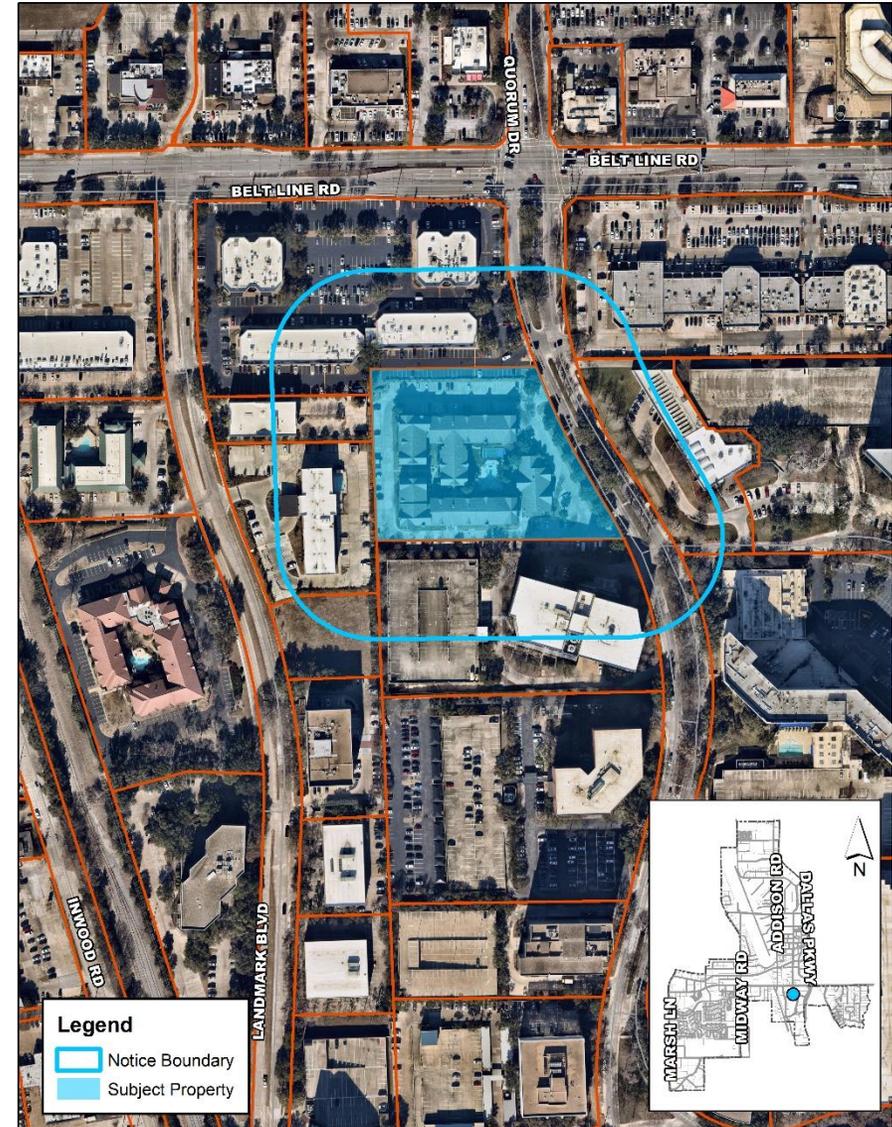
FOR: None.

AGAINST: None.

NEUTRAL: None.

PLANNING & ZONING COMMISSION ACTION:

Approval: 6-0



RECOMMENDATION:

Staff recommends **approval of the request with the following condition:**

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- The sale of alcoholic beverages shall be limited to hotel guests for on-premises consumption.
- The sale of alcoholic beverages is limited to the market pantry. Future expansion as it relates to the sale of alcoholic beverages will require approval of an SUP.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT (SUP) FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION FOR THE PROPERTY LOCATED AT 14975 QUORUM DRIVE; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING A SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, at its regular meeting held on March 21, 2023, the Planning & Zoning Commission considered and made recommendations on a request for a Special Use Permit (Case No.1876-SUP) for the sale of alcoholic beverages for on-premises consumption at the property located at 14975 Quorum Drive (the “Subject Property”); and

WHEREAS, the Subject Property is presently zoned Planned Development (PD), Ordinance No. O84-100, with Special Use Permit (SUP) by Ordinance No. O95-012; and

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

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

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

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

SECTION 2. A Special Use Permit authorizing the sale of alcoholic beverages for on-premises consumption for the Subject Property, is hereby granted subject to the following conditions:

- (a) The SUP granted herein for the sale of alcoholic beverages for on-premises consumption, shall be limited to the lobby, encompassing a total area not to exceed 600 square feet, as designated on the final floor plan attached hereto as **Exhibit A**. This SUP is further limited to the sale of alcoholic beverages for on-premises consumption by hotel guests only and does not authorize the sale of alcoholic beverages to the general public.
- (b) No signs advertising sale of alcoholic beverages shall be permitted other than those authorized under the Liquor Control Act of the State of Texas, and any sign ordinance of the Town of Addison, Texas (hereinafter “City”).

- (c) Any nonconforming use of the Subject Property that is not considered a legal nonconforming use under the City’s Comprehensive Zoning Ordinance shall not be permitted to receive a license or permit for the sale of alcoholic beverages.
- (d) If the Subject Property is not used for the purposes for which said permit was granted within one (1) year after the adoption of this ordinance, the City Council may authorize hearings to be held for the purpose of considering a change of zoning and repeal of the Special Use Permit granted herein.
- (e) If a license or permit to sell alcoholic beverages on the Subject Property is revoked, terminated, or cancelled by any authority with jurisdiction over the same, the City Council may authorize hearings to be held for the purpose of considering a change of zoning and repeal of the Special Use Permit granted herein.
- (f) The establishment shall not use the term “bar”, “tavern”, or any other terms or graphic depictions that relate to the sale of alcoholic beverages on any signs visible from the exterior of the premises.

SECTION 3. Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the city, as heretofore amended, and upon conviction shall be punished by a fine set in accordance with Chapter 1, Section 1-7 of the Code of Ordinances for the Town of Addison.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance or of the Zoning Ordinance for the Town of Addison, as amended hereby, be adjudged or held, in whole or in part, to be invalid, voided or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 5. 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 6. 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.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas, on this the **11TH** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

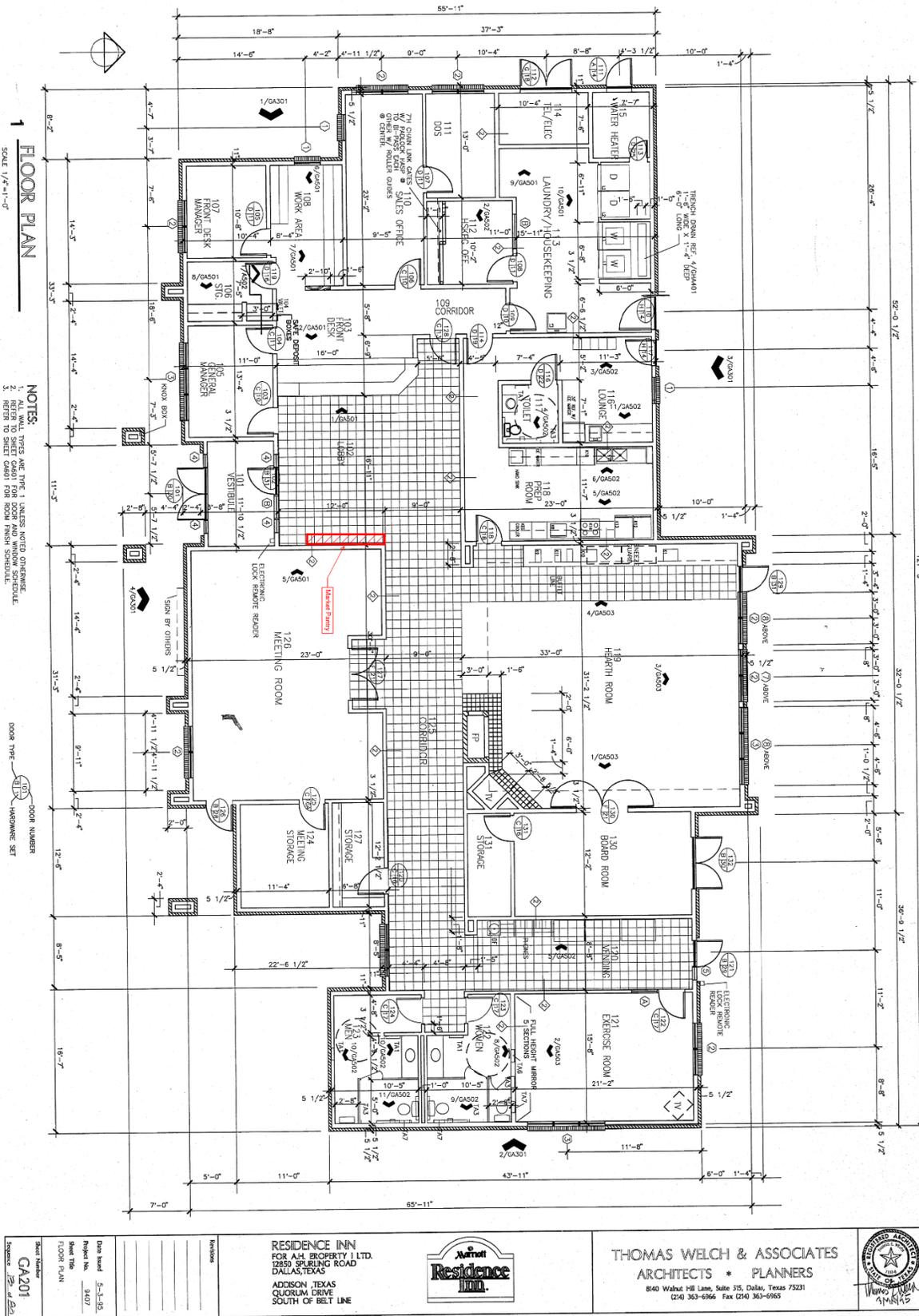
ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Whitt Wyatt, City Attorney

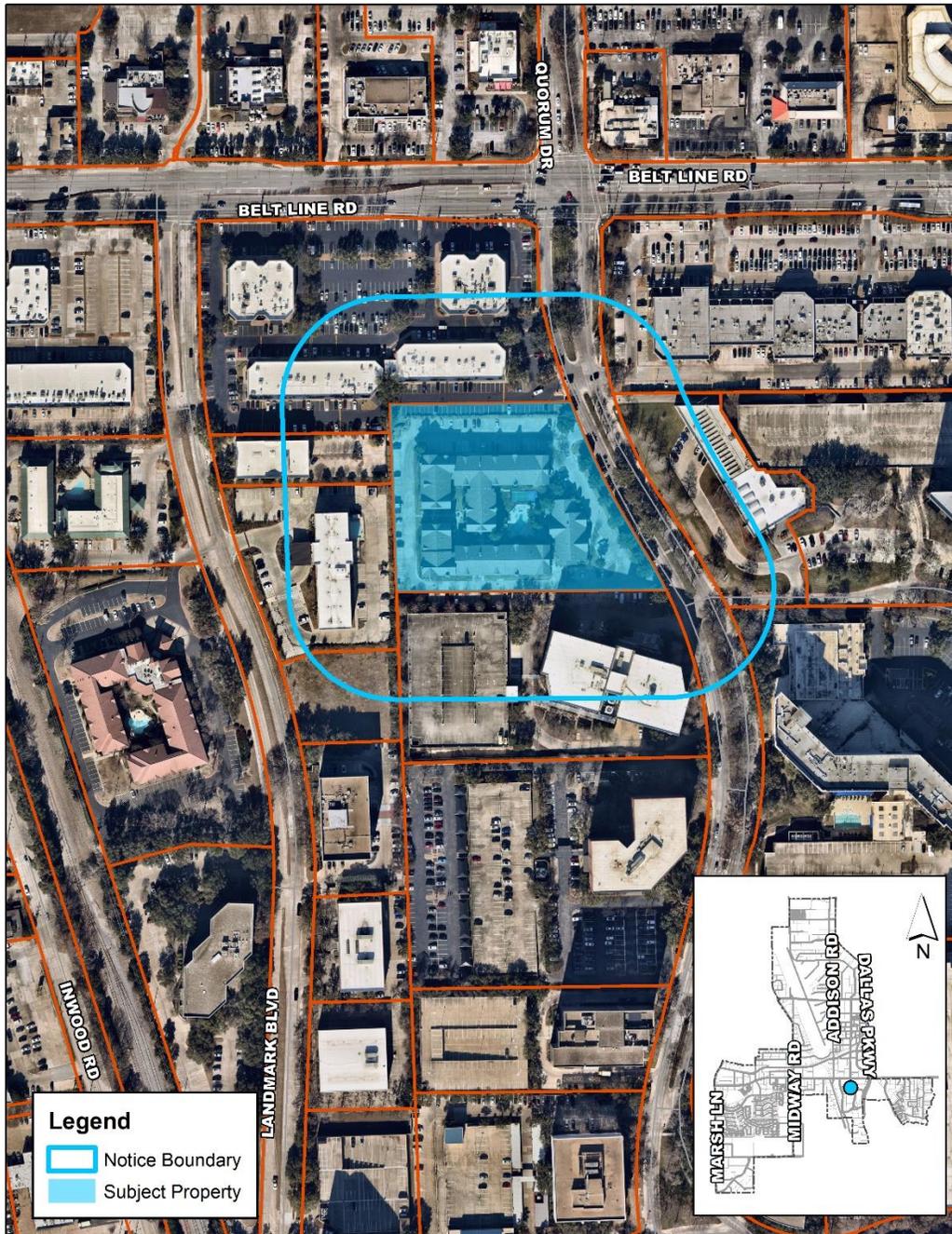
EXHIBIT A



1876-SUP

PUBLIC HEARING Case 1876-SUP/14975 Quorum Drive (Residence Inn Addison). Hold a Public Hearing, Present, Discuss, and Consider Action on a Recommendation regarding an Ordinance Approving a Special Use Permit (SUP) for Property Located at 14975 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance No. O84-100, to allow the Sale of Alcoholic Beverages for On-Premises Consumption.

LOCATION MAP





March 21, 2023

STAFF REPORT

RE: 1876-SUP/14975 Quorum Drive (Residence Inn Addison)

LOCATION: 14975 Quorum Drive

REQUEST: Approval of a Special Use Permit for the sale of alcoholic beverages for on-premises consumption. (Application Date: 12/14/2022)

APPLICANT: MaKayla Lang, Bluebonnet Consulting

DISCUSSION:

Background: The subject property is located at 14975 Quorum Drive. The existing hotel, Residence Inn by Marriott, has been operating since 1996. The subject property is zoned Planned Development (PD), Ordinance No. 084-100, with Special Use Permit (SUP), Ordinance No. 095-012, to allow a hotel.

Residence Inn by Marriott is a hotel with 150 guest rooms. The hotel offers various guest amenities including a fitness center, outdoor pool, meeting space, and complementary breakfast. There is no restaurant or bar on site. The hotel is requesting an SUP to allow the sale of beer and wine to guest from their market pantry. The market pantry is located within the hotel lobby. This area is has shelving and beverage coolers to display various prepackaged snacks, beverages, and person care items, which can be purchased at the front desk. There is no modification to the existing market pantry area proposed.

The PD Ordinance allows sale of alcoholic beverages for on-premises consumption through the approval of an SUP. The proposed use complies with the ordinance.

Proposed Plan: With this request, the Residence Inn would utilize the existing market pantry within their lobby. There are no interior or exterior modifications proposed.

Parking: SUP, Ordinance No. 095-012, required 150 parking spaces to serve the hotel. The hotel currently provides 148 spaces on site. Staff suspects this deficit was created by the removal of parking spaces to accommodate relocating and updated the accessible spaces.

Exterior Facades: No modifications are proposed to the existing facades on the subject property.

Landscaping and Open Space: No modifications are proposed to the existing landscaping and open space.

RECOMMENDATION: APPROVAL WITH CONDITIONS

As proposed, the sale of alcoholic beverages will be in a limited capacity for hotel guest only. The Residence Inn hotel operation is unlikely to be altered with this request and will provide an additional convenience for guest.

Staff recommends approval of these requests, subject to the following condition:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- The sale of alcoholic beverages shall be limited to hotel guests for on-premises consumption.
- The sale of alcoholic beverages is limited to the market pantry, located within the hotel lobby as depicted on the floor plan (Exhibit A). Any future expansion as it relates to the sale of alcoholic beverages will require approval of a Special Use Permit (SUP).



Case 1876-SUP/14975 Quorum Drive (Residence Inn Addison)

March 21, 2023

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on March 21, 2023, voted to recommend approval of an ordinance changing the zoning on property located at 14975 Quorum Drive, which property is currently zoned Planned Development (PD), Ordinance No. 084-100, with Special Use Permit (SUP), Ordinance No. 095-012, by approving an SUP to allow the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- The sale of alcoholic beverages shall be limited to hotel guests for on-premises consumption.
- The sale of alcoholic beverages is limited to the market pantry, located within the hotel lobby as depicted on the floor plan (Exhibit A). Any future expansion as it relates to the sale of alcoholic beverages will require approval of a Special Use Permit (SUP).

Voting Aye: Branson, Catalani, Chavez, DeFrancisco, Fansler, Souers

Voting Nay: none

Absent: Faircloth

SPEAKERS AT THE PUBLIC HEARING:

For: none

On: none

Against: none

Letter of Intent

Town of Addison
Planning and Development
16801 Westgrove Drive

RE: Residence Inn Addison, 14975 Quorum Drive, Addison, TX 75254 (“Hotel”)

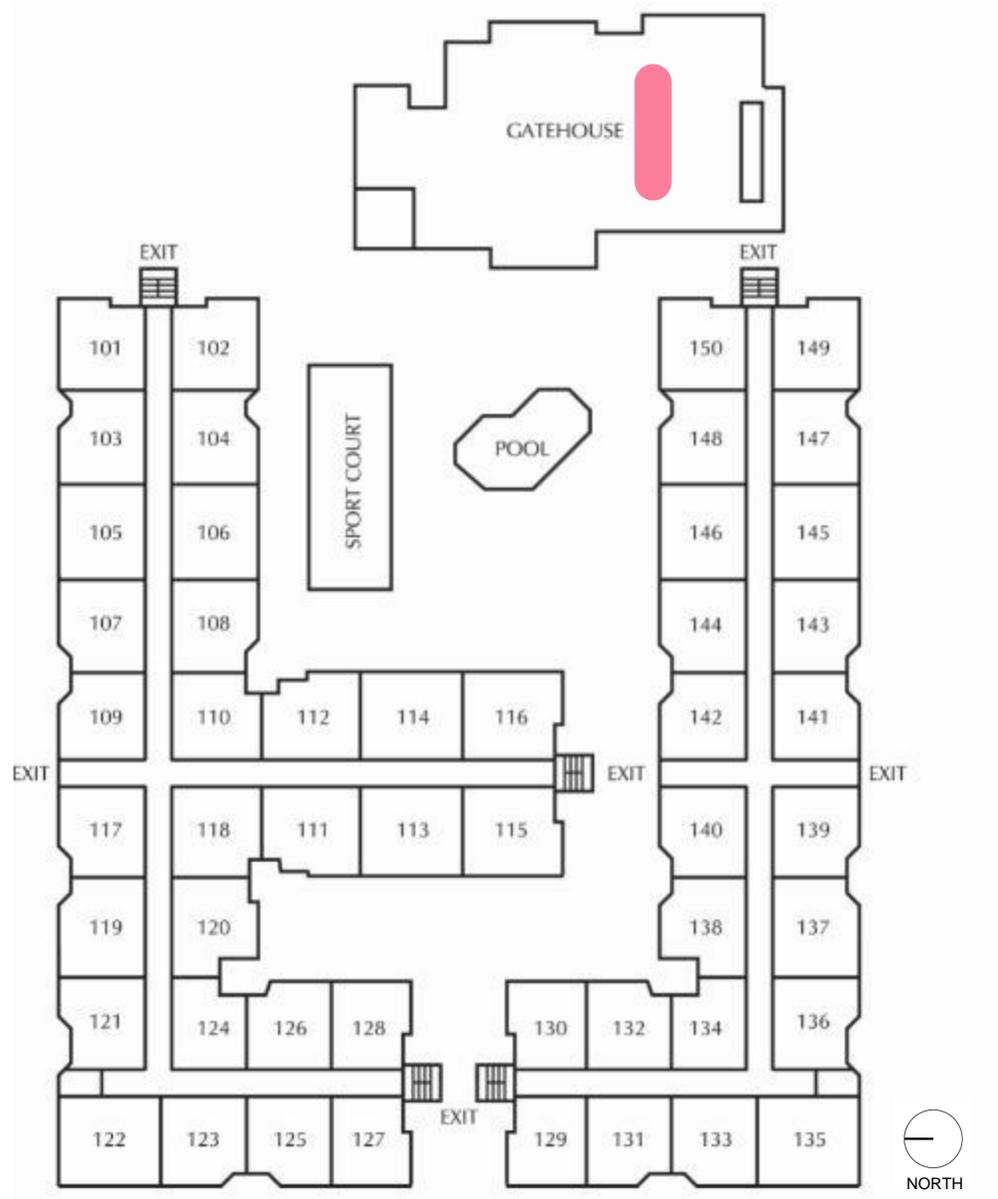
Dear Town of Addison,

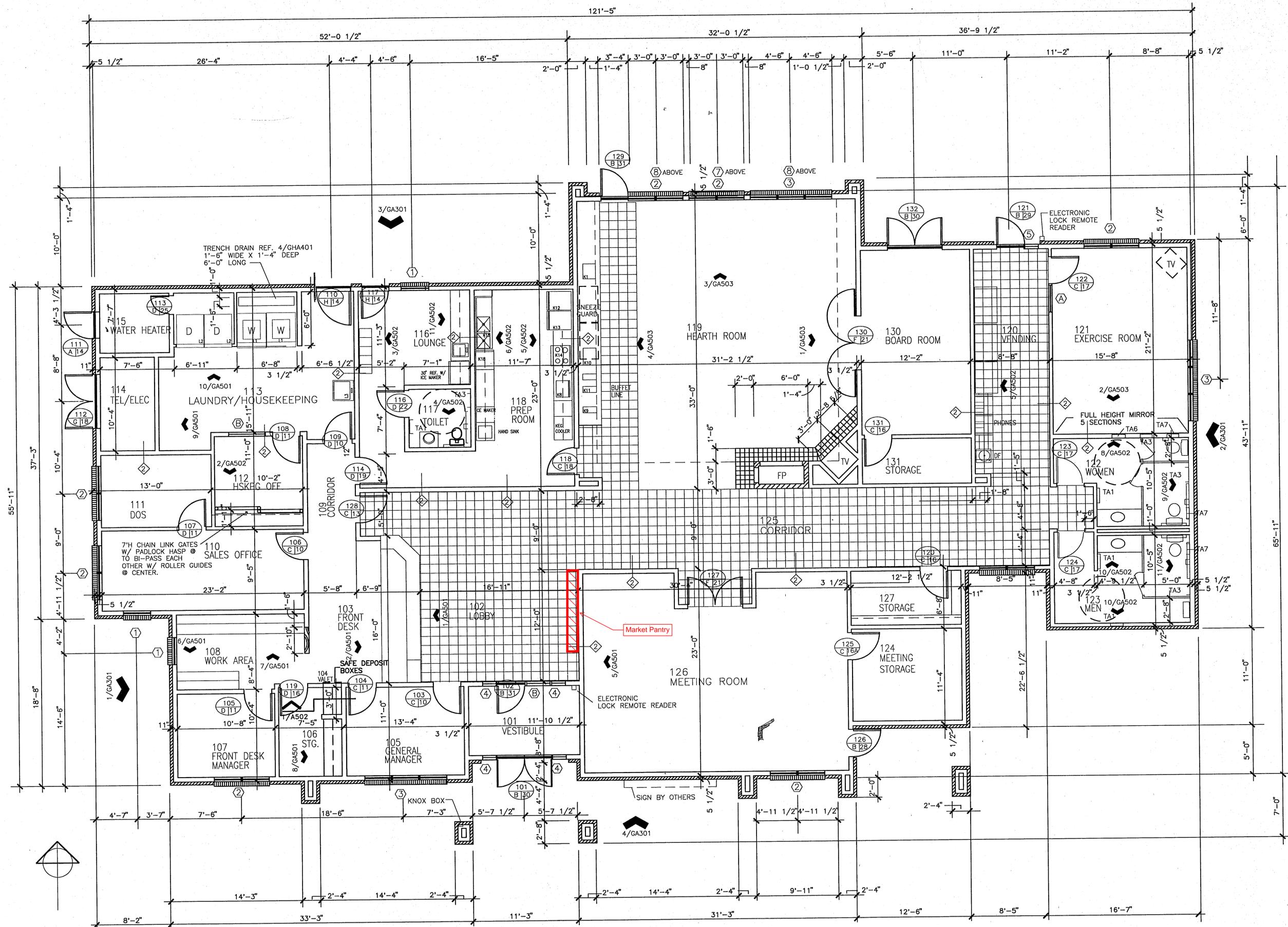
The Hotel would like to be able to sell beer and wine from the market pantry that is located across the front desk. The beer and wine will only be sold from the market pantry. The market pantry is for hotel guests.

If you require further information, please contact our licensing consultant, MaKayla Lang, at mlang@bluebonnetconsulting.com.

Thank you.

Pink Highlight is the market located across from the front desk in direct sight of the desk agents.





1 FLOOR PLAN

SCALE 1/4" = 1'-0"

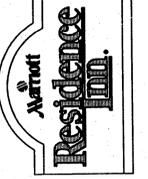
NOTES:

1. ALL WALL TYPES ARE TYPE 1 UNLESS NOTED OTHERWISE.
2. REFER TO SHEET GA601 FOR DOOR AND WINDOW SCHEDULE.
3. REFER TO SHEET GA601 FOR ROOM FINISH SCHEDULE.

DOOR TYPE DOOR NUMBER



THOMAS WELCH & ASSOCIATES
ARCHITECTS * PLANNERS
 8140 Walnut Hill Lane, Suite 515, Dallas, Texas 75231
 (214) 363-6966 Fax (214) 363-6965



RESIDENCE INN
 FOR A.H. PROPERTY LTD.
 12850 SPURRING ROAD
 DALLAS, TEXAS
 ADDISON, TEXAS
 QUORUM DRIVE
 SOUTH OF BELT LINE

Revisions

Date Issued 5-3-95
 Project No. 9407
 Sheet Title FLOOR PLAN

Sheet Number
GA201
 Sequence 12 of 80

Council Meeting 2023

11.

Meeting Date: 04/11/2023

Department: Development Services

AGENDA CAPTION:

Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving a Special Use Permit (SUP) for Property Located at 15175 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance Nos. O92-020 and O92-066, to allow a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption.** Case 1878-SUP/15175 Quorum Drive (St. Martin's).

BACKGROUND:

The Addison Planning and Zoning Commission, meeting in regular session on March 21, 2023, voted to recommend approval of an ordinance changing the zoning on property located at 15175 Quorum Drive, which property is currently zoned Planned Development (PD), Ordinance No. 092-020, as amended by Ordinance No. 092-066, by approving a Special Use Permit (SUP) to allow a restaurant with the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- Upon issuance of a CO for this restaurant, SUP Ordinance Nos. 094-019 and 010-023, permitting building and site modifications to an existing restaurant with the sale of alcohol for on-premises consumption shall be repealed.

Voting Aye: Branson, Catalani, Chavez, DeFrancisco, Fansler, Souers

Voting Nay: none

Absent: Faircloth

SPEAKERS AT THE PUBLIC HEARING:

For: none

On: none

Against: none

Please refer to the Staff Report for additional details.

RECOMMENDATION:

Administration recommends approval.

Attachments

1878-SUP Presentation

1878-SUP Ordinance

1878-SUP Staff Report

1878-SUP Plans

St. Martin's Special Use Permit (1878-SUP)

The logo for Addison, featuring the word "ADDISON" in a bold, blue, sans-serif font centered within 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 diagonal white lines and a grey triangle in the top right corner.

ADDISON

Case 1878-SUP St. Martin's

LOCATION:

15175 Quorum Drive

REQUEST:

Approval of a Special Use Permit for a restaurant with the sale of alcohol for on-premises consumption.

ACTION REQUIRED:

Discuss, consider, and take action on the appropriateness of the proposed restaurant use and the sale of alcohol for on-premises consumption, and associated site conditions at the subject property.



PROJECT HISTORY:

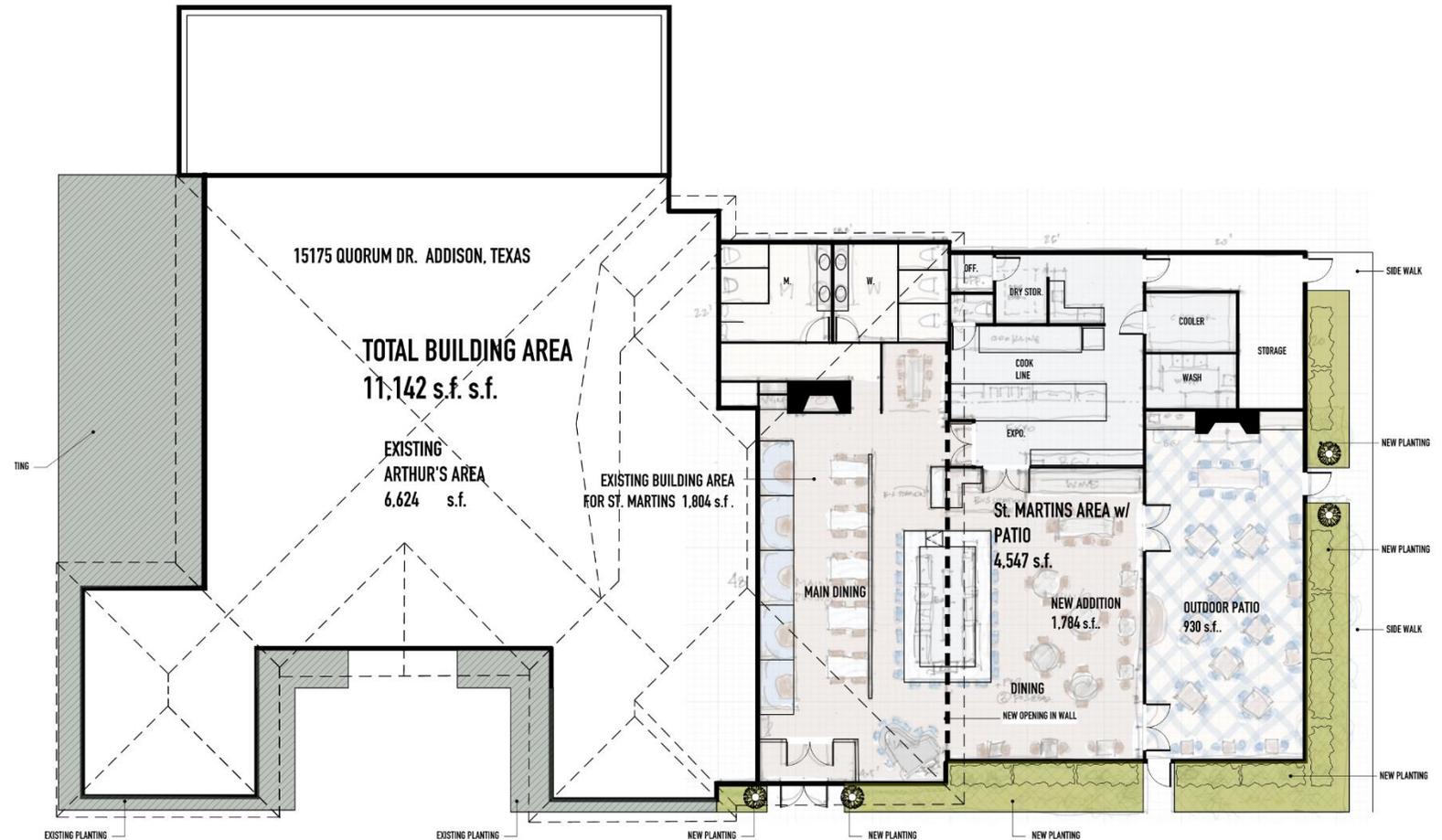
- 1992 – Rezoning from Commercial-1 to PD, Ord. No. 092-020.
- 1992 – PD Amendment, Ord. No. 092-066, to define permitted uses.
- 1992 – SUP, Ord. No. 092-067, to permit restaurant with alcohol sales.
- 1994 – SUP Amendment, Ord. No. 094-019, to allow patio addition for an existing restaurant.
- 1995 – SUP Amendment, Ord. No. 095-024, to provide updated an updated site plan, floor plan, & elevations.
- 2002 – SUP Amendment, Ord. No. 002-052, to allow patio addition for an existing restaurant.
- 2004 – SUP Amendment, Ord. No. 004-036, to allow detached office for an existing restaurant.
- 2006 – SUP Amendment, Ord. No. 006-030, to allow alterations to an existing restaurant.
- 2010 – SUP Amendment, Ord. No. 010-023, to allow patio addition for existing restaurant.
- 2016 – SUP Amendment, Ord. No. 016-003 to allow patio addition for an existing restaurant.
- Present – Proposed SUP to allow a new restaurant, St. Martin's, with alcohol sales.

Case 1878-SUP St. Martin's

ADDISON

FLOOR PLAN:

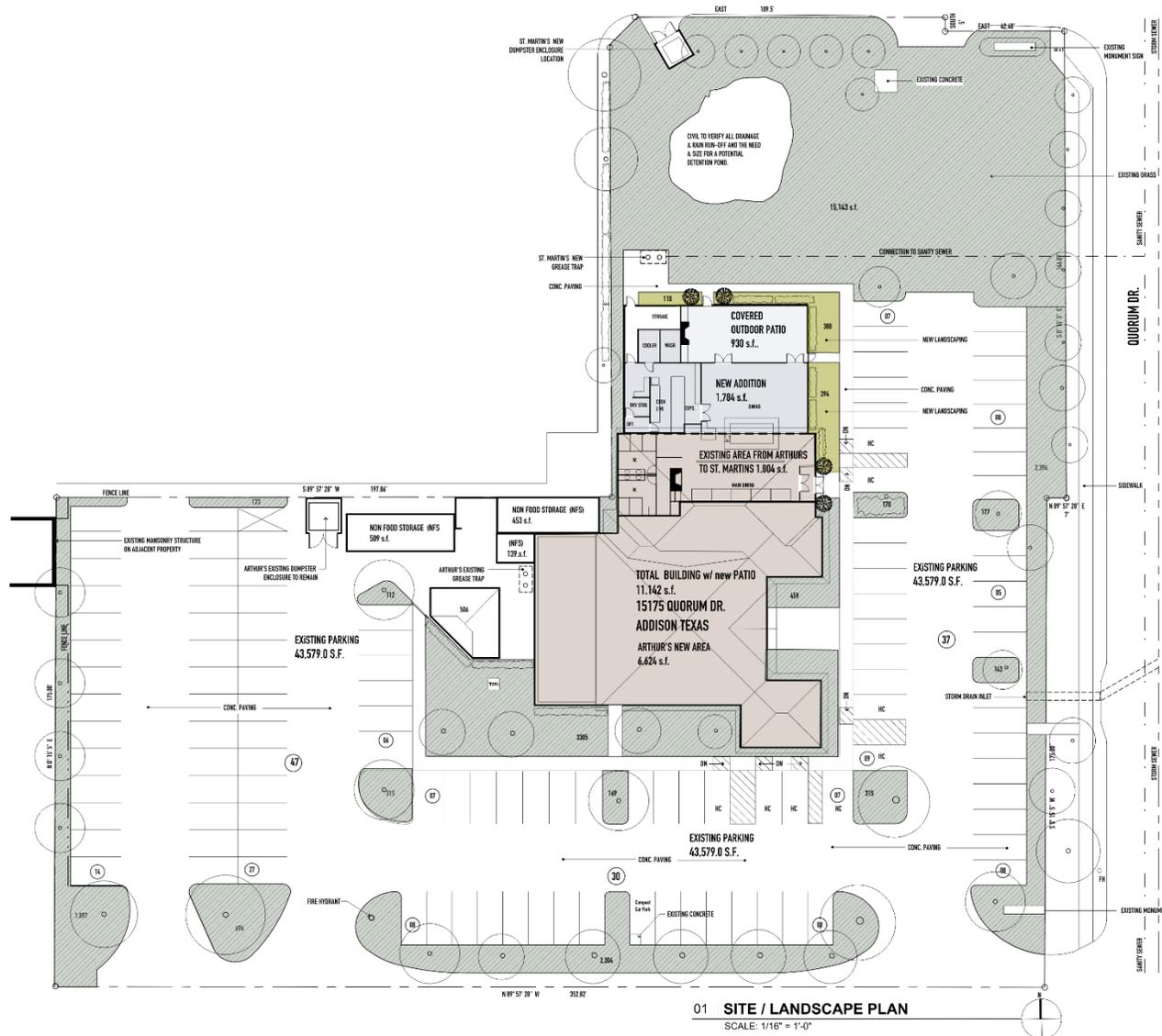
- 3,588 SF of interior floor area for new restaurant, St. Martin's
- 930 SF patio space
- Seating for 138 individuals
- Sale of alcoholic beverages
- Hours of operation:
 - 5:00 pm – 10:00 pm, seven days a week



01 | FLOOR PLAN

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





PARKING:

- The existing parking lot will exceed the requirement of 1 space for each 100 square feet. Two additional accessible spaces will be provided.
 - Required: 112 spaces
 - Provided: 114 spaces

OPEN SPACE AND LANDSCAPE:

- The site will exceed the open space requirement.
- No trees are proposed to be removed.
- Additional ground cover, shrubs, and potted trees are proposed surrounding the building and patio addition.

EXTERIOR APPEARANCE:

- A new building and patio addition will be constructed to the north of the existing building.
- No modification is proposed to the remaining facades of the existing building.
- The proposed façade complies with Town requirements.



01 | NORTH ELEVATION

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



01 | EAST ELEVATION

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

Case 1878-SUP St. Martin's

PUBLIC NOTICE:

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

NOTICE RECIPIENTS: 9

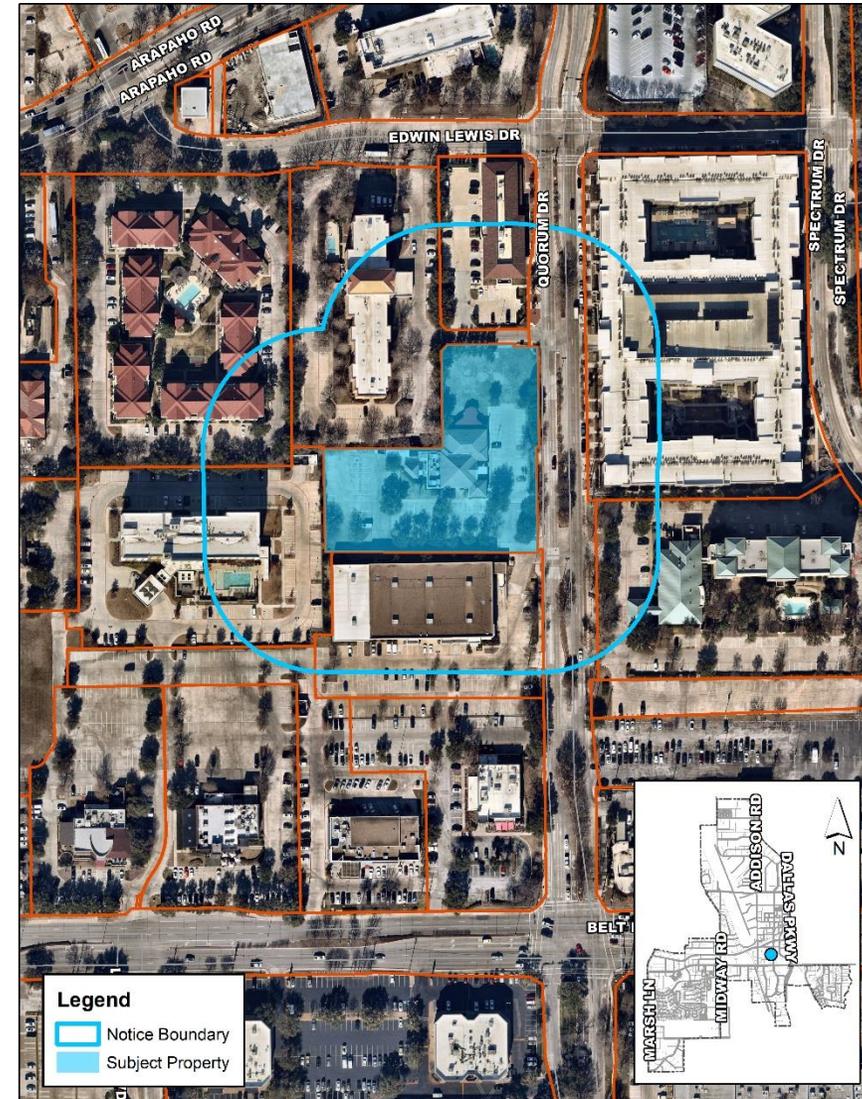
FOR: None.

AGAINST: None.

NEUTRAL: None.

PLANNING & ZONING COMMISSION ACTION:

Approval: 6-0



RECOMMENDATION:

Staff recommends **approval of the request with the following condition:**

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- Upon issuance of a Certificate of Occupancy, the previous SUP, Ord. Nos. 094-019 and 010-023, permitting building and site modifications to an existing restaurant with alcohol sales shall be repealed.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT (SUP) FOR A RESTAURANT AND FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION FOR THE PROPERTY LOCATED AT 15175 QUORUM DRIVE; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING A SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, at its regular meeting held on March 21, 2023, the Planning & Zoning Commission considered and made recommendations on a request for a Special Use Permit (Case No.1878-SUP) for a restaurant and for the sale of alcoholic beverages for on-premises consumption at the property located at 15175 Quorum Drive (the “Subject Property”); and

WHEREAS, the Subject Property is presently zoned Planned Development (PD), Ordinance No. O92-020, as amended by Ordinance No. O92-066; and

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

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

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

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

SECTION 2. Ordinance No. 094-019 granting a Special Use Permit to Lexi’s Restaurant and Ordinance No. 010-023 granting a Special Use Permit to Arthur’s Restaurant, shall be repealed in their entirety upon issuance of a Certificate of Occupancy for the Subject Property in conformance with this ordinance.

SECTION 3. A Special Use Permit authorizing a restaurant and authorizing the sale of alcoholic beverages for on-premises consumption for the Subject Property, is hereby granted subject to the following conditions:

- (a) Prior to issuance of a Certificate of Occupancy, the Subject Property shall be improved in accordance with the site plan, landscape plan, floor plan, and façade plans which are attached hereto as **Exhibit A** and made a part hereof for all purposes.
- (b) The SUP granted herein for a restaurant and for the sale of alcoholic beverages for on-premises consumption, shall be limited to that particular area encompassing a total area

not to exceed 4,550 square feet as designated on the final site plans attached hereto as **Exhibit A**.

- (c) No signs advertising sale of alcoholic beverages shall be permitted other than those authorized under the Liquor Control Act of the State of Texas, and any sign ordinance of the Town of Addison, Texas (hereinafter “City”).
- (d) The sale of alcoholic beverages under this SUP shall be permitted in restaurants. For the purposes of this ordinance, the term “restaurant” means an establishment which receives at least sixty percent (60%) of its gross revenues from the sale of food.
- (e) Said establishment shall, upon request by the City, make available to the City or its agents, during reasonable hours its bookkeeping records for inspection to ensure that the conditions of subparagraph (d) above are being met.
- (f) Any nonconforming use of the Subject Property that is not considered a legal nonconforming use under the City’s Comprehensive Zoning Ordinance shall not be permitted to receive a license or permit for the sale of alcoholic beverages.
- (g) If the Subject Property is not used for the purposes for which said permit was granted within one (1) year after the adoption of this ordinance, the City Council may authorize hearings to be held for the purpose of considering a change of zoning and repeal of the Special Use Permit granted herein.
- (h) If a license or permit to sell alcoholic beverages on the Subject Property is revoked, terminated, or cancelled by any authority with jurisdiction over the same, the City Council may authorize hearings to be held for the purpose of considering a change of zoning and repeal of the Special Use Permit granted herein.
- (i) The establishment shall not use the term “bar”, “tavern”, or any other terms or graphic depictions that relate to the sale of alcoholic beverages on any signs visible from the exterior of the premises.

SECTION 4. Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the city, as heretofore amended, and upon conviction shall be punished by a fine set in accordance with Chapter 1, Section 1-7 of the Code of Ordinances for the Town of Addison.

SECTION 5. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance or of the Zoning Ordinance for the Town of Addison, as amended hereby, be adjudged or held, in whole or in part, to be invalid, voided or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinances, as amended hereby, which shall remain in full force and effect.

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

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas, on this the **11TH** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

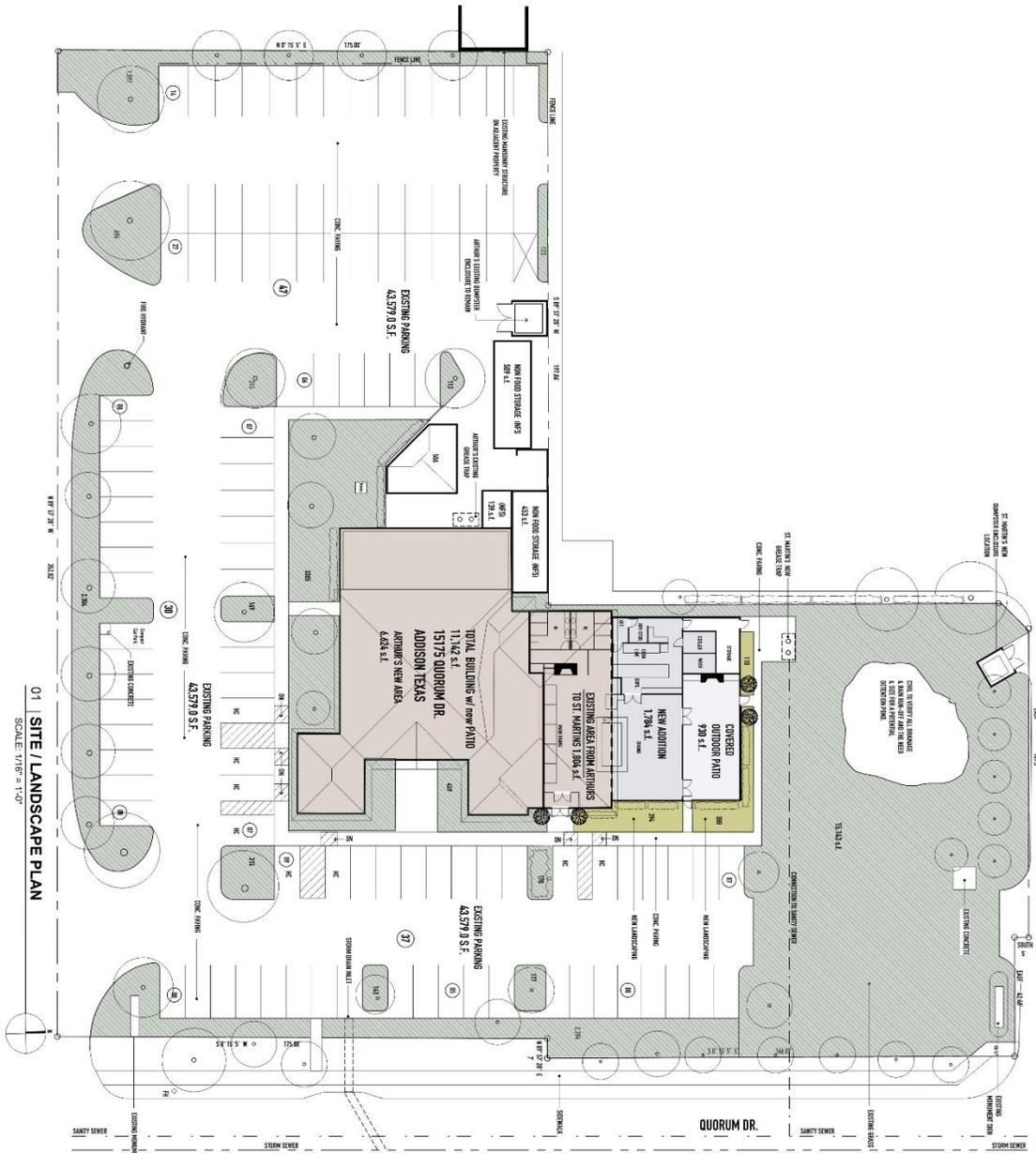
ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Whitt Wyatt, City Attorney

EXHIBIT A



01 | SITE /LANDSCAPE PLAN
SCALE: 1/8" = 1'-0"

AREA TABULATION	
88,277 9 S.F.	EXISTING SITE AREA
58,794 9 S.F.	PERVIOUS AREA
29,501 0 S.F.	PERVIOUS AREA
17,659 6 S.F.	20% OPEN SPACE HEAD
29,501 0 S.F.	OPEN SPACE/LANDSCAPE PROVIDED
28,609 0 S.F.	EXISTING LANDSCAPE AREA
892 0 S.F.	PROPOSED LANDSCAPE AREA
43,579 0 S.F.	PARKING AREA

PARKING TABULATION	
8,428	EXISTING BLDG. AREA (ARTHUR'S)
6,624 S.F.	ARTHUR'S NEW AREA
4,518 S.F.	ST. MARTIN'S AREA w/ PATIO
2,714 S.F.	ST. MARTIN'S NEW ADDITION AREA w/PATIO
1,804 S.F.	EXISTING BUILDING AREA ALLOCATED FOR ST. MARTIN'S
1,794 S.F.	BUILDING ADDITION AREA
920 S.F.	BUILDING ADDITION PATIO AREA
11,142 S.F.	TOTAL BUILDING AREA = 112 SPACES
11,142 S.F.	TOTAL BUILDING AREA = 112 SPACES
11,142 S.F.	PARKING PROVIDED 114 SPACES

LANDSCAPE LEGEND	
	EXISTING LANDSCAPE
	NEW LANDSCAPE Plants per Addison City Code
	1. GROUND COVER - Asian Jasmine 835 S.F.
	2. BUSHES - (4) Azalea & Spati Lantana
	3. POTTED TREES - (4) Ligulary Boxwood
	4. EXISTING TREES TO REMAIN (NONE TO BE REMOVED)

Project shall comply with the 2018 BC including Chapter 17, 2017 NEC, 2012 TIS and associated codes and ordinances of the Town of Addison.

SUP A-1

Case No. 1878-SUP

ST. MARTIN'S

SITE PLAN & LANDSCAPE PLAN

15175 QUORUM DR. ADDISON TEXAS 75001

DATE: 07/20/22

PROJECT: 1878-SUP

1878-SUP

PUBLIC HEARING Case 1878-SUP/15175 Quorum Drive (St. Martin's). Hold a Public Hearing, Present, Discuss, and Consider Action on a Recommendation regarding an Ordinance Approving a Special Use Permit (SUP) for Property Located at 15175 Quorum Drive, that is currently zoned Planned Development (PD), through Ordinance Nos. O92-020 and O92-066, to allow a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption.

LOCATION MAP





March 21, 2023

STAFF REPORT

RE: 1878-SUP/15175 Quorum Drive (St. Martin's)
LOCATION: 15175 Quorum Drive
REQUEST: Approval of a Special Use Permit for a restaurant and the sale of alcoholic beverages for on-premises consumption. (Application Date: 12/27/2022)
APPLICANT: Carlos Goyne, GC2, LLC

DISCUSSION:

Background: The subject property is located at 15175 Quorum Drive. The proposed restaurant would occupy a portion of the existing building and a proposed building and patio addition. The site is zoned Planned Development (PD), Ordinance No. 092-020, and as amended by Ordinance No. 092-066. This site also has several Special Use Permits (SUP) to allow the existing restaurant and associated site and building improvements.

St. Martin's is a full-service restaurant specializing in French cuisine. The restaurant operator currently has two other restaurants: Arthur's Steakhouse in Addison and St. Martin's in Dallas. The Addison restaurant would be St. Martin's second location. The proposed operating hours are 5:00 pm – 10:00 pm, seven days a week. The restaurant proposes to include interior and patio seating. St. Martin's would also offer alcohol sales for on-premises consumption.

The PD Ordinance allows restaurants and the sale of alcoholic beverages for on-premises consumption through the approval of an SUP. The proposed use complies with the ordinance.

Proposed Plan: With this request, St. Martin's proposes to utilize 1,804 square feet of existing dining space, construct a 1,784 square foot building addition, and construct a 930 square foot covered outdoor patio. The restaurant would occupy a total of 4,547 square feet. The new building addition would replace an existing covered outdoor dining area. The existing restaurant, Arthur's Steakhouse, would occupy the remaining 6,624 square foot of building area on site.

The proposed restaurant will provide seating for 138 individuals. The interior floor plan is comprised of kitchen and service areas, a bar, and table, booth, and bar seating in the dining areas. No interior access is proposed between the two restaurants. The applicant is proposing a solid waste enclosure at the northwest corner of the site to serve the new restaurant.

Parking: This parking lot will be shared between the existing restaurant, Arthur's Steakhouse, and the proposed restaurant, St. Martin's. The proposed building area is 11,171 square feet, requiring 112 parking spaces on site. One space is proposed to be modified to accommodate accessible parking spaces to serve St. Martin's, resulting in 114 spaces provided on site.

Exterior Facades: The proposed building and patio addition will be constructed on the north side of the existing building. It will be constructed to accent the existing building façade. The covered outdoor patio area will be bordered by a wrought iron fence. There are no modifications proposed to the remaining facades of the existing restaurant, Arthur's Steakhouse.

Landscaping and Open Space: The building and patio addition will occupy 1,639 square feet of existing open space. The total site will exceed the minimum 20% open space required by providing approximately 33% open space. The applicant is proposing to add ground cover, shrubs, and potted trees surrounding the new restaurant. The applicant is not proposing to remove any trees with this request.

RECOMMENDATION: **APPROVAL WITH CONDITIONS**

St. Martin's will expand the diversity of restaurant options in Addison and the building addition will provide additional investment in an existing restaurant site. The restaurant will also provide an additional outdoor dining opportunity, which is desired within the community.

Staff recommends approval of these requests, subject to the following condition:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- Upon issuance of a CO for this restaurant, SUP Ordinance Nos. 094-019 and 010-023, permitting building and site modifications to an existing restaurant with the sale of alcohol for on-premises consumption shall be repealed.



Case 1878-SUP/15175 Quorum Drive (St. Martin's)

March 21, 2023

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on March 21, 2023, voted to recommend approval of an ordinance changing the zoning on property located at 15175 Quorum Drive, which property is currently zoned Planned Development (PD), Ordinance No. 092-020, as amended by Ordinance No. 092-066, by approving a Special Use Permit (SUP) to allow a restaurant with the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage.
- Upon issuance of a CO for this restaurant, SUP Ordinance Nos. 094-019 and 010-023, permitting building and site modifications to an existing restaurant with the sale of alcohol for on-premises consumption shall be repealed.

Voting Aye: Branson, Catalani, Chavez, DeFrancisco, Fansler, Souers

Voting Nay: none

Absent: Faircloth

SPEAKERS AT THE PUBLIC HEARING:

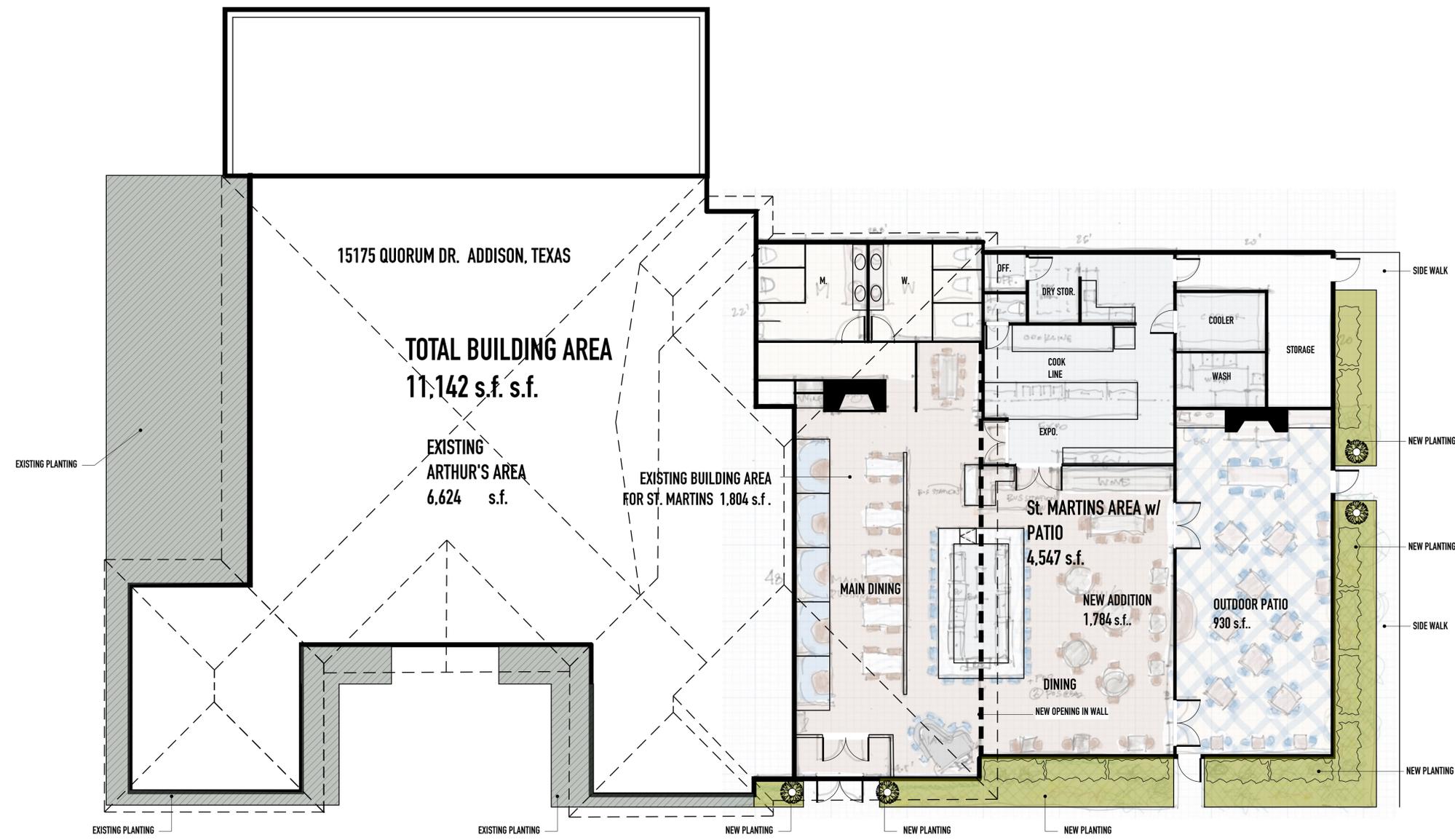
For: none

On: none

Against: none



1	Feb. 01, 2023
2	Feb. 15, 2023
3	Mar. 15, 2023



ST. MARTINS AREA TABULATION

1,880 s.f.	Dining
214 s.f.	Bar
900 s.f.	Kitchen/Office
580 s.f.	Restrooms/Circulation
73 s.f.	Vestibule
3,647 s.f.	TOTAL RESTAURANT
900 s.f.	Patio

BUILDING AREA TABULATION

6,624 s.f.	ARTHUR'S AREA
4,547 s.f.	ST. MARTINS AREA w/ Patio
2,714 s.f.	ST. MARTINS NEW ADDITION AREA W/PATIO
1,819 s.f.	EXISTING BUILDING AREA ALLOCATED FOR ST. MARTINS
1,784 s.f.	BUILDING ADDITION AREA
930 s.f.	BUILDING ADDITION PATIO AREA
11,142 s.f.	TOTAL BUILDING AREA

TOTAL SEATING

Qty.	Seats	Seat Total
BOOTH - 6	5	30
TABLE - 8	1	8
TABLE - 4	17	68
TABLE - 2	12	24
PIANO - 8	1	8

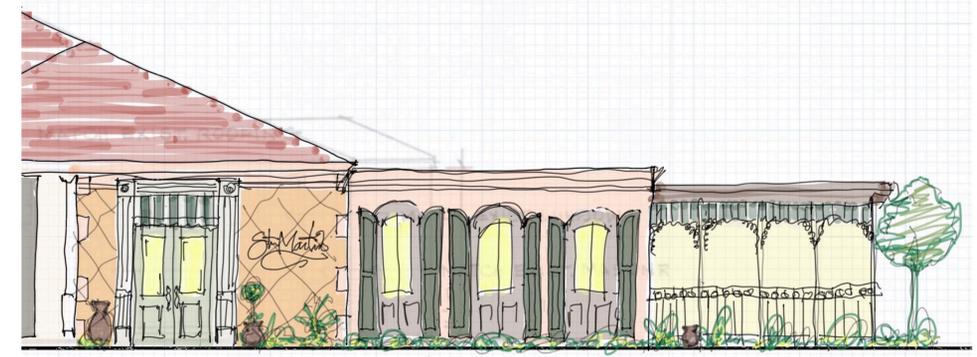
TOTAL SEATS 138

- LANDSCAPE LEGEND**
- EXISTING LANDSCAPE
 - NEW LANDSCAPE Plants per Addison City Code
 - 1. GROUND COVER - Asian Jasmine
 - 2. BUSHES- Azalea & Spot Lantna
 - 3. POTTED TREES - (1) Topiary Boxwood

01 FLOOR PLAN
SCALE: 1/8" = 1'-0"



01 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



01 EAST ELEVATION
SCALE: 1/8" = 1'-0"

Council Meeting 2023

12.

Meeting Date: 04/11/2023

Department: Parks & Recreation

Pillars: Gold Standard in Customer Service

Milestones: Promote and protect the Addison Way

AGENDA CAPTION:

Hold a Public Hearing, Present, Discuss, and Consider Action on an **Ordinance Approving 2023 Standards of Care for the Town's Youth Recreation Programs.**

BACKGROUND:

Council approval is requested for an Ordinance adopting the Standards of Care for all Town of Addison Parks and Recreation Department youth programs for children ages 5 through 13 including, but not limited to, the Summer Camp Program and the Spring Break Program at the Addison Athletic Club. Annual adoption of the Standards of Care by Ordinance after a public hearing is required per Section 42.041 (b)(14) of the Texas Human Resources Code.

The document provides minimum standards for operating youth programs which include guidelines for hiring of program staff, enrollment guidelines, discipline, health, safety and more. The document also addresses programing and providing activities that promote emotional, social, and mental growth. The Town not only complies with the minimum standards in the Ordinance, but exceeds some of the established standards. Examples include:

- Cleaning and sanitation
- Video monitoring throughout the facility and in all child care areas
- Day camp restroom policy requires campers to use the individual changing rooms. This prevents campers from utilizing the locker rooms. This policy also requires campers changing into swim suits to use the individual changing rooms or outdoor pool restrooms prior to the outdoor pool being open to the general public.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - Standards of Care 2023

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS APPROVING 2023 STANDARDS OF CARE FOR THE TOWN OF ADDISON’S YOUTH RECREATION PROGRAMS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”) is a home rule municipality pursuant to article 11, section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, the City operates youth recreation programs for children, including programs for elementary age children (ages 5 through 13); and

WHEREAS, pursuant to section 42.041(b)(14) of the Texas Human Resources Code, the City is not required to obtain a license from the Department of Family and Protective Services to operate an elementary-age (ages 5 through 13) youth recreation programs (herein the “Programs”) provided that the governing body of the City annually adopts standards of care by ordinance after a public hearing; and

WHEREAS, section 42.041(b)(14) of the Texas Human Resources Code requires that the standards of care adopted by the City are provided to the parents of each program participant and that the standards of care include: staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility; and

WHEREAS, the City Council finds that a public hearing was held prior to the adoption of this ordinance.

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

SECTION 1. In accordance with section 42.041(b)(14) of the Texas Human Resources Code, the City Council hereby adopts the 2023 Standards of Care for the elementary-age youth recreation programs operated by the Town of Addison, a copy of which is attached hereto as **Exhibit "A"** and incorporated by reference as if fully set out herein.

SECTION 2. The City’s Programs shall be administered by the Parks and Recreation Department and be operated in accordance with the Standards of Care set forth in **Exhibit A**. Notwithstanding, the Director of Parks and Recreation shall be authorized to issue rules for the Programs that are more restrictive than the adopted Standards of Care; provided, that the Director provides notice of such rules to the parents of participants in the same manner as required for the Standards of Care.

SECTION 3. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 4. The provisions of this Ordinance are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by a court of competent jurisdiction, the same shall not affect the validity of any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional parts and to this end the provisions of this Ordinance adopted herein shall remain in full force and effect.

SECTION 5. This Ordinance shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 11th day of APRIL 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma G. Parker, City Secretary

Whitt L. Wyatt, City Attorney

**EXHIBIT A
TO ORDINANCE NO. _____**

**2023 STANDARDS OF CARE
FOR ELEMENTARY AGE (5 – 13) YOUTH RECREATION PROGRAMS**

The following Standards of Care are adopted in compliance with Section 42.041(b)(14) of the Texas Human Resources Code. The Standards of Care herein set forth herein are intended to be minimum standards applicable to all elementary age (ages 5 through 13) recreation Programs operated by the Town of Addison Recreation Department, including, without limitation, any summer camp program and any spring break program. The Programs are not licensed by the State of Texas and shall not be advertised as a child-care facility.

GENERAL ADMINISTRATION

1. Organization.
 - A. The governing body of the Youth Programs is the City Council of the Town of Addison, Texas.
 - B. Implementation of the Youth Programs Standards of Care is the responsibility of the Parks and Recreation Department Director or his or her designee and Department employees.
 - C. These Standards of Care will apply to all Programs, including, without limitation, the Summer Camp Program and Spring Break Program.
 - D. Each Program Site will have available for public and staff review a current copy of the Standards of Care.
 - E. Parents of participants will be provided a current copy of the Standards of Care during the registration process for a Program. Further, a copy of the Standards of Care shall be placed online on the City's primary website.
 - F. Criminal background checks will be conducted on prospective Program employees. If results of a criminal background check indicate that a prospective Program employee has been arrested, charged with, or convicted of any of the following offenses, the prospective Program employee will not be considered for employment:
 - (1) a felony or a misdemeanor classified as an offense against a person or family member;
 - (2) a felony or misdemeanor classified as public indecency;
 - (3) any offense for which a person is required to register as a sex

offender under Chapter 62, Texas Code of Criminal Procedure;

- (4) a felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance;
- (5) any offense involving moral turpitude;
- (6) any offense that would, in the Director's sole opinion, potentially put youth participants or the City at risk.

2. Definitions. For purposes of these Standards of Care, the following words shall have the respective meanings ascribed to them:

- A. *City* means the Town of Addison, Texas.
- B. *City Council* means the City Council of the City.
- C. *Department* means the Parks and Recreation Department of the City.
- D. *Director* means the Parks and Recreation Department Director of the City or their designee.
- E. *Staff* means people who have been hired to work for the Town of Addison and have been assigned responsibility for managing, administering, or implementing some portion of a Program.
- F. *Parent(s)* means one or both parent(s) or adults who have legal custody and authority to enroll their child(ren) in a Program.
- G. *Participant* means a youth whose parent(s) have completed all required registration procedures and determined to be eligible for a Program.
- H. *Programs* means all (and *Program* means any of the) elementary age (ages 5 through 13) recreation programs operated by the Department, including, without limitation, the City Summer Camp Program (*Summer Camp Program*) and the City Spring Break Camp Program (*Spring Break Program*).
- I. *Program Coordinator or Coordinator* means a full-time Department employee who is a recreation supervisor and has been assigned administrative responsibility for the Programs.
- J. *Program Manual* means a notebook of policies, procedures, required forms, and organizational and programming information relevant to each Program. Developed by the Program Coordinator.
- K. *Program Site* means area and facilities where a Program is held, consisting

of the Addison Athletic Club, 3900 Beltway Drive, Addison, Texas 75001.

- L. *Program Summer Camp Counselor* or *Counselor* means a Department part-time or seasonal employee who has been assigned responsibility by the Assistant Director of Recreation to implement the City's Summer Camp Program.
 - M. *Assistant Director of Recreation* means a full-time Department employee and who oversees the Program Coordinator and the operation of all Programs.
3. Inspections/Monitoring/Enforcement.
- A. A written inspection report will be prepared by the Program Coordinator each month to confirm the Standards of Care are being adhered to.
 - (1) Each monthly inspection report will be sent by the Program Coordinator to the Assistant Director of Recreation for review and kept on record in accordance with the City's records retention policy.
 - (2) The Assistant Director of Recreation will review the report and establish deadlines and criteria for compliance with the Standards of Care where failure to comply is determined.
 - B. The Assistant Director of Recreation will make visual inspections of the Programs based on the following schedule:
 - (1) The Summer Camp Program will be inspected a minimum of two times during the Summer Camp Program's schedule.
 - (2) The Spring Break Camp Program will be inspected at least once during the Spring Break Camp Program schedule.
 - (3) Each other Program will be inspected at least once each week during the schedule for the Program.
 - C. Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to address any complaints and to resolve the problem(s), if any. Complaints regarding enforcement of the Standards of Care and their resolution will be recorded in writing by the Coordinator. All complaints regarding enforcement of the Standards of Care where a deficiency is determined will be forwarded to the Assistant Director of Recreation, with the complaint and the resolution noted.
4. Enrollment. Before a child can be enrolled in a Program, the parents must sign registration forms that contain the following information about the child:

- A. name, address, home telephone number;
 - B. name and address of parent(s) telephone number(s) and email address during Program hours;
 - C. the names and telephone numbers of people to whom the child can be released;
 - D. a statement of the child's physical health, including a physician's signed statement and current immunization (shot) records, detailing any special problems or needs of the child;
 - E. proof of residency within the City when appropriate; and
 - F. a fully executed liability waiver and release.
5. Suspected Abuse.

Program employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In the case where an employee is involved in an incident with a child that could be construed as child abuse, the incident must be reported immediately to the Assistant Director of Recreation. The Assistant Director of Recreation will then immediately notify the Director, the City Police Department, and any other agency as may be appropriate.

Texas state law requires the employees of the Programs to report any suspected abuse or neglect of a child to the Texas Department of Protective and Regulatory Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to \$1,000 and/or confinement up to 180 days. Confidential reports may be made by calling 1-800-252-5400.

STAFFING - RESPONSIBILITIES AND TRAINING

1. Program Coordinator Qualifications.
- A. The Coordinator will be a full-time, professional employee of the Department.
 - B. The Coordinator must be at least 21 years old
 - C. The Coordinator must have received a bachelor's degree from an accredited college or university. Acceptable degrees include:
 - (1) Recreation Administration or General Recreation;
 - (2) Physical Education; and

- (3) Any other comparable degree plan or experience that would lend itself to working in a public recreation environment.
 - D. The Coordinator must have at least two years experience planning and implementing recreational activities.
 - E. The Coordinator must pass a background investigation, including, including testing for alcohol and illegal and unauthorized drugs.
 - F. The Coordinator must have successfully completed a course in first aid and cardiopulmonary resuscitation (CPR) based on either American Heart Association or American Red Cross standards.
2. Coordinator's Responsibilities.
- A. The Coordinator is responsible to administer the Programs' daily operations in compliance with the adopted Standards of Care.
 - B. The Coordinator is responsible to recommend for hire, supervise, and evaluate Program seasonal employees.
 - C. The Coordinator is responsible to plan, implement, and evaluate Programs.
3. Program Summer Camp Counselor Qualifications.
- A. Counselors will be part-time or seasonal employees of the Department.
 - B. Counselors working with children must be age 18 or older.
 - C. Counselors must be able to consistently exhibit competency, good judgment, and self-control when working with children.
 - D. Counselors must relate to children with courtesy, respect, tolerance, and patience.
 - E. Counselors must have successfully completed a course in first aid and CPR based on either American Heart Association or American Red Cross standards.
 - F. Counselors must pass a background investigation, including testing for alcohol and illegal and unauthorized drugs.
4. Counselor Responsibilities.
- A. Counselors will be responsible to provide Program participants with an environment in which they can feel safe, can enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.

- B. Counselors will be responsible to know and follow all City, Department, and Program standards, policies, and procedures that apply to the Program.
 - C. Counselors must ensure that Program participants are released only to a parent or an adult designated by the parent. The Program Site will have a copy of the approved plan to verify the identity of a person authorized to pick up a Program participant if that person is not known to the Counselor.
5. Training/Orientation.
- A. The Department is responsible for providing training and orientation to Program employees working with children and for specific job responsibilities. The Coordinator will provide each Counselor with a Program manual specific to the applicable Program.
 - B. Program employees must be familiar with the Standards of Care for Program operation as adopted by the City Council.
 - C. Program employees must be familiar with the Program’s policies, including discipline, guidance, and release of Program participants as outlined in the Program Manual.
 - D. Program employees will be trained in appropriate procedures to handle emergencies.
 - E. Program employees will be trained in areas including City, Department, and Program policies and procedures, provision of recreation activities, safety issues, and organization goals.
 - F. Program employees will be required to sign an acknowledgement that they received the required training.

OPERATIONS

1. Staff-Participant Ratio.
- A. The standard ratio of Program participants to employees will be 15 to 1. In the event an employee assigned to a Program is unable to report to the Program Site, a replacement will be assigned.
 - B. Each participant shall have a Program employee who is responsible for the participant and who is aware of the participant's habits, interests, and any special problems as identified by the participant's parent(s) during the registration process.
2. Discipline.

- A. Program employees will implement discipline and guidance in a consistent manner based on the best interests of Program participants.
- B. There must be no cruel, harsh or corporal punishment or treatment used as a method of discipline.
- C. Program employees may use brief, supervised separation from the group if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parent(s) of participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program Manual may result in a participant being suspended or removed from the Program or all Programs.
- F. In instances where there is a danger to participants or employees, offending participants will be removed from the Program Site as soon as possible.

3. Programming.

- A. Program employees will attempt to provide activities for each Program group according to the participants' ages, interests, and abilities. The activities must be appropriate to participants' health, safety, and well-being. The activities also must be flexible and promote the participants' emotional, social, and mental growth.
- B. Program employees will attempt to provide indoor and outdoor time periods that include:
 - (1) alternating active and passive activities;
 - (2) opportunity for individual and group activities, and
 - (3) outdoor time each day weather permits.
- C. Program employees will be attentive and considerate of participants' safety on field trips and during any transportation provided by the Program.
 - (1) During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
 - (2) Program employees must have a written list of the participants in the Program group and must check the roll frequently.
 - (3) Program employees must have first aid supplies and a guide to first

aid and emergency care available on field trips.

4. Communication.

- A. The Program Site will have a cell phone to allow the Program employees to be contacted by Department recreation employees and vice versa.
- B. The Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees:
 - (1) City ambulance or emergency medical services;
 - (2) City Police Department
 - (3) City Fire Department
 - (4) The Addison Athletic Club front desk; and
 - (5) Numbers at which parents may be reached.

5. Transportation.

- A. Before a participant may be transported to and from City-sponsored activities, a transportation form, completed by the parent of the participant, must be filed with the Coordinator.
- B. First aid supplies and a first aid and emergency care guide will be available in all Program vehicles that transport children.
- C. Program employees will carry a cell phone at all times.

FACILITY STANDARDS

1. Safety.

- A. Program employees will inspect Program Sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants.
- B. Buildings, grounds, and equipment on the Program Site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies must be safe for the participants' use.
- D. Program employees must have first aid supplies readily available at the Program Site, during transportation to an off-site activity, and for the duration of any off-site activity.

2. Fire.

- A. In case of fire, danger of fire, explosion, or other emergency, Program employees' first priority is to evacuate the participants to a designated safe area.
- B. The Program Site will have an annual fire inspection by the local Fire Marshal, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Assistant Director of Recreation who will review and establish deadlines and criteria for compliance if any deficiencies or concerns are determined to exist.
- C. The Program Site must have at least one fire extinguisher readily available to all Program employees. All Program employees will be trained in the proper use of fire extinguishers.
- D. Fire drills will be initiated at Program Sites based on the following schedule:
 - (1) Summer Camp Program: A fire drill twice during the session.
 - (2) Spring Break Camp Program: A fire drill once during the session.
 - (3) Other Programs: A fire drill at least once during the session.

3. Health.

- A. Illness or Injury.
 - (1) A participant who is considered to be a health or safety concern to other participants or employees will not be admitted to a Program.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees.
 - (3) Program employees will follow plans to provide emergency care for injured participants with symptoms of an acute illness as specified in the Program Manual.
 - (4) Program employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any participant after a communicable disease.
- B. Program employees will administer medication (limited only to an epinephrine pen (auto-injector) and an asthma inhaler) to participants only if:
 - (1) Parent(s) complete and sign a medication form provided by the Town (to include, among other things, an indemnity and hold harmless provision, and a waiver and release provision) that provides authorization for Program employees to dispense the

medication, with details as to time and dosages.

- (2) The medication is in its original container labeled with the participant's name, a date, directions, and the physician's name. Program employees will administer the medication only as stated on the label. Program employees will not administer medication after the medication's expiration date.

Program employees will not administer any other medication.

C. Toilet Facilities.

- (1) The Program Site will have inside toilets located and equipped so participants can use them independently and Program employees can supervise as needed.
- (2) An appropriate and adequate number of lavatories will be provided.

D. Sanitation.

- (1) The Program facilities will have adequate light, ventilation, and heat.
- (2) The Program will have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the participants in a safe and sanitary manner.
- (3) Program employees will see that garbage is removed from buildings daily.