



**REGULAR MEETING
OF THE CITY COUNCIL**

April 25, 2023

ADDISON TREEHOUSE

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

Email comments may be sent to iparker@addisontx.gov by 3:00 pm the day of the meeting. The meeting will be live streamed at www.addisontexas.net.

Call Meeting to Order

Pledge of Allegiance

EXECUTIVE SESSION

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

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

Section 551.087 Regarding Economic Development Deliberations to discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect or business prospects that the City Council

seeks to have locate, stay, or expand in or near the territory of the Town of Addison and with which the City Council is conducting economic development negotiations, and/or to deliberate the offer of a financial or other incentive to such business prospect or business prospects:

- Discuss amending the Memorandum of Understanding (MOU) and agreements between Town of Addison, AMLI Residential and Stream Realty for the Transit Oriented Development Project

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.

REGULAR MEETING

Announcements and Acknowledgments Regarding Town and Council Events and Activities

Discussion of Meetings / Events

Public Comment

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

Consent Agenda

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

1. Consider Action on the **Minutes from the March 27, 2023 City Council Strategic Planning Retreat.**

2. Consider Action on the **Minutes from the April 11, 2023 City Council Meeting.**
3. Consider Action on a **Resolution Approving a Purchase Order with SHI Government Solutions, Inc. for the Purchase and Installation of 195 Notebooks and 78 Desktops and Authorizing the City Manager to Execute the Purchase Order** in an Amount Not to Exceed \$444,259.95.
4. Consider Action on a **Resolution Adopting the Fiscal Year 2024 Vision Statement, Strategic Pillars, and Milestones.**
5. Consider Action on a **Resolution Approving an Agreement Between the Town of Addison and Stripe-A-Zone for the FY2023 Annual Pavement Markings Project and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$80,000.
6. Consider Action on a **Resolution to Acknowledge a Donation in the Amount of \$30,000 to the WaterTower Theatre for Naming the Main Stage of the Addison Theatre Centre "The Terry Martin Main Stage."**
7. Consider Action on a **Resolution to Acknowledge a Donation in the Amount of \$75,000 to the WaterTower Theatre for Naming the Lobby of the Addison Theatre Centre "The Delynda Moravec Lobby."**
8. Consider action on a **Resolution Approving an Agreement with Fannin Tree Farm for On-call Contract Services for Tree Furnishing and Planting Services and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$200,000.
9. Consider Action on an **Ordinance to Amend Article II, Section 2-31 of the Town's Code of Ordinances Related to Mayor and Councilmember Compensation.**

10. Consider Action on a Resolution Approving an Interlocal Cooperation Agreement with the City of Farmers Branch, Texas for the Provision of Sanitary Sewer Services at a 1.0065 Acre Tract of Land Located in the City of Farmers Branch and Authorizing the City Manager to Execute the Agreement.
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Regular Items

11. Hold a Public Hearing, Present, Discuss, and Consider Action on a Request for a Special Use Permit (SUP) to allow a Religious Institution on 1.28± Acres Located at the Northwest Corner of Celestial Road and Winnwood Road (5555 Celestial Road), that is currently zoned Planned Development (PD), through Ordinance No. O91-083. Case 1868-SUP/5555 Celestial Road (White Rock Chapel). **THE APPLICANT HAS REQUESTED TO POSTPONE CONSIDERATION OF THIS ITEM TO A LATER DATE.**
12. Present, Discuss, and Consider Action on a Resolution Approving a Third Amended and Restated Memorandum of Understanding (MOU) Between the Town of Addison and Co-Developers AMLI Residential and Stream Realty for the Addison Circle Area Transit Oriented Mixed-Use Development Project and Authorizing the City Manager to Execute the Third Amended and Restated MOU
13. Present, Discuss, and Consider Action on a Resolution Approving an Agreement for Professional Engineering Services Between the Town of Addison and Kimley-Horn and Associates, Inc. for the Design of the Montfort Drive Reconstruction Project and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$792,700.
14. Present, Discuss, and Consider Action on an Ordinance Amending the Town's Annual Budget for the Fiscal Year Ending September 30, 2023 to Provide Funding for Tree Plantings, Comprehensive Plan Updates, Real Estate Consulting, Intersection Improvements, Prior Year Encumbrances, Staffing and Operation Study, Contractual Services for Ambulance Revenue Recovery, Cost of Service Study for the Transit Oriented Development, Compensation Market Study, 911 Grant, and Personnel Costs in the Development Services Department and Council Special Projects.

15. Present, Discuss, and Consider Action on a **Resolution Approving an Agreement with 110% Inc. for a Park Impact Fee Study and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$132,895.**
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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: April 20, 2023

TIME POSTED: 5:30 PM

DATE REMOVED FROM BULLETIN BOARD: _____

REMOVED BY: _____

Council Meeting 2023

1.

Meeting Date: 04/25/2023

Department: City Secretary

AGENDA CAPTION:

Consider Action on the Minutes from the March 27, 2023 City Council Strategic Planning Retreat.

BACKGROUND:

The minutes for the March 27, 2023 City Council Strategic Planning Retreat have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - March 27, 2023

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL Strategic Planning Retreat

March 27, 2023

**Addison Conference Centre
15650 Addison Road, Addison, Tx 75001
9:00 a.m. Work Session**

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

Absent: Mayor Pro-Tempore Kathryn Wheeler

Call Meeting to Order: Mayor Chow called the meeting to order and made a brief statement regarding the Town's planning process. City Manager Gaines introduced the facilitator and explained the process to be followed as the Town begins the first phase of in the development of an updated Strategic Plan.

Strategic Planning

1. **Present and Discuss the Town Strategic Plan.**

Ramsee Consulting Group Managing Director Rick Robinson facilitated a strategic planning session with the Addison City Council and members of Town staff. The result will be the development of a vision, goals, and strategies that will be finalized during future meeting and planning session(s).

Adjourn Meeting

There being no further business to come before the City Council, Mayor Chow adjourned the Strategic Planning Meeting.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma G. Parker, City Secretary

Council Meeting 2023

2.

Meeting Date: 04/25/2023

Department: City Secretary

AGENDA CAPTION:

Consider Action on the **Minutes from the April 11, 2023 City Council Meeting.**

BACKGROUND:

The minutes for the April 11, 2023 City Council Meeting have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - April 11, 2023

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL WORK SESSION

April 11, 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; Mayor Pro-Tempore Kathryn Wheeler; Deputy Mayor Pro-Tempore Lori Ward; Council Member Tom Braun; Council Member Darren Gardner; Council Member Guillermo Quintanilla; Council Member Eileen Resnik

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.

Present 2023 Citizen's Academy Certificates: Mayor Chow and City Manager David Gaines presented the twenty 2023 Citizen's Academy participants with 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

Mayor Chow Closed the Open Session at 6:11 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 6:49 PM. There was no action taken as a result of Closed Session.

WORK SESSION

1. **Present and Discuss a Review of the March 27, 2023 Special Meeting on Strategic Planning.** *[Bill Hawley, Director of Administrative Services]*

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. *Directive:* Council reviewed and recommended minor edits. Staff to update and prepare for adoption at a future meeting.

2. **Present and Discuss the Addison Police Department's 2022 Annual Report.** *[Paul Spencer, Police Chief]*

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

APD provided results of an internal and external audit of the 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 the reporting methodology took place in 2020. APD historically utilized the Uniform Crime Reporting (UCR) Program to track crime and clearance rates over time. Beginning in 2020, the APD began using the National Incident Based Reporting System (NIBRS) 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.

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 APD continues to collect the Town's crime data using the NIBRS format, APD will have a more accurate tool to see changes in activity should they occur. *Directive:* None, presented for information only.

3. **Present and Discuss Mayor and City Council Compensation.** [Steven Glickman, Chief Financial Officer]

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 Council Members 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. *Directive:* A proposed ordinance doubling pay for mayor and council members will be presented at the April 25, 2023 meeting for action.

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.*

No citizens wished to address the City Council at this time.

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 Manager 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.**

Mayor Chow called for any items to be removed from the Consent Agenda for separate discussion. Deputy Mayor Pro-Tempore Ward requested to remove Item #7 for separate discussion. There being no further requests, Mayor Chow called for a motion.

MOTION: Council Member Resnik moved to approve *CONSENT AGENDA ITEMS 4-6* and *8-9* as presented. Council Member Braun seconded the motion. Motion carried unanimously.

***** ITEM #7 *****

Deputy Mayor Pro-Tempore Ward asked questions regarding delaying these projects. Facilities Manager Brad Boganwright reported it was hard to estimate the longevity of these roofs as they are nearing or past their useful life and the Town has experienced multiple severe weather events

including hail. Delaying these projects would likely result in increased costs, leaking, etc. There are active leaks in all proposed buildings. The roofs at Police and Fire 2 leak most often during medium to heavy rain events. The roofs at Fire 1 and the Addison Athletic Club leak when heavy or severe weather.

MOTION: Deputy Mayor Pro-Tempore Ward moved to approve *CONSENT AGENDA ITEM #7* as presented. Council Member Gardner seconded the motion. Motion carried unanimously.

Resolution No. R23-033: Settlement Agreement Midway Road Improvements Litigation

Resolution No. R23-034: Agreement Taste Addison Entertainment - Swae Lee, Inc.

Resolution No. R23-035: Agreement McKinstry Essention, LLC – Roof Replacement

Resolution No. R23-036: Agreement McKinstry Essention, LLC – Generator Replacements

Ordinance no. O23-20: Amend Code §2-73 ‘Reimburse 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).** [*Lesley Nyp, Planning & Development Manager*]

Residence Inn by Marriott is a hotel with 150 guest rooms. There is no restaurant or bar on site. The hotel is requesting a SUP to allow the sale of beer and wine to guests from their market pantry. The market pantry is located within the hotel lobby. This area has shelving and beverage coolers to display various prepackaged snacks, beverages, and personal care items, which can be purchased at the front desk. There is no modification to the existing market pantry area proposed. The proposed use complies with the ordinance. There are no interior or exterior modifications proposed.

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:

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

Public Hearing: No public comments.

MOTION: Council Member Braun moved to approve Case 1876-SUP/14975 Quorum Drive (Residence Inn) as presented. Deputy Mayor Pro-Tempore Ward seconded the motion. Motion carried unanimously.

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. 092-020 and 092-066, to allow a Restaurant with the Sale of Alcoholic Beverages for On-Premises Consumption. Case 1878-SUP/15175 Quorum Drive (St. Martin's).**

[Lesley Nyp, Planning & Development Manager]

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:

1. The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signage;
2. Upon issuance of a Certificate of Occupancy 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; and
3. 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.

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:

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

Public Hearing: No public comments. The property owner and design builder were on hand to answer any questions.

MOTION: Mayor Pro-Tempore Wheeler moved to approve Case 1878-SUP/15175 Quorum Drive (St. Martin's) as presented. Council Member Resnik seconded the motion. Motion carried unanimously.

Ordinance O23-22: Approve 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.**
[Janna Tidwell, Director of Parks & Recreation]

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:

1. Cleaning and sanitation
2. Video monitoring throughout the facility and in all childcare areas
3. 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 swimsuits to use the individual changing rooms or outdoor pool restrooms prior to the outdoor pool being open to the general public.

Public Hearing: No public comments.

MOTION: Mayor Pro-Tempore Wheeler moved to approve 2023 Standards of Care Ordinance. Council Member Gardner seconded the motion. Motion carried unanimously.

Ordinance No. 023-023: Adoption 2023 Standards of Care of Youth Recreation Programs.

Adjourn Meeting

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

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma G. Parker, City Secretary

Council Meeting 2023

3.

Meeting Date: 04/25/2023

Department: Information Technology

Pillars: Excellence in Asset Management
Gold Standard in Customer Service
Gold Standard in Public Safety

Milestones: Maximize use of cutting edge technology to enhance public safety

AGENDA CAPTION:

Consider Action on a **Resolution Approving a Purchase Order with SHI Government Solutions, Inc. for the Purchase and Installation of 195 Notebooks and 78 Desktops and Authorizing the City Manager to Execute the Purchase Order** in an Amount Not to Exceed \$444,259.95.

BACKGROUND:

The Town's existing notebook and Desktop computers were purchased and installed in 2017. They have reached the end of their useful lives. This purchase is funded out of the Information Technology Equipment Replacement Fund (ITERF). ITERF was established to accumulate sufficient resources to allow the Town to replace systems, including hardware and software, on a regular basis to be adequately responsive to the increasing demands on the network. ITERF resources are acquired through charges to the operating budgets of departments on an annual basis. Charges are calculated based on the total number of users.

The Texas Department of Information Resources (DIR) is responsible for a cooperative contracts program that enables government entities to efficiently pool their purchasing power to drive down costs. This program provides an effective procurement channel for thousands of public sector entities across Texas. DIR simplifies the procurement process for public sector entities throughout the state by releasing a Request for Proposal (RFP) and choosing vendors at the state level who can be selected by state agencies and local governments without issuing an RFP. We requested proposals from three (3) DIR Vendors (Lenovo, SHI Government Solutions, Inc. and CDW-G), SHI Government Solutions, Inc. offered the most cost-effective solution.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - SHI Purchase

Selection Matrix

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN PURCHASE ORDER WITH SHI GOVERNMENT SOLUTIONS, INC. FOR THE PURCHASE AND INSTALLATION OF 195 NOTEBOOKS AND 78 DESKTOPS, IN AN AMOUNT NOT TO EXCEED \$444,259.95; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE ORDER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize the City Manager to execute a purchase order with SHI Government Solutions, Inc. for the purchase and installation of 195 notebooks and 78 desktops for Town facilities, as identified in Quote No. 23127336 dated February 22, 2023.

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

SECTION 1. The City Council hereby approves a purchase order between the Town and SHI Government Solutions, Inc. for the purchase and installation of 195 notebooks and 78 desktops identified in Quote No. 23127336 in an amount not to exceed \$444,259.95, a copy of which is attached to this Resolution as **Exhibit A**. The City Manager is hereby authorized to execute the purchase order and all other documents necessary to effectuate the same.

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 **25th** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A



Pricing Proposal
Quotation #: 23127336
Created On: 2/22/2023
Valid Until: 4/28/2023

TX-Town of Addison

Scott Bronson

5350 Belt Line Road
ATTN: Addison Finance
Addison, TX 75254
United States
Phone: 9724502857
Fax:
Email: sbronson@addisontx.gov

Inside Account Executive

Mike Ur

290 Davidson Ave
Somerset, NJ 08873
Phone: 732-507-1356
Fax:
Email: mike_ur@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	Notebook ThinkPad X13 Gen3 Lenovo - Part#: 21AXS3JL00	79	\$1,556.97	\$123,000.63
2	Notebook ThinkPad T16 Gen 1 Lenovo - Part#: 21BWS4RN00	17	\$1,447.21	\$24,602.57
3	Notebook ThinkPad X13 Gen3 Lenovo - Part#: 21AXS3JK00 Note: Cellular	71	\$1,661.49	\$117,965.79
4	Notebook ThinkPad P14s Gen 3 Lenovo - Part#: 21ALS38C00	28	\$1,755.57	\$49,155.96
5	Desktop TC M90q Gen 3_Intel Q670_Tiny_ES Lenovo - Part#: 11U6S1LT00	78	\$882.92	\$68,867.76
6	ThinkPad Universal USB-C Dock v2 Lenovo - Part#: 40B70090US	153	\$154.74	\$23,675.22
7	ThinkPad Universal Thunderbolt 4 Dock - US Lenovo - Part#: 40B00135US	27	\$205.26	\$5,542.02
8	Town of Addison Managed Install CPN Lenovo - Part#: 5MS1L90072	1	\$31,450.00	\$31,450.00
			Total	\$444,259.95

Additional Comments

The 'in the box' services that are offered in your quote are as follows:

**Asset Tagging
Imaging at the factory**

The out of the box service that is included in the quote is:

Advanced Deployment Services

Asset Disposition is the last service they needed, and that is a separate quote and transaction from this deal.

Please Note: Lenovo has a zero returns policy on any custom build machines. Lenovo also does not allow returns on open box/phased out products.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The Products offered under this proposal are resold in accordance with the [SHI Online Customer Resale Terms and Conditions](#), unless a separate resale agreement exists between SHI and the Customer.

Hardware

	Desktops			Base-Model Laptops			Base-Model Laptops (With Cellular)			Accounting Laptops			High-End Laptops			Docking Stations	Hardware Total Costs
	Model	Cost	Quantity	Model	Cost	Quantity	Model	Cost	Quantity	Model	Cost	Quantity	Model	Cost	Quantity	Cost	Hardware Total Costs
Lenovo	M90Q	\$ 1,024.00	78	Yoga X13	\$ 1,788.00	79	Yoga X13	\$ 1,904.00	71	ThinkPad T16	\$ 1,668.00	17	ThinkPad P14s	\$ 2,007.00	28	\$ 35,513.00	\$ 476,373
CDW-G (Lenovo)	M90Q	\$ 907.80		Yoga X13	\$ 1,586.10		Yoga X13	\$ 1,688.10		ThinkPad T16	\$ 1,479.00		ThinkPad P14s	\$ 1,779.90		\$ 33,782.40	\$ 424,728
SHI (Lenovo)	M90Q	\$ 882.92		Yoga X13	\$ 1,556.97		Yoga X13	\$ 1,661.49		ThinkPad T16	\$ 1,447.21		ThinkPad P14s	\$ 1,755.57		\$ 29,217.24	\$ 412,810
SHI (Dell)	Precision 3260	\$ 1,269.73		Latitude 5430	\$ 1,458.37		Latitude 5430	\$ 1,538.09		Precision 3570	\$ 1,502.18		Precision 3470	\$ 1,415.69		\$ 33,013.26	\$ 421,644

Services

	Custom Imaging, Asset Tagging, and Managed Deployment Services
Lenovo	\$33,915.00
CDW-G (Reselling Lenovo Svcs)	\$30,909.00
SHI (Direct)	\$37,353.00
SHI (Reselling Lenovo Svcs)	\$31,450.00

	Estimated Device Disposition Credit
Lenovo	(\$20,844.56) - (\$27,593.21)
SHI (Through ITAD Tech)	(\$11,250)

Hardware

- **SHI (Lenovo)** is lowest overall cost for our first choice of product suite.

- M90Q fits in the Tiny-in-One workstations we already have so fewer cables and cleaner workstations.

- We have used primarily Lenovo products for many years so end users and IT staff are familiar and satisfied with their products.

Services and Device Disposition

- **SHI (Reselling Lenovo Svcs)** for ease of keeping one contract and vendor.

- Lenovo imaging service offers easiest way for staff to build images to be pre-loaded onto devices before deployment.

Device Disposition

- **Lenovo** offers best value for disposing of the Town's assets.

Council Meeting 2023

4.

Meeting Date: 04/25/2023

Department: City Manager

AGENDA CAPTION:

Consider Action on a **Resolution Adopting the Fiscal Year 2024 Vision Statement, Strategic Pillars, and Milestones.**

BACKGROUND:

Since 2016, Addison's City Council has met annually to discuss strategic questions and identify key priorities for the Town. On March 27, 2023 during a Special Council Meeting, a consultant from Ramsee Consulting Group facilitated an interactive discussion among Council members and Town staff. This agenda item seeks action on a Resolution adopting the Fiscal Year 2024 Vision Statement, Strategic Pillars, and Milestones finalized by Council during a Work Session on April 11, 2023.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Fiscal Year 2024 Strategic Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A VISION STATEMENT, PILLARS AND MILESTONES OF THE ADDISON STRATEGIC PLAN AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council met in a Special Meeting on March 27, 2023 to discuss the Town’s Strategic Plan; and

WHEREAS, the Vision Statement, Strategic Pillars, and Milestones have been identified to develop a cohesive vision of the future that creates excitement and commitment for the Town of Addison; and

WHEREAS, as a result of the Council’s discussion, the City Council desires to adopt a Vision Statement, Strategic Pillars, and Milestones for Fiscal Year 2024.

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

Section 1. The Vision Statement, Strategic Pillars, and Milestones for Fiscal Year 2024, attached hereto as **EXHIBIT A** and incorporated herein, are hereby approved.

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 this the **25th** day of **April** 2023.

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

Vision Statement, Pillars, and Milestones for Fiscal Year 2024

Vision Statement:

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 makes Addison **the** place to live, work, and visit.

Pillar One: Innovation in Entrepreneurship and Business

- Milestone 1: Leverage Addison’s unique assets to grow and expand placemaking business programs and events that will set Addison apart to attract talent and businesses.
- Milestone 2: Leverage Airport assets to maximize business growth and expansion.

Pillar Two: Excellence in Asset Management

- Milestone: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information systems.

Pillar Three: Excellence in Transportation Systems

- Milestone 1: Effectively utilize and promote the Silver Line development with a first mile/last mile solution.
- Milestone 2: Improve all modes of transportation with infrastructure in acceptable condition and well-maintained.

Pillar Four: Gold Standard in Customer Service

- Milestone 1: Establish an intentional culture throughout the organization that is based on continuous improvement, excellence, and adherence to the core values (BRAVE*).
- Milestone 2: Promote and protect Addison Way.
- Milestone 3: Continuously improve processes and policies to include the voice of the customer and ensure the policies are easily accessible.
- Milestone 4: Improve communications and use of technology.

Pillar Five: Gold Standard in Financial Health

- Milestone 1: Continue development and implementation of Long-Term Financial Plan.
- Milestone 2: Incorporate fiscal analysis in long-range planning.
- Milestone 3: Align budget and projects with the strategic plan.

Pillar Six: Gold Standard in Public Safety

- Milestone: Prepare for the impact of new growth and development in Addison.

Pillar Seven: Optimize Addison Brand

- Milestone: Continue to enhance and promote Addison’s Identity.

*The Town’s core values (BRAVE) are depicted in the graphic on the next page.

HOW WE MAKE A DIFFERENCE

B

Accountability

- Assume ownership and responsibility.
- Graciously accept feedback from those we serve, we lead and are led by.



R

Responsiveness

- Anticipate and understand the needs of the community and each other.
- Develop solutions and communicate in a timely and effective manner.



A

Innovation

- Take calculated risks to develop solutions that improve service.



V

Service

- Exhibit a passion for creating solutions.
- Exceed customer's expectations.



E

Integrity

- Conduct business ethically and with complete transparency.
- Do the right thing, even when it's difficult.



Council Meeting 2023

5.

Meeting Date: 04/25/2023

Department: Public Works

Pillars: Excellence in Asset Management
Excellence in Transportation Systems

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 Stripe-A-Zone for the FY2023 Annual Pavement Markings Project and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$80,000.

BACKGROUND:

The purpose of this item is to approve a construction services agreement with Stripe-A-Zone for the Fiscal Year 2023 Annual Pavement Markings Project in an amount not to exceed \$80,000.

Each year the Streets Division of the Public Works and Engineering Services Department develops a pavement markings program. These areas are identified by visual inspection and by utilizing the average life cycle of thermoplastic pavement markings.

The Town has an interlocal agreement with the City of Grand Prairie that the Council approved in 2014. Staff proposes to use the contract that Stripe-A-Zone has with Grand Prairie to provide this service. Stripe-A-Zone has completed pavement markings projects all over the Metroplex, and they come highly recommended. The Town has also used them repeatedly and has been pleased with their quality of work.

The amount of the Fiscal Year 2023 pavement markings program is \$80,000. Funds for this project are available in the Fiscal Year 2023 street maintenance budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Stripe-A-Zone



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH STRIPE-A-ZONE FOR THE FY23 ANNUAL PAVEMENT MARKINGS PROJECT IN AN AMOUNT NOT TO EXCEED \$80,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Stripe-A-Zone for the FY23 Annual Pavement Markings Project in conformance with the project documents for City Bid No. 23-99.

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

SECTION 1. The City Council hereby approves the contract agreement between the Town of Addison and Stripe-A-Zone for the FY23 Annual Pavement Markings Project in conformance with the project documents identified in the agenda memorandum for this Resolution, in an amount not-to-exceed of \$80,000.00, 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 **25th** day of **APRIL**, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

CONSTRUCTION SERVICES AGREEMENT
FY23 ANNUAL PAVEMENT MARKINGS PROJECT
(Bid #23-99)

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between **Stripe-A-Zone**, a Texas Limited Liability Company, 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 perform the FY23 Annual Pavement Markings Project (the “Project”), such services being more fully described herein and pursuant to the plans and specifications identified in 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

- (a) This Agreement is a part of the “Contract Documents”, which include:
- (1) This Agreement, including all exhibits and addenda hereto;
 - (2) City’s plans, specifications, and all other contract documents for the Project contained in City’s Bid #23-99;
 - (3) City’s written notice(s) to proceed to the Contractor;
 - (4) Properly authorized change orders;
 - (5) Contractor’s Bid Proposal (“Proposal” and/or “Response”); and
 - (6) Any other materials distributed by the City that relate to the Project.

In the event there exists a conflict between any term, provision, and/or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this section (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 EIGHTY THOUSAND DOLLARS (\$80,000.00) ("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) 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.

(b) Costs of Delay. Contractor understands and agrees that time is of the essence of this contract, and no damaged will be paid for delay.

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 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 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 LEFT BLANK INTENTIONALLY –
SIGNATURES ON FOLLOWING PAGE(S)]

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

For City:

For Contractor:

TOWN OF ADDISON, TEXAS

STRIPE-A-ZONE, LLC.

By: _____

David Gaines
City Manager

By: _____

John Johnson
Vice President of Finance

Date: _____

Date: _____

04/07/2023

Notice Address:

Notice Address:

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

Stripe-A-Zone, LLC.
Attn: John Johnson, Vice President of Finance
2714 Sherman St
Grand Prairie, Texas 75051
E: jjohnson@stripe-a-zone.com

Addison Contract ID:
CSA_STW_April 25, 2023_v1.20220628

Council Meeting 2023

6.

Meeting Date: 04/25/2023

Department: General Services

Pillars: Optimize the Addison Brand

Milestones: Define and promote Addison Identity

AGENDA CAPTION:

Consider Action on a **Resolution to Acknowledge a Donation in the Amount of \$30,000 to the WaterTower Theatre for Naming the Main Stage of the Addison Theatre Centre "The Terry Martin Main Stage."**

BACKGROUND:

At the April 12, 2016 Regular Meeting, the City Council approved the Naming Rights Policy for the Addison Theatre Centre that authorizes the WaterTower Theatre exclusive rights to the naming of areas within the Theatre Centre in exchange for donations. The WaterTower Theatre (WTT) has received a proposal from Stanley Graner, Jr. to name the Addison Theatre Centre Main Stage the "Terry Martin Main Stage." The pledge is \$30,000 paid over a three (3) year period.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Main Stage Naming Rights

February 2023 Minutes

Main Stage Application

BIOs

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS ACKNOWLEDGING A DONATION IN THE AMOUNT OF \$30,000 TO THE WATERTOWER THEATRE AND NAMING THE MAIN STAGE OF THE ADDISON THEATRE CENTER “THE TERRY MARTIN MAIN STAGE” FOR A TERM OF THREE (3) YEARS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison City Council, in Resolution R16-020, approved the Naming Rights Policy for the Addison Theatre Centre (the “Policy”); and

WHEREAS, in accordance with the Policy, the WaterTower Theatre (“WTT”) received an application, attached hereto and incorporated herein as **Exhibit A** (“Application”) to name the Main Stage of the Addison Theatre Centre as “The Terry Martin Main Stage” to honor Terry Martin’s lifetime commitment to the arts, in exchange for a \$30,000 donation over a three (3) year period (the “Donation”); and

WHEREAS, the WaterTower Theatre Board has accepted the Application to rename the Addison Theatre Centre Main Stage “The Terry Martin Main Stage”; and

WHEREAS, the City Council hereby acknowledges WTT’s approval and acceptance of the Application and Donation.

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

SECTION 1. The Addison City Council hereby acknowledges the donation of \$30,000.00 made to the WaterTower Theatre pursuant to the Application, and the Main Stage of the Addison Theatre Centre shall be known and referred to as “The Terry Martin Main Stage” for a term of three (3) years.

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 25th day of APRIL, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

Sponsorship Agreement

This Sponsorship Agreement (this “**Agreement**”), is made on January 1, 2023 (the “**Effective Date**”), between Stanley Graner, Jr. (the “**Donor**”), and WaterTower Theatre, Inc., a Texas nonprofit corporation (“**WaterTower**”).

Background

Whereas, the Donor wishes to make a series of charitable donations to WaterTower; and

Whereas, in recognition of such donations, WaterTower wishes to cause the Main Stage of the theater complex occupied by WaterTower (the “**Theater**”) to be named and known as The Terry Martin Main Stage.

Therefore, the parties agree as follows:

Terms and Conditions

1. **Donation.** The Donor hereby agrees to donate \$30,000 (the “**Donation**”) to WaterTower.

2. **Payment of the Donation.**

a. **Form.** The Donation is an irrevocable pledge, and payments made will not be refunded to the Donor under any circumstance. Payments may be made by the Donor to WaterTower by check, electronic funds transfer, donation of freely tradable stocks or other securities, or other methods acceptable to WaterTower.

b. **Timing.** The Donation will be paid to WaterTower over a period of three years. Payments in support of this pledge will be received no later than February 10th, 2023 with an initial payment of \$10,000 and will continue annually according to the following schedule:

<i>Amount of payment by the Donor</i>	<i>Due Date</i>
\$10,000	January 01, 2024
\$10,000	January 01, 2025

c. **Payment.** The Donor acknowledges that WaterTower is relying on Donor to make payments no later than the due date and agrees to make payments in strict accordance with the schedule above.

d. **Prepayment.** The Donor may accelerate the payment of the Donation at any time in the Donor’s discretion.

3. **Use of the Donation.** The Donation may be used to fund WaterTower’s endowment fund or cash reserve accounts or for any other purpose consistent with WaterTower’s mission.

4. **Acknowledgment.** WaterTower will acknowledge the Donation by displaying the Donor’s name within the Theater and on certain materials published by WaterTower, as further described in *Exhibit A* (the “**Naming**”).

5. **Term.** The initial term of this Agreement begins on the Effective Date and continues for a period of three years (the “**Initial Term**”).

a. This Agreement will automatically renew on the same terms and conditions for consecutive three-year terms (including for each such renewal term a Donation amount equal to that required for the Initial Term) if not otherwise terminated. However, if either party gives 6 months advance written notice of nonrenewal to the other party before the end of the Initial Term or any renewal term, this Agreement will not automatically renew.

b. If WaterTower receives an offer by another potential donor to replace Donor as the party with Naming rights following the expiration of the Initial Term or any renewal term, WaterTower shall negotiate in good faith with Donor to allow Donor to match the terms offered by such potential donor prior to making the determination to give Donor a notice of non-renewal.

6. **City of Addison.** Donor acknowledges that WaterTower leases the Theater from the City of Addison on a year-to-year basis and that WaterTower cannot guarantee that the Naming rights granted in this Agreement would be honored by the City of Addison or any successor tenant in the event that the City of Addison terminates its lease with WaterTower.

7. **Termination**

a. **Events of Termination.** In addition to any rights and remedies available at law, WaterTower may choose to terminate this Agreement and the rights granted under *Section 4*:

i. If the Donor fails to make any payment required under *Section 2* or otherwise breaches this Agreement and such failure or breach continues for 60 days following written notice to Donor,

ii. if the City of Addison terminates its lease with WaterTower,

iii. if the Donor files or has filed against it a petition or other request for relief under bankruptcy laws, or

iv. in the unlikely event that WaterTower determines in good faith that Donor's circumstances have changed such that the Naming would adversely impact the reputation, image, mission or integrity of WaterTower.

b. **Obligations Upon Termination.** Upon termination of this Agreement:

i. WaterTower will have no further obligation or liability to the Donor with respect to Naming and, for avoidance of doubt, will not be required to return any portion of the Donation,

ii. Donor will have no obligation to make any payment that has a due date after the date of termination, and

iii. WaterTower may in its sole and absolute discretion determine an alternative recognition for the portion of the Donation already received.

8. **Modification of Naming.** With the consent of WaterTower, which shall not be unreasonably withheld, the Donor may change the Naming, provided that Donor bears all reasonable expenses incurred by WaterTower that relate to such change.

9. **Publicity.** For purposes of publicizing the Donation and the Naming, WaterTower will have the right, without charge, to photograph the Naming and use (as applicable) the names, trademarks, likenesses, and images of the Donor in photographic, audiovisual, digital or any other form of medium (the "**Media Materials**") and to use, reproduce, distribute, exhibit, and

publish the Media Materials in any manner and in whole or in part, including in brochures, website postings, informational and marketing materials, and reports and publications.

10. **Non-Disparagement.** The parties agree to take no action that is intended, or would reasonably be expected, to harm the other party or that would reasonably be expected to lead to unwanted or unfavorable publicity to the other party.

11. **Miscellaneous Provisions**

a. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties with respect to its subject matter. It supersedes any prior written or oral agreements or communications between the parties. It may not be modified except in a writing signed by the parties.

b. **No Assignment.** Neither party may assign this Agreement without the other party's prior written consent.

c. **Successors and Representatives.** This Agreement binds and inures to the benefit of the parties and their respective heirs, personal representatives, successors, and (where permitted) assignees.

d. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and must be sent to the party at that party's address set forth below or at whatever other address the party specifies in writing.

e. **Severability.** If any part of this Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.

f. **Headings.** Headings are for convenience only and do not affect the interpretation of this Agreement.

g. **Applicable Law.** Texas law applies to this Agreement without regard for any choice-of-law rules that might direct the application of the laws of any other jurisdiction.

h. **Counterparts.** This Agreement may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.

[Signature pages follow]

"WaterTower"

**WaterTower Theatre, Inc., a Texas
nonprofit corporation**

By: _____

Its: _____

Address: _____

Shane Peterson, Producing Artistic Director
5656 Addison Rd.
Addison TX 75001

"Donor"

By: _____

Its: _____

Address: _____

8403 Ridgela St.
Dallas TX 75209
214-641-6006

Exhibit A
Details of the Naming

[Include specific information regarding the placement, size, form, etc. of the Donor's name in the Theater and publications]

WATERTOWER THEATRE

BOARD OF DIRECTORS MONTHLY MEETING MINUTE

February 23, 2023

Board Present

Steven Pipes	Jeanette Johnson
Tiffany Richmond	Phil Longacre
Tim Horan	Bruce Arfsten
Nadia Loudon	

Board Absent

Blake Clemens Craig Sutton Brittany Willis Rebecca Neff Maggie Vera Roslind Benjet

Call to order and approval of minutes: Meeting called to order by Steven Pipes. Minutes from January were approved and seconded with no correction or dissents.

Agenda and Discussion kept to minimum in order to focus time on Gala

Producing Artistic Director Report: (Shane/Elizabeth)

Discussion included:

- Ended run of Play That Goes Wrong—excellent response and attendance
 - Financial success—97% capacity
 - Achieved \$10K in concession sales
 - Because Co-Pro helps with budget
 - Feedback extremely positive
- Season 28 available now; official promotion will begin mid-March
- Ask Board members to contribute 2 certificates and bottle of wine

Development (Brian)

Board Voted and Approved following:

- Stan Graner agreed to \$75,000 over 3 years for naming rights
- Jimmy Neimann (anonymous) agreed to \$75,000 over 3 years for naming rights
- Kathy Messina agreed to \$30,000 over 3 years for naming rights
- Hoblitzelle \$60,000 grant request was declined; waiting for feedback
- TOA match received; still expect approximately \$30K additional

Financials (Shane/Phil)

- Doing well YTD
- Net cash flow increased
- Remain cautiously optimistic

Gala Update

- Gala date is March 4th at the theatre
- Sales slow; need to fill approximately 25 more seats
- Sponsors: Evlov; Oncor; Angels Envy
- Asked Board members to contribute 2 certificates and bottle of wine—will follow-up

There was no further topics of discussion adjourned the meeting at 12:57pm
Next meeting March 27, 2023 @ noon



**ADDISON THEATRE CENTRE
NAMING RIGHTS APPLICATION**

Please review the application criteria below to assure that the nomination you are submitting meets the criteria for this honor. If the application does not meet the criteria or is incomplete, it will not be considered.

Criteria

1. Recognition includes only areas within the Addison Theatre Centre, the Courtyard, and the Garden.
2. The nominee donor must not have any potentially embarrassing allegations or convictions against them.
3. The donor must gift the funds to either the WaterTower Theatre Endowment or its Cash Reserves Account.
4. Include the donor's proposal.
5. Include a rendering with specifications of the recognition plaque/device.

Date Submitted: November 21st, 2022

Name of Donor: Stanley Graner Jr.

Address of Donor: 8403 Ridgilea Street, Dallas, TX 75209

Donor Phone Number: 214-641-6006

Donor Email Address: sgraner@sbcglobal.net

Attach supporting documentation based on the criteria above.

Amount of Donation: \$30,000 over 3 years

Space to be Named: Main Stage

Space Named After: Terry Martin

Duration of Naming: 3 years

ACTC Review: _____ **Date:** _____

General Services Review: _____ **Date:** _____

Agenda Date Recommendation or Denial: _____

If you have questions about this process, please contact Jack Piland at 972.450.6222.

Submit completed applications and supporting documentation to:

Recognition Application

jpiland@addisontx.gov

Terry Martin

Director Terry Martin spent 17 seasons as Producing Artistic Director of WaterTower Theatre where he oversaw more than 100 productions. Multi-award winning In his role as WaterTower Theatre's Producing Artistic Director, Terry led both the administrative and artistic aspects of the company, which grew from just under \$400,000 to a nearly \$1.8 million annual budget during his tenure. Under his leadership WTT evolved from a small local theatre company to one of the leading regional theatres in Texas.

Some of his more than 65 directing credits at WTT include Dogfight, Full Gallop, Sexy Laundry, The Grapes of Wrath, Putting it Together, On the Town, Spring Awakening, The Diary of Anne Frank, Smokey Joe's Café, As You Like It, Almost, Maine, A Funny Thing Happened on the Way to the Forum, Man of La Mancha, Humble Boy, The Crucible, Take Me Out, A Country Life (which he adapted from Chekhov's Uncle Vanya and won the 2005 Rabin Award – Best New Play), Cabaret, It Ain't Nothin' But The Blues, Company, An Inspector Calls, The Mystery of Edwin Drood, The Laramie Project, You Can't Take It With You, Book of Days, Cat on a Hot Tin Roof (2002 Rabin Award – Director of a Play), Sweeney Todd (2002 Rabin Award Nomination – Director of a Musical), Desire Under the Elms, Ravenscroft, Rockin' Christmas Party (2000, 2001), Enter the Guardsman (2001 Rabin Award Nomination – Director of a Musical), Lady Day at Emerson's Bar and Grill and Little Shop of Horrors (2000 Rabin Award Nomination – Director of a Musical) among others. During the 2014-2015 season, he directed the WaterTower Theatre production of Dogfight for which he received a Dallas Fort Worth Critics Award for Best Director of a Musical.

Terry appeared on stage recently at WTT in All My Sons and previously in Our Town. In 2008, Terry won a Dallas Fort Worth Theatre Critics' Forum Award as Best Actor for Blackbird. His other WTT acting credits include The Woman in Black, Dinner with Friends, The Guys, Bash: Latter-day Plays (2002 Rabin Award Nomination - Actor in a Play) and at Plano Repertory Theatre in The Only Thing Worse You Could Have Told Me... (1998 Rabin Award – Actor in a Play, 1998 Dallas Theater Critics Forum Award), The Woman in Black (2000 Rabin Award Nomination – Actor in a Play), and Lonely Planet.

After growing up in south Alabama, Terry spent 12 years in New York City working in theatre, television and film. While there, he directed and acted at The Village Theatre Company, Carnegie Hall Studios and Theatre at St. Marks as well as television appearances on ABC's One Life to Live and NBC's To Serve and Protect. He holds a BFA from the University of Alabama and has trained professionally with Sanford Meisner, Fred Kareman, Wynn Handman, Sally Johnson and Lehmann Byck. Terry teaches on-going acting classes in the Sanford Meisner Technique, as well as having served as Adjunct Professor of Acting at the University of Texas at Dallas. Terry now serves as Head of Fine Arts for the Greenhill School in Addison.

Stan Graner

Stan Graner served on the WaterTower Theatre Board of Directors from 2012-2018, including three years as Vice President. A well-known critically acclaimed actor, Stan has performed in a number of WaterTower productions, most recently as Charlie in *The Bridges of Madison County*, and as Karl Lindner in *A Raisin in the Sun*. Other WaterTower shows include *August: Osage County*, *Our Town*, *The Grapes of Wrath*, *The Diary of Anne Frank*, *Parade*, and *The Crucible*. Stan has acted regionally for 35+ years including roles at Amphibian Stage Productions, Casa Mañana, Circle Theatre, Classical Acting Company, The Classics Theatre Project, Contemporary Theatre of Dallas, Garland Summer Musicals, Kitchen Dog Theatre, Lyric Stage, Plano Repertory Theatre, Stage West, Stolen Shakespeare Guild, Theatre Three, The Classics Theatre Project, and Uptown Players. Stan has received a *DFW Theater Critics Forum Award*, several *Column Awards*, and was nominated for a *Leon Rabin Award*. Stan has had children's musicals published with Hal Leonard, Choristers Guild, Lorenz, and Jenson Publications. He's had musical arrangements performed by The Turtle Creek Chorale and Cathedral of Hope in the Meyerson Symphony Center, and he's done musical arrangements for shows at Theatre Three and Contemporary Theatre of Dallas. He graduated from Texas Wesleyan University with a Bachelor of Music degree and was honored to be invited back to the campus in 2008 to perform an evening of Broadway songs. He was active on Actors Advisory Boards at both Theatre Three and Theatre Arlington and served as Vice President and board member of the Turtle Creek Chorale from 1992-1994. In 2006 he was named *Choir Person of the Year* at Arlington Heights United Methodist Church. Stan's interest in diversity and inclusion, with special attention to Black excellence, is a driving force for his philanthropy.

Council Meeting 2023

7.

Meeting Date: 04/25/2023

Department: Information Technology

Pillars: Optimize the Addison Brand

Milestones: Define and promote Addison Identity

AGENDA CAPTION:

Consider Action on a **Resolution to Acknowledge a Donation in the Amount of \$75,000 to the WaterTower Theatre for Naming the Lobby of the Addison Theatre Centre "The Delynda Moravec Lobby."**

BACKGROUND:

At the April 12, 2016 Regular Meeting, the City Council approved the Naming Rights Policy for the Addison Theatre Centre that authorizes the WaterTower Theatre exclusive rights to the naming of areas within the Theatre Centre in exchange for donations. The WaterTower Theatre (WTT) has received a proposal to name the Addison Theatre Centre Lobby the "Delynda Moravec Lobby." The pledge is \$75,000 paid over a three (3) year period.

The donor has requested to remain anonymous. Therefore, certain information has been redacted from the attachments to accommodate that request.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Lobby Naming Rights

February 2023 Minutes

Lobby Application

BIO

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS ACKNOWLEDGING A DONATION IN THE AMOUNT OF \$75,000 TO THE WATERTOWER THEATRE AND NAMING THE THEATRE LOBBY OF THE ADDISON THEATRE CENTER “THE DELYNDA MORAVEC LOBBY” FOR A TERM OF THREE (3) YEARS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison City Council, in Resolution R16-020, approved the Naming Rights Policy for the Addison Theatre Centre (the “Policy”); and

WHEREAS, in accordance with the Policy, the WaterTower Theatre (“WTT”) received an application, attached hereto and incorporated herein as **Exhibit A** (“Application”) to name the Lobby of the Addison Theatre Centre as “Delynda Moravec Lobby” to honor Delynda Johnson Moravec’s lifetime commitment to the arts, in exchange for a \$75,000 donation over a three (3) year period (the “Donation”); and

WHEREAS, the WaterTower Theatre Board has accepted the Application to rename the Addison Theatre Lobby “The Delynda Moravec Lobby”; and

WHEREAS, the City Council hereby acknowledges WTT’s approval and acceptance of the Application and Donation.

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

SECTION 1. The Addison City Council hereby acknowledges the donation of \$75,000.00 made to the WaterTower Theatre pursuant to the Application, and the Theatre Lobby of the Addison Theatre Centre shall be known and referred to as “The Delynda Moravec Lobby” for a term of three (3) years.

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 25th day of APRIL, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

Sponsorship Agreement

This Sponsorship Agreement (this "Agreement"), is made on January 13, 2023 (the "Effective Date"), [REDACTED] (who wish to remain anonymous)(the "Donor"), and WaterTower Theatre, Inc., a Texas nonprofit corporation ("WaterTower").

Background

Whereas, the Donor wishes to make a series of charitable donations to WaterTower; and

Whereas, in recognition of such donations, WaterTower wishes to cause the Lobby of the theater complex occupied by WaterTower (the "Theater") to be named and known as The Delynda Moravec Lobby

Therefore, the parties agree as follows:

Terms and Conditions

1. **Donation.** The Donor hereby agrees to donate \$75,000 (the "Donation") to WaterTower.
2. **Payment of the Donation.**
 - a. **Form.** The Donation is an irrevocable pledge, and payments made will not be refunded to the Donor under any circumstance. Payments may be made by the Donor to WaterTower through a Donor Advised Fund.
 - b. **Timing.** The Donation will be paid to WaterTower over a period of three years. Payments in support of this pledge will be received no later than March 1, 2023 with an initial payment of \$25,000 and will continue annually according to the following schedule:

<i>Amount of payment by the Donor</i>	<i>Due Date</i>
\$25,000	March 01, 2024
\$25,000	March 01, 2025
- c. **Payment.** The Donor acknowledges that WaterTower is relying on Donor to make payments no later than the due date and agrees to make payments in strict accordance with the schedule above.
- d. **Prepayment.** The Donor may accelerate the payment of the Donation at any time in the Donor's discretion.
3. **Use of the Donation.** The Donation may be used to fund WaterTower's endowment fund or cash reserve accounts or for any other purpose consistent with WaterTower's mission.
4. **Acknowledgment.** WaterTower will acknowledge the Donation by displaying the Honoree's name within the Theater and on certain materials published by WaterTower, as further described in *Exhibit A* (the "Naming").
5. **Term.** The initial term of this Agreement begins on the Effective Date and continues for a period of three years (the "Initial Term").

a. After the Initial Term, this agreement can be renewed by the Donor for an additional 3 years if notice is given by the Donor of his intent to renew the agreement 6 months in advance of the end of the Initial Term. If 6 months renewal notice is not given, this agreement will terminate at the end of the current term.

b. If WaterTower receives an offer by another potential donor to replace Donor as the party with Naming rights following the expiration of the Initial Term or any renewal term, WaterTower shall negotiate in good faith with Donor to allow Donor to match the terms offered by such potential donor prior to making the determination to give Donor a notice of non-renewal.

6. **City of Addison.** Donor acknowledges that WaterTower leases the Theater from the City of Addison on a year-to-year basis and that WaterTower cannot guarantee that the Naming rights granted in this Agreement would be honored by the City of Addison or any successor tenant in the event that the City of Addison terminates its lease with WaterTower.

7. **Termination**

a. **Events of Termination.** In addition to any rights and remedies available at law, WaterTower may choose to terminate this Agreement and the rights granted under *Section 4*:

i. If the Donor fails to make any payment required under *Section 2* or otherwise breaches this Agreement and such failure or breach continues for 60 days following written notice to Donor,

ii. if the City of Addison terminates its lease with WaterTower.

iii. if the Donor files or has filed against it a petition or other request for relief under bankruptcy laws, or

iv. in the unlikely event that WaterTower determines in good faith that Donor's circumstances have changed such that the Naming would adversely impact the reputation, image, mission or integrity of WaterTower.

b. **Obligations Upon Termination.** Upon termination of this Agreement:

i. WaterTower will have no further obligation or liability to the Donor with respect to Naming and, for avoidance of doubt, will not be required to return any portion of the Donation,

ii. Donor will have no obligation to make any payment that has a due date after the date of termination, and

iii. WaterTower may in its sole and absolute discretion determine an alternative recognition for the portion of the Donation already received.

8. **Modification of Naming.** With the consent of WaterTower, which shall not be unreasonably withheld, the Donor may change the Naming, provided that Donor bears all reasonable expenses incurred by WaterTower that relate to such change.

9. **Non-Disparagement.** The parties agree to take no action that is intended, or would reasonably be expected, to harm the other party or that would reasonably be expected to lead to unwanted or unfavorable publicity to the other party.

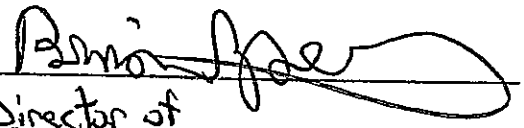
10. **Miscellaneous Provisions**

- a. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties with respect to its subject matter. It supersedes any prior written or oral agreements or communications between the parties. It may not be modified except in a writing signed by the parties.
- b. **No Assignment.** Neither party may assign this Agreement without the other party's prior written consent.
- c. **Successors and Representatives.** This Agreement binds and inures to the benefit of the parties and their respective heirs, personal representatives, successors, and (where permitted) assignees. However, cannot be carried over to any creditors if, for any reason, WaterTower Theatre files Chapter 11 or 7 bankruptcy or defaults with any creditors.
- d. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and must be sent to the party at that party's address set forth below or at whatever other address the party specifies in writing.
- e. **Severability.** If any part of this Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.
- f. **Headings.** Headings are for convenience only and do not affect the interpretation of this Agreement.
- g. **Applicable Law.** Texas law applies to this Agreement without regard for any choice-of-law rules that might direct the application of the laws of any other jurisdiction.
- h. **Counterparts.** This Agreement may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.

[Signature pages follow]

"WaterTower"

WaterTower Theatre, Inc., a Texas
nonprofit corporation

By: 

Its: Director of
Patron and Benefactor Development

Address: 15650 Addison Rd
Addison, TX 75001

"Donor" (who wishes to remain anonymous)



By: 

Its: _____

Address: 

Exhibit A
Details of the Naming

[Include specific information regarding the placement, size, form, etc. of the Donor's name in the Theater and publications]

A 15"x6 ½" plaque in the main lobby of the Addison Theatre Center to be installed in lieu of the "Bobby Downs Lobby" which will read "The Delynda Moravec Lobby".

WATERTOWER THEATRE

BOARD OF DIRECTORS MONTHLY MEETING MINUTE

February 23, 2023

Board Present

Steven Pipes	Jeanette Johnson
Tiffany Richmond	Phil Longacre
Tim Horan	Bruce Arfsten
Nadia Loudon	

Board Absent

Blake Clemens Craig Sutton Brittany Willis Rebecca Neff Maggie Vera Roslind Benjet

Call to order and approval of minutes: Meeting called to order by Steven Pipes. Minutes from January were approved and seconded with no correction or dissents.

Agenda and Discussion kept to minimum in order to focus time on Gala

Producing Artistic Director Report: (Shane/Elizabeth)

Discussion included:

- Ended run of Play That Goes Wrong—excellent response and attendance
 - Financial success—97% capacity
 - Achieved \$10K in concession sales
 - Because Co-Pro helps with budget
 - Feedback extremely positive
- Season 28 available now; official promotion will begin mid-March
- Ask Board members to contribute 2 certificates and bottle of wine

Development (Brian)

Board Voted and Approved following:

- Stan Graner agreed to \$75,000 over 3 years for naming rights
- ██████████ (anonymous) agreed to \$75,00 over 3 years for naming rights
- Kathy Messina agreed to \$30,000 over 3 years for naming rights
- Hoblitzelle \$60,000 grant request was declined; waiting for feedback
- TOA match received; still expect approximately \$30K additional

Financials (Shane/Phil)

- Doing well YTD
- Net cash flow increased
- Remain cautiously optimistic

Gala Update

- Gala date is March 4th at the theatre
- Sales slow; need to fill approximately 25 more seats
- Sponsors: Evlov; Oncor; Angels Envy
- Asked Board members to contribute 2 certificates and bottle of wine—will follow-up

There was no further topics of discussion adjourned the meeting at 12:57pm
Next meeting March 27, 2023 @ noon



**ADDISON THEATRE CENTRE
NAMING RIGHTS APPLICATION**

Please review the application criteria below to assure that the nomination you are submitting meets the criteria for this honor. If the application does not meet the criteria or is incomplete, it will not be considered.

Criteria

1. Recognition includes only areas within the Addison Theatre Centre, the Courtyard, and the Garden.
2. The nominee donor must not have any potentially embarrassing allegations or convictions against them.
3. The donor must gift the funds to either the WaterTower Theatre Endowment or its Cash Reserves Account.
4. Include the donor's proposal.
5. Include a rendering with specifications of the recognition plaque/device.

Date Submitted: 3/1/23

Name of Donor: [REDACTED]

Address of Donor: [REDACTED]

Donor Phone Number: [REDACTED]

Donor Email Address: [REDACTED]

Attach supporting documentation based on the criteria above.

Amount of Donation: \$75,000

Space to be Named: Lobby

Space Named After: Delynda Johnson Moravec

Duration of Naming: 3 Years

ACTC Review: _____ **Date:** _____

General Services Review: _____ **Date:** _____

Agenda Date Recommendation or Denial: _____

If you have questions about this process, please contact Jack Piland at 972.450.6222.
Submit completed applications and supporting documentation to:
Recognition Application
jpiland@addisontx.gov

Delynda Johnson Moravec

Delynda Johnson Moravec has more than 25 years of corporate management experience, including working with such prestigious companies as Cooper Wellness Strategies -- an affiliate of Cooper Aerobics, and MBNA America. Delynda has a Bachelor of Science degree in Operations Management and a minor in Voice Performance from the University of Delaware. Delynda currently serves on the board of directors for DFW Actors Give Back which has donated over \$35,000 to local non-profit children's groups including the Children's Cancer Fund. She has previously served on the boards of The Texas Gilbert and Sullivan Society, The FIG Theater Company, and Our Productions (formerly FMPAT Performing Arts Theatre). Since moving back to Texas in 1996 Delynda has appeared in more than sixty shows all over the Metroplex, including work at WaterTower Theatre. After working on staff at WTT for almost 8 years, she moved on to become The Director of Youth Ministries at the Episcopal Church of The Transfiguration. Delynda is studying for a Certificate in Professional Ministry in Faith Formation at Perkins School of Theology and serves as a Chaplain at Children's Medical Center.

Council Meeting 2023

8.

Meeting Date: 04/25/2023

Department: Parks & Recreation

Pillars: Excellence in Asset Management

Milestones: Define and promote Addison Identity

AGENDA CAPTION:

Consider action on a **Resolution Approving an Agreement with Fannin Tree Farm for On-call Contract Services for Tree Furnishing and Planting Services and Authorizing the City Manager to Execute the Agreement** in an Amount Not to Exceed \$200,000.

BACKGROUND:

The Parks and Recreation Department oversees the Urban Forest in Addison, including planting new trees and mitigating any trees lost or removed on public property. Staff requests that Council consider approving an Agreement with Fannin Tree Farms for furnishing and planting trees for on-call contract services. Staff is utilizing bid # 2010-006 with the City of Frisco as the basis of an interlocal agreement. The annual cost of the agreement will not exceed \$200,000 and the agreement can be renewed for an additional 4 years. Funds from the Department's operating budget, located in the general fund, and funds from the Tree Mitigation Fund will be utilized to purchase and plant trees.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Fannin

Frisco Bid - Fannin

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH FANNIN TREE FARM FOR ON-CALL CONTRACT SERVICES FOR TREE FURNISHING AND PLANTING SERVICES IN AN AMOUNT NOT TO EXCEED \$200,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Fannin Tree Farm for on-call tree furnishing and planting services in conformance with the City's requirements.

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

SECTION 1. The City Council hereby approves the agreement between the Town of Addison and Fannin Tree Farm for on-call tree furnishing and planting services in conformance with the City's requirements and in an amount not-to-exceed of \$200,000.00, 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 **25th** day of **APRIL 2022**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

ON-CALL CONTRACT SERVICES AGREEMENT

Tree Furnishing and Planting Services

This On-Call Contract Services Agreement ("Agreement") is made as of the Effective Date by and between **Fannin Tree Farm Sale, LLC** ("Contractor"), and the **Town of Addison, Texas** ("City") (each a "party" and collectively the "parties"), acting by and through their respective authorized representatives..

RECITALS

WHEREAS, City desires to engage Contractor to perform certain work and services, hereinafter referred to only as "services", as further specified in the Scope of Services defined in Section 1 of this Agreement; and

WHEREAS, Contractor has expressed a willingness to perform said services in conformance with this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Scope of Services

On an as-needed basis upon notice to proceed by City, Contractor agrees to provide the necessary services, labor, materials, equipment, and supplies necessary to perform on-call tree furnishing and planting services in conformance with the Contract Documents (defined below). Contractor shall not be entitled to any claim for extra services, additional services or changes in the services, except as expressly authorized in writing in advance by City.

Section 2. Term of Agreement

This Agreement shall become effective on the last date of execution hereof (the "Effective Date") and shall remain in effect until September 30, 2023 (the "Initial Term"), unless renewed or sooner terminated as provided in this Agreement. The parties may, upon mutual written agreement, renew this Agreement for up to four (4) additional one (1) year periods ending on September 30th of each year (each a "Renewal Term"). City may further, in its sole discretion, extend the then current term as necessary to allow Contractor to complete any uncompleted services authorized by City prior to the expiration of this Agreement. Notwithstanding the foregoing, this Agreement may be terminated in conformance with Section 7 of this Agreement.

Section 3. Contract Documents

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

- (1) This Agreement, including all exhibits and addenda hereto;
- (2) City of Frisco's Bid # 2010-006 (the "Bid");
- (3) City's written notice(s) to proceed to the Contractor;
- (4) Properly authorized change orders;
- (5) Contractor's Bid Proposal in response to the Bid, including all supplemental responses in connection with the Bid; and

- (6) 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. If discrepancies are found that may impact the services, 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 services. 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 services, 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 services.

Section 4. Contractor's Obligations

(a) Performance of Services. Contractor shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation, and management necessary to perform the services. To the extent reasonably necessary, Contractor may engage the services of any agents, assistants, or other persons that Contractor may deem proper to assist in the performance of the services under this Agreement; provided, that Contractor shall be responsible for all costs related thereto, except as expressly authorized in writing in advance by City.

(b) Standard of Care. Contractor shall perform the services with the skill and care ordinarily provided by competent Contractors practicing in the same or similar locality and under the same or similar circumstances and Contractor licenses. Contractor shall be responsible for the Contractor quality, technical accuracy, and the coordination of all services under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or deficiencies in the services. Contractor shall further make, without expense to City, such revisions to the services as may be required to meet the needs of City and which are within the Scope of Services.

(c) Additional Services. 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, without decreasing the effectiveness of the performance of services required under this Agreement.

(d) No Waiver of City's Rights. Neither City's review, approval/acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and 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.

(e) 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 actions. All services to be performed by Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Contractor shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this Agreement.

(f) 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 (defined below) relating to the 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.

(g) Confidential Information. Contractor agrees it will notify City in writing if it considers specific information to be confidential or proprietary trade secrets and will use its best efforts to clearly mark all such information as "Confidential" and/or "Proprietary – Trade Secret" at the time it is delivered or made accessible to City. City acknowledges that all such designated information is considered by Contractor to be confidential and the exclusive property of Contractor. Notwithstanding the foregoing, Contractor acknowledges that this Agreement, and all services performed hereunder, are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information if Contractor has not notified City of such designation in conformance with this section. Contractor agrees and covenants to protect any and all proprietary rights of City (or other persons) in any materials provided to Contractor by City. Additionally, any materials provided to Contractor by City shall not be released to any third party without the consent of City and shall be returned intact to City upon termination or completion of this Agreement if instructed to do so by City. In the event City delivers to Contractor any information that has been expressly marked "Confidential" or has notified Contractor is confidential or is the proprietary information of a third-party, Contractor agrees it shall not disclose to anyone directly or indirectly during the term of this Agreement or at any time thereafter, any such information, nor shall it use any such information for any purpose other than as reasonably necessary in connection with Contractor's performance of the services under this Agreement. Contractor shall further, at its own expense, defend all suits or proceedings instituted against City and pay any award of damages or loss resulting from an injunction, against City, insofar as the same are based on any claim that materials or services provided under this Agreement constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights. Notwithstanding, the foregoing confidentiality obligations shall not extend to and nothing herein shall limit either party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving party or its personnel; (ii) was or becomes available to the receiving party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving party without the use of any confidential information of the disclosing party; or (iv) is required to be disclosed by applicable law or a court order.

(h) 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.

Section 5. Performance Schedule

(a) Time for Performance. Contractor shall perform all services as provided for under this Agreement in a proper, efficient, timely, and Contractor manner in accordance with City's requirements. In

the event Contractor's performance of this Agreement is delayed or interfered with by acts of the City or others, Contractor may request an extension of time in conformance with this Section 5 for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever (including an event of Force Majeure as defined herein below), shall be claimed or made to Contractor, unless Contractor shall have made written request upon City for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless City and Contractor have agreed in writing upon the allowance of additional time to be made.

Section 6. Payment.

(a) Compensation; Payment Terms. City agrees to pay Contractor for all services authorized in writing and properly performed by Contractor in general conformance with the fee schedule(s) established in the Contract Documents, subject to changes in the Scope of Services or additional services agreed upon in writing; provided, that in no event shall the total payment to Contractor exceed \$200,000.00 the Initial Term, or any annual Renewal Term hereof. Contractor further acknowledges that City may select one or more additional contractors to provide the services under this Agreement and that Contractor shall not be entitled to a minimum amount of compensation during the term hereof. Unless otherwise agreed by the parties, all payments to Contractor by City shall be based on detailed monthly invoices submitted by Contractor for work performed and accepted by City, less any previous payments. Payment will be due within thirty (30) days of the City's receipt and acceptance of an approved invoice. Notwithstanding the foregoing, City reserves the right to delay, without penalty, any payment to Contractor when, in the opinion of City, Contractor has not made satisfactory progress on any component of the services described in the Scope of Services.

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

(c) Appropriation of Funding. All payments made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the City shall have no obligation or liability to pay any amount due under this Agreement unless the City appropriates funds to make such payment during the budget year in which said amount is payable; provided that during the term of this Agreement the City will take such steps as necessary to appropriate funding for the Project each fiscal year in an amount sufficient to satisfy the reasonably anticipated payment(s) that will become due to Contractor during the ensuing fiscal year. City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Contractor. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

Section 7. Default; Force Majeure

(a) Default; Notice to Cure. A party shall be deemed in default under this Agreement if the party is in breach of a material provision of this Agreement and said breach is not cured within ten (10) days written notice of default by the other party. In the event the breaching party has notified the other party in writing that it is diligently working to cure the breach and has provided reasonable evidence in support of the same, the breaching party shall not be deemed in default until the thirtieth (30th) day following the non-breaching party's notice of default.

(b) Default by Contractor. In addition to default under Section 7(a) above, Contractor shall be in default under this Agreement if Contractor fails to comply or becomes disabled and unable to comply with the provisions of this Agreement related to Contractor's performance of the services, including the quality or character of the services or time of performance for any material component of the services. If such default is not corrected within ten (10) days from the date of City's written notice to Contractor regarding the same, City may, at its sole discretion without prejudice to any other right or remedy:

- (i) Terminate this Agreement and be relieved of the payment of any further consideration to Contractor except for all services determined by City to be satisfactorily completed prior to termination. Payment for services satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Contractor to and from meetings called by City at which Contractor is required to attend, but shall not include any loss of profit of Contractor. In the event of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by re-subletting to others; or
- (ii) City may, without terminating this Agreement or taking over the services, furnish the necessary labor, materials, equipment, supplies and/or assistance necessary to remedy the situation, at the expense of Contractor.

(c) Force Majeure. To the extent either party of this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, or a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the parties control and not attributable to its malfeasance, neglect or nonfeasance (each an event of "Force Majeure"), the time for performance of such obligation (other than a payment obligation) may be extended for a period equal to the time lost by reason such event, provided, that the party complies with the provisions of this section. Specifically, the party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (3) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Agreement as soon as reasonably practicable.

Section 8. Termination; Suspension

(a) Termination Upon Default. Either party may terminate this Agreement upon written notice if the other party is in default of this Agreement, subject to the defaulting party's right to cure in conformance with the terms of this Agreement.

(b) Termination by City. City shall be entitled to terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to Contractor.

(c) Termination Following Request for Modification. Should City require a modification of this Agreement with Contractor, and in the event City and Contractor fail to agree upon a modification to this Agreement, City shall have the option of terminating this Agreement and Contractor's services hereunder at no additional cost other than the payment to Contractor, in accordance with the terms of this Agreement, for the services reasonably determined by City to be properly performed by Contractor prior to such termination date.

(d) Suspension. City reserves the right to suspend this Agreement for the convenience of City by issuing a written notice of suspension which shall describe City's reason(s) for the suspension and the expected duration of the suspension. Such expected duration shall, in no way, guarantee what the total number of days of suspension shall occur. Such suspension shall take effect immediately upon Contractor's receipt of said notice. Should such suspension extend past the expected duration identified by City in its latest notice of suspension, Contractor shall have the right to terminate this Agreement if (i) Contractor provides not less than thirty (30) days prior written notice to City requesting to recommence the services, and (ii) City does not recommence the services within the time requested.

Section 9. Insurance

Contractor shall during the term hereof maintain in full force and effect all policies of insurance reasonably required by City. 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 for the particular services under this Agreement are maintained by and accessible through the City's purchasing department.

Section 10. Indemnification; Notice.

(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 OFFICIALS, OFFICERS, EMPLOYEES, OR AGENTS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE (OTHER THAN THE GROSS NEGLIGENCE OF CITY, IN WHICH CASE CONTRACTOR SHALL WAIVE ALL CLAIMS TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AND/OR ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

(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 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 10 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. Verifications by Contractor

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

(a) if 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;

(b) 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

(c) 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 13. 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:

CITY OF ADDISON, TEXAS

By: _____
David Gains, City Manager

Date: _____

Notice Address:

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

For Contractor:

FANNIN TREE FARM SALES, LLC

By:  _____
Barrett Fannin, Owner / Manager

Date: April 14, 2013

Notice Address:

Fannin Tree Farm, LLC
Attn: Barrett Fannin, Owner
15700 State Highway 121
Frisco, Texas 75035
E: barrett@fannintreefarm.com

Addison Contract ID:
On-Call Contract Services Agreement_v2_20221121



COMPETITIVE SEALED BID 2010-006 TREE FURNISHING AND PLANTING

BIDDER MUST SUBMIT BIDS ON A CD OR FLASH DRIVE ALONG WITH A HARD COPY TO FACILITATE EVALUATION OR SUBMIT BID ELECTRONICALLY THROUGH BONFIRE.

This bid is available for electronic submittal through Bonfire.

It is the policy of the City to involve small businesses and qualified minority/woman owned businesses to the greatest extent possible in the procurement of goods, equipment, services, and construction projects.

The bid documents are available through Bonfire and vendors may register at <https://friscotexas.bonfirehub.com/portal>. Note that bids must be received on Bonfire by the due date and time in order to be considered. Any bid that is not received on time will not be considered. Submitting bids via the Bonfire website is not mandatory, hard copy and cd/flash drive submittal in accordance with these bid specifications will also be accepted. Bid submissions and registration are free of charge, for more information on being a vendor visit the vendor portal at the link provided above.

BIDS MUST BE RECEIVED ON OCTOBER 31, 2019 BY 2:00 PM CENTRAL DAYLIGHT TIME (CDT) BY THE PURCHASING MANAGER. NO BID WILL BE ACCEPTED AFTER THAT DATE AND TIME. ALL BIDS RECEIVED AFTER THIS DATE AND TIME WILL BE CONSIDERED NON-RESPONSIVE.

Bids will be publicly opened and read aloud at the Frisco City Hall located at 6101 Frisco Square Blvd., Frisco, Texas 75034 on October 31, 2019 at 2:05 PM CDT.

Write the competitive sealed bid number, 2010-006, name of bid, TREE FURNISHING AND PLANTING, and the name of your organization on the outer envelope.

Bids are to be submitted in accordance with the attached City specifications and the "General Conditions of Bidding" attached hereto. Each bidder is required to fill in every blank; failure to do so may be used as a basis for rejection of a bid. The City reserves the right to reject any or all bids, to waive formalities, or to proceed otherwise when in the best interest of the City.

GENERAL CONDITIONS OF BIDDING

1. **INSTRUCTIONS:** These instructions apply to all bids and become a part of the terms and conditions of any bid submitted and any agreement entered into subsequent thereto, unless exception is taken in writing by bidder when submitting bid.

BIDDING

2. **FORM:** Bidders must submit, in the manner and quantity listed above, the sealed bid/written quote/proposal to the Purchasing Manager prior to response due date/time. Failure to submit the requested copies may result in the bid being declared non-responsive to specification and may not be further evaluated. When the option is available, electronic submission through Bonfire will satisfy these requirements.
3. **PRICING:** Price(s) quoted must be held firm for a minimum of ninety (90) days from the date of bid closing. In the case of estimated requirement contract bid, the prices must remain firm for the period as specified in the bid. "Discount from list" bids are not acceptable unless specifically requested in the bid.
4. **QUANTITIES:** In the case of estimated requirements contract bid, quantities appearing are estimated as realistically as possible. However, the City reserves the right to increase, decrease or delete any item or items of material to be furnished while continuing to pay the price quoted on this bid regardless of quantity. The successful bidder shall have no claim against the City for anticipated profits for the quantities called for, diminished, or deleted.
5. **ERROR-QUANTITY:** Bids must be submitted on units of quantity specified, extended, and show total. In the event of discrepancies in extension, the unit prices shall govern.
6. **F.O.B./DAMAGE:** Quotations shall be bid F.O.B. delivered to the designated Municipal Facility, Frisco, Texas and shall include all delivery and packaging costs. The City assumes no liability for goods delivered in damaged or unacceptable condition. The successful bidder shall handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by the City.
7. **DELIVERY PROMISE-PENALTIES:** Bids **MUST** show the number of calendar days required to place the material in the possession of the City. Do not quote shipping dates. When delivery delay can be foreseen, the bidder shall give prior written notice to the City, who shall have the right, in its sole discretion, to extend the delivery date if reasons for delay appear acceptable. Default in promised delivery, without acceptable reasons, or failure to meet specifications, authorizes the City to purchase the goods elsewhere, and charge any increase in cost and handling to the defaulting bidder.
8. **BIDDER SHALL PROVIDE:** With this bid response, the bidder shall provide all documentation required. Failure to provide this information may result in rejection of bid.
9. **ALTERING/WITHDRAWAL OF BIDS:** Bids cannot be altered or amended after submission deadline. The signer of the bid, guaranteeing authenticity, must initial any interlineations alteration, or erasure made before opening time. No bid may be withdrawn

after opening time without first submitting a written reason to the Purchasing Manager and obtaining the Purchasing Manager's approval.

10. PRESENTATION OF BIDS: No oral, telegraphic, telephonic, e-mailed, or facsimile bids will be considered at this time. All bids must be submitted in a sealed envelope. When the option is available, electronic submission through Bonfire will satisfy this requirement.
11. CORRESPONDENCE: This bid number must appear on ALL correspondence, inquiries, bid submittal documents, etc. pertaining to this solicitation.
12. ADDENDA: Any interpretations, corrections or changes to this Invitation for Bid and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the City of Frisco Purchasing Division. An attempt will be made to mail, fax, or e-mail any addenda to all who are known to have received a copy of this Invitation for Bid. Bidders shall acknowledge receipt of all addenda in the designated area on the bid document. It is the responsibility of the bidder to ensure receipt of all addenda and to include the changes in this bid document.
13. LATE BIDS: Bids received by the City after submission deadline shall be returned unopened and will be considered void and unacceptable. The City is not responsible for lateness of mail or carrier, internet connectivity, website issues, etc.
14. BID OPENINGS: All bids submitted will be read at the City's regularly scheduled bid opening for the designated project. However the reading of a bid at bid opening should not be construed as a comment on the responsiveness of such bid or as any indication that the City accepts such bid as responsive.

The City will make a determination as to the responsiveness of bids submitted based upon compliance with all applicable laws, City of Frisco Purchasing Guidelines, and project documents, including but not limited to the project specifications and contract documents. The City will notify the successful bidder upon award of the contract and according to state law; all bids received will be available for inspection at that time, unless otherwise provided by law.

15. BID TABULATION: Bidders desiring a copy of the bid tabulation may request it by enclosing a self-addressed stamped envelope with bid. **BID RESULTS WILL NOT BE GIVEN BY TELEPHONE**. You can also download a copy on our website, www.friscotexas.gov. If you have any questions, please contact the City of Frisco, Purchasing Division, at purchasing@friscotexas.gov.
16. PROTESTS: All protests regarding the bid solicitation process must be submitted in writing to the City within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Local Government Code, as well as any protests relating to alleged improprieties or ambiguities in the specifications.

This limitation does not include protests relating to staff recommendations as to award of this bid. Protests relating to staff recommendations may be directed to the Purchasing Manager within five (5) days of the notice of intent to award. Unless otherwise provided

by law, all staff recommendations will be made available for public review at least 72 hours prior to consideration by the City Council.

17. **BID AWARD:** The City reserves the right to award a separate contract to separate bidders for each item/group or to award one contract for the entire bid. Unless stipulated in the attached bid specifications, the contract will be awarded to the lowest responsible bidder or to the bidder who provides the goods or services specified herein at the best value for the City in compliance with Texas Local Government Code, Section 252.043.
18. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City.

PERFORMANCE

19. **MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE BIDDERS:** A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:
 - A. Have adequate financial resources or the ability to obtain such resources as required;
 - B. Be able to comply with the required or proposed delivery schedule;
 - C. Have a satisfactory record of performance;
 - D. Have a satisfactory record of integrity and ethics; and
 - E. Be otherwise qualified and eligible, as determined by the City, to receive an award.

The City may request representation and other information sufficient to determine bidder's ability to meet these minimum standards listed above.

20. **ASSIGNMENT:** The successful bidder shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City.
21. **SPECIFICATION-SAMPLES:** Any catalog, brand name, or manufacturer's reference used is considered to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids on brands of like nature and quality may be considered unless specifically excluded. If bidding on other than reference, bid must certify article offered is equivalent to specifications and it is subject to approval by the using department and the Purchasing Division. Samples, if required, shall be furnished free of expense to the City. **SAMPLES SHOULD NOT BE ENCLOSED WITH BID UNLESS REQUESTED.**
22. **TESTING:** An agent so designated, by the City, without expense to the City, may perform testing at the request of the City or any participating entity.
23. **PACKAGING:** Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
24. **DELIVERY:** Deliveries will be acceptable only during normal working hours at the designated City Municipal Facility. The place of delivery shall be set forth in the purchase order. The terms of this agreement are "no arrival, no sale".

25. TITLE AND RISK OF LOSS: The title and risk of loss of goods shall not pass to the City until the City actually receives and takes possession of the goods at the point(s) of delivery.
26. **PATENT RIGHTS: The Bidder agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.**

PURCHASE ORDERS AND PAYMENT

27. PURCHASE ORDERS: A purchase order(s) shall be generated by the City Director of Administrative Services to the successful bidder. The purchase order number must appear on all itemized invoices and packing slips. The City will not be held responsible for any work orders placed and/or performed without a valid current purchase order number. Payment will be made for all services rendered and accepted by the contract administrator for which a valid invoice has been received.
28. BID SECURITY/BOND REQUIREMENTS: If required, bid security shall be submitted with bids. Any bid submitted without bid bond, or cashiers/certified check, shall be considered non-responsive and will not be considered for award. Performance and/or payment bonds, when required, shall be submitted to the City, prior to commencement of any work pursuant to the agreement provisions.
29. FUNDING: The City is a home-rule municipal corporation operated and funded on an October 1 to September 30 basis, accordingly, the City reserves the right to terminate, without liability to the City, any contract for which funding is not available.
30. TAXES: The City is exempt from Federal Manufacturer's Excise, and State sales taxes. TAX MUST NOT BE INCLUDED IN BID PRICING. Tax exemption certificates will be executed by the City and furnished upon request by the Finance Division.
31. PAYMENT TERMS: Payment terms are Net 30 unless otherwise specified by the City in this document. Prompt payment discounts may be used by the City in determining the lowest responsible bidder.
32. INVOICES: All invoices must reference the City of Frisco's Purchase Order/Department Purchase Order number, department name, job site location, city employee requesting service, and a **complete breakdown of charges**. The breakdown on the invoice should be in accordance with the bid pricing. If applicable, invoices should provide clear detail and breakdown for labor (to include hourly rate and cost per hour), and mark-up on parts/materials should be provided on the invoice and extended (detail to show vendors cost, and then extended to show markup). All original invoices must be sent to the City Frisco, Accounts Payable, 6101 Frisco Square Blvd., 4th Floor, Frisco, TX 75034 (accountspayable@friscotexas.gov). Invoices must be submitted by the successful bidder to: accountspayable@friscotexas.gov

CONTRACT

33. CONTRACT PERIOD/RENEWAL OPTIONS: In the case of an annual contract bid, the contract shall be for a predetermined period as specified in the Invitation for Bids. If a

clause for option to renew for additional period(s) is (are) included, renewal(s) will be based solely upon the option and written agreement between both the City and the Contractor. Either party dissenting will terminate the contract in accordance with its initial specified term.

34. INTERLOCAL AGREEMENT: Successful bidder agrees to extend prices to all entities that have entered into or will enter into joint purchasing Interlocal Cooperation Agreements with the City. The City is a participating member of the Collin County Governmental Purchasing Forum (the "Forum"). As such, the City has executed Interlocal Agreements, as permitted under Section 791.025 of the Texas Government Code with certain other governmental entities in Collin County authorizing participation in a cooperative purchasing program. The successful bidder may be asked to provide products/services, based upon bid price, to any other participant in the Forum.
35. AUDIT: The City reserves the right to audit the records and performance of successful bidder during the term of the contract and for three (3) years thereafter.
36. **SUCCESSFUL BIDDER SHALL: Defend, indemnify and save harmless the City and all its officers, Managers and employees and all entities, their officers, Managers and employees who are participating in this contract from all suits, actions or other claims of any character, name and description brought for or on account of any injuries, including death, or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful bidder, or of any Manager, officer, director, representative, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with cost which may be obtained against the City and participating entities growing out of such injury or damages.**
37. TERMINATION FOR DEFAULT: The City reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of this contract. The City reserves the right to terminate the contract immediately in the event the successful bidder fails to: (1) meet delivery schedules; or (2) otherwise performs in accordance with these specifications. Breach of contract or default authorizes the City to, among other things, award to another bidder, purchase elsewhere and charge the full increase in cost and handling to the defaulting successful bidder.
38. ACCEPTABILITY: All articles enumerated in the bid shall be subject to inspection by a City officer or employee designated for the purpose. If found inferior to the quality called for, or not equal in value to the specifications, deficient in workmanship or otherwise, this fact shall be certified to the Purchasing Manager who shall have the right to reject the whole or any part of the same. Work determined to be contrary to specifications must be replaced by the bidder and at its expense. All disputes concerning quality of supplies utilized in the performance of this bid will be determined solely by the City Purchasing Manager or designated representative.
39. REMEDIES: The successful bidder and the City agree that each party has all rights, duties, and remedies available as stated in the Uniform Commercial Code and any other available remedy, whether in law or equity.

40. VENUE: This contract will be governed and construed according to the laws of the State of Texas. This contract is performable in Collin County, Texas.
41. SILENCE OF SPECIFICATION: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
42. NO PROHIBITED INTEREST: The bidder acknowledges and represents they are aware of the laws and City Charter regarding conflicts of interest. The City Charter states in part that "No officer, whether elected or appointed, or any employee, whether full or part time, of the City shall have a substantial financial interest, direct or indirect, in any contract, other than employment contracts, with the City; or have a substantial financial interest, direct or indirect in the sale to the City of any land, materials, supplies or services."
43. FORCE MAJEURE: If, by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this contract, then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonable within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.
44. DISCLOSURE OF CERTAIN RELATIONSHIPS: Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the records administrator of the City of Frisco not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. Chapter 176 and the questionnaire may be found at www.friscotexas.gov.

By submitting a response to this request, vendor represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

45. **PREVAILING WAGE RATES:** Contractors are required to pay not less than the rates determined using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, to a worker employed by it in the execution of a contract for the construction of a public work, including a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.. Contractors are required to comply with Texas Government Code, Chapter 2258, Prevailing Wage Rates. A worker is employed on a public work if the worker is employed by the contractor or any subcontractor in the execution of the contract for the project.
46. **APPLICABLE LAW:** Contractor shall comply with all federal, state and Frisco laws, statutes, ordinances, regulations and policies, as they exist, may be amended or in the future arising, applicable to Contractor and its work in or around the Facility. Contractor shall ensure that its officers, employees, agents, contractors and other parties performing services for or on behalf of Contractor comply with all applicable laws, statutes, ordinances, regulations and policies.
47. **STORMWATER REQUIREMENTS:** Contractor shall implement best management practices (BMPs) to prevent stormwater pollution to the maximum extent practicable in accordance with the current City of Frisco Stormwater Ordinance (11-11-52). These BMPs include:
- Performing regular inspections and maintenance on vehicles and equipment to prevent fluid leaks.
 - Implementing standard operating procedures (SOPs) for spill prevention and cleanup.
 - Training and equipping all employees who are present on City property in appropriate actions in accordance with the SOP.
 - Implementing proper material handling BMPs for transportation and storage.
 - Implementing proper waste disposal BMPs.
48. **CERTIFICATE OF INTERESTED PARTIES (FORM 1295):** In 2015, the Texas Legislature adopted [House Bill 1295](#), which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law.

Filing Process:

Within ten days of being notified of award of a contract by the City of Frisco, the successful vendor (business entity) must use the Texas Ethics Commission's web application, <https://www.ethics.state.tx.us/File/>, to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that **will contain a unique certification number**. An authorized agent of the business entity must sign the printed copy of the form. The completed Form 1295 with the certification of filing must be provided to the City of Frisco Purchasing division (**within 10 days of being notified of award of a contract**).

The City of Frisco is required to notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the governmental entity or state agency.

49. PROPRIETARY DATA - Bidder may, by written request, indicate as confidential any portion(s) of a bid that contain proprietary information, including manufacturing and/or design processes exclusive to the vendor. The City of Frisco will protect from public disclosure such portions of a bid unless directed otherwise by legal authority including the existing Texas Public Information Act.

CITY OF FRISCO CONTRACTOR INSURANCE REQUIREMENTS

Contractors providing good, materials and services for the City of Frisco shall, during the term of the contract with the City or any renewal or extension thereof, provide and maintain the types and amounts of insurance set forth herein. All insurance and certificate(s) of insurance shall contain the following provisions:

1. Name the City, its officers, agents, representatives, and employees as additional insureds as to all applicable coverage with the exception of workers compensation insurance.
2. Provide for at least thirty (30) days prior written notice to the City for cancellation, non-renewal, or material change or modification of any policies, evidenced by return receipt or United States Mail. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
3. Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.
4. Endorsement applicable to each policy provided.

Insurance Company Qualification: All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).

Certificate of insurance: A certificate of insurance evidencing the required insurance shall be submitted with the contractor's bid or response to proposal. If the contract is renewed or extended by the City, a certificate of insurance shall also be provided to the City prior to the date the contract is renewed or extended.

Type of Contract

Type and amount of Insurance

Special Events

General Liability insurance for personal injury (including death) and property damage with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate, including coverage for advertising injury and products coverage

Statutory Workers compensation insurance as required by state law

(If the contractor serves alcoholic beverages)
Liquor Liability with a minimum of \$1 Million Dollars per Occurrence and \$2 Million Aggregate.

(If high risk or dangerous activities) Umbrella Coverage or Liability Excess Coverage of \$ 2 Million Dollars

(If automobile or limousine service is involved even if volunteers)

Automobile Liability with a minimum of \$1 Million Dollars combined single limit.

Public Works and Construction

General Liability insurance for personal injury (including death) and property damage with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate, including advertising injury, products coverage and (XCU) Explosion, collapse and underground (If high risk or dangerous activities) Umbrella Coverage or Excess Liability Coverage of \$2 Million Dollars

Statutory Workers compensation insurance as required by state law

Professional Services

Professional Liability Insurance with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate.

(If size or scope of project warrant)
Umbrella Coverage or Excess Liability Coverage of \$2 Million Dollars

Statutory Workers compensation insurance as required by state law

SAMPLE ON FOLLOWING PAGE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ABC Insurance Brokerage 1234 Frisco Square Blvd. Frisco, Texas 75034	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A:	NAIC #
INSURED Your Company Name Here Address of Insured Address of Insured	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDSUBR (INSR, WVN)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY					EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/> Y				DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$
						GENERAL AGGREGATE \$ 2,000,000
	GENL AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMP/OP AGG \$
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	DED	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATU- TORY LIMITS OTH- ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Y				E.L. EACH ACCIDENT \$ 100,000
						E.L. DISEASE - EA EMPLOYEE \$ 100,000
						E.L. DISEASE - POLICY LIMIT \$ 100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The City of Frisco, its officers, agents, representatives, and employees as additional insured as to all applicable coverage with the exception of workers' compensation. Provide a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

CERTIFICATE HOLDER City of Frisco 6101 Frisco Square Blvd. Frisco, Texas 75034	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE SIGNATURE HERE
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ACORD 25 (2010/05)

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SUPPLEMENTAL INFORMATION

Texas Government Code Section 2252.002 Non-resident Bidders

A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

In order to make this determination, please answer the following questions:

1. Address and phone number of your principal place of business:

2. Name and address of principal place of business, and phone number of your company's majority owner:

3. Name and address of principal place of business, and phone number of your company's ultimate parent company:

MINORITY/WOMAN-OWNED BUSINESS PARTICIPATION

It is the policy of the City of Frisco to involve small businesses and qualified minority/women-owned businesses to the greatest extent possible in the procurement of goods, equipment, services and construction projects. To assist us in our record keeping, please list below the names of the minority or woman-owned firms you would be utilizing in this bid, and note the monetary involvement:

NAME OF FIRM	TELEPHONE #	\$ INVOLVEMENT

SUPPLEMENTAL INFORMATION

Please provide the following information for contract development.

Is your firm?

- 1. Sole Proprietorship YES NO
- 2. Partnership YES NO
- 3. Corporation YES NO

If company is a sole proprietorship, list the owner's full legal name:

If company is a partnership, list the partner's full legal name(s):

If company is a corporation, list the full legal name as listed on the corporate charter:

Is this firm a minority, or woman-owned business enterprise?

NO YES If yes, specify () MBE () WBE

Has this firm been certified as a minority/woman-owned business enterprise by any governmental agency? NO YES

If yes, specify governmental agency: _____

Date of certification: _____

Authorized Signatory (*Officer or representative vested with the powers to commit the organization to a binding agreement*):

Name: _____ Title: _____

AFFIDAVIT OF NO PROHIBITED INTEREST

THE STATE OF _____ §

THE COUNTY OF _____ §

I, _____, a member of the Contractor team, make this affidavit and hereby under oath state the following:

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

- _____ Ownership of ten percent (10%) or more of the voting shares of the business entity.
- _____ Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000) or more of the fair market value of the business entity.
- _____ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- _____ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000).
- _____ A relative of mine has a substantial interest in the business entity or property that would be affected by my business decision of the public body which I am a member.
- _____ Other:
- _____ None of the Above.

Upon filing this affidavit with the City of Frisco, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573, TEX. GOV'T CODE, as amended, is a member of a public body which took action on the agreement.

Signed this ___ day of _____, _____.

Signature of Official/Title

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

Sworn to and subscribed before me on this _____ day of _____, _____.

Notary Public in and for the State of _____
My commission expires: _____

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>	<p>Date Received</p>	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p style="margin-left: 40px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p>6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p>7</p> <p style="text-align: center;"> _____ Signature of vendor doing business with the governmental entity </p> <p style="text-align: right; margin-right: 100px;"> _____ Date </p>		

CONTRACT RISK ASSESSMENT QUESTIONNAIRE
REQUIRED SUBMITTALS

1. Has your business/company/organization filed for bankruptcy within the last five (5) years? Yes No If so, please enclose details.

2. Has your business/company/organization ever had a contract for the general type of services/product sought by the City terminated for non-compliance or inadequate performance? Yes No If yes, please enclose details.

3. Has your business/company/organization ever defaulted on a contract for the general type of services/product being sought by the City? Yes No If yes, please enclose details.

4. In the last five (5) years has there been or is there now pending any litigation, arbitration, governmental proceeding or regulatory proceeding involving claims in excess of \$100,000 with respect to the performance of any services or the provision of any product by your business/company/organization? Yes No If yes, please enclose details.

5. Has your business/company/organization fulfilled all of its obligations relating to the payment of City taxes, fees, or other obligations if applicable? Yes No If no, please enclose details.

6. In the last five (5) years, has your business/company/organization, been or currently involved in any action, audit or investigation brought by any federal government agency or authority or by any state or local governmental agency? Yes No If yes, please enclose details.

7. In the last five (5) years, has your business/company/organization been debarred or suspended for any reason by any federal, state or local government or has refrained

from bidding on a project due to an agreement with such governmental agency?
Yes No If yes, please attach a full explanation.

8. In the past five (5) years, has your business/company/organization had its surety called upon to complete any contract, whether government or private sector? Yes No If yes, please enclose details.
9. In the past five (5) years, has your business/company/organization had a revocation, suspension or disbarment of any business or professional permit and/or license? Yes No If yes, please enclose details.
10. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty? Yes No if "yes," identify on a separate signed page the person or persons convicted, the court (the City if a state court, the district or location of the federal court), the year and the criminal conduct.
11. In accordance with Chapter 2270 of the Texas Government Code, do you certify that your business/company/organization (a) does not boycott Israel; and (b) will not boycott Israel during the term of any contract with City? Yes No

SIGNATURE

A. THE UNDERSIGNED HEREBY CERTIFIES THAT THE RESPONSES PROVIDED ARE CORRECT AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE AND FOR THOSE RESPONSES GIVEN WHICH ARE BASED ON INFORMATION AND BELIEF, THOSE RESPONSES ARE TRUE AND CORRECT BASED ON MY PRESENT BELIEF AND INFORMATION.

B. Dated this _____ day of _____ of the year _____

Name of organization: _____

Signature: _____

Printed name and title: _____

BIDDER REMINDER LIST:

REQUESTED DOCUMENTATION INCLUDED?

BID SUPPLIED ON A CD OR FLASHDRIVE AND ONE HARD COPY OR SUBMITTED ELECTRONICALLY ON BONFIRE?

ALL BLANKS COMPLETED ON THIS FORM?

COMPLETED COMPANY PROFILE/REFERENCES?

COMPLETED SIGNATURE?

Schedule of Events

Public Notification/Advertisement	October 11, 2019	
	October 18, 2019	
Deadline for Submitting Questions	October 24, 2019	4:00PM CDT
Bids Due	October 31, 2019	2:00PM CDT

Questions concerning this bid are due in writing via e-mail to purchasing@friscotexas.gov before the deadline for submitting questions stated above.

COMPETITIVE SEALED BID NUMBER 2010-006 TREE FURNISHING AND PLANTING

Introduction:

The City of Frisco is soliciting bids to establish an annual contract for Tree Furnishing and Planting. Bids must include all charges associated with each item. This will be a one (1) year contract with up to four (4) optional one (1) year renewals. This bid includes various species and sizes of trees needed by the Parks and Recreation Department. The City will order on an as needed basis. All estimated quantities in this bid are not a guarantee of order. The City reserves the right to award this bid to multiple vendors.

General:

All materials bid must comply with applicable federal, state, county, and local regulations governing landscape materials.

Measurements:

Trees will be measured with branches and trunks or canes in their normal position. Do not prune trees to obtain required sizes. Caliper measurements will be six inches (6") above ground for trees with four-inch (4") or less caliper sizes, and twelve inches (12") above ground for larger than four-inch (4") caliper sizes. Measure main body of all plant material for height and spread dimensions, do not measure from branch or root tip to tip.

Inspection:

The City representative has the right to inspect trees at place of growth, prior to delivery, and when delivery is made for compliance with genus, species, variety, size, and quality. The City representative has the right to inspect plants for condition of root balls, root systems, insects, injuries, and latent defects. The City representative has the right to reject unsatisfactory or defective materials. The vendor will remove any rejected plant materials immediately from project site and replace with acceptable material at no additional cost to the City.

Maintenance Instructions:

Upon the City's request, the vendor shall provide written instructions recommending procedures for maintenance of trees, including bracing procedures when needed.

Plant Materials:

Provide only healthy stock free of disease, insects, eggs, larvae, and defects such as knots, sun scald, injuries, abrasions, or disfigurement. Trunks will be centered in root ball.

Size:

Provide plant material in accordance with dimensional relationship requirements of the American Standard for Nursery Stock (ANSI) Z60.1 or most current edition, for kind and type of plant material required. Plant material of larger size than specified may be used if accepted by the City representative; in which case, increase size of root balls proportionately and at no additional cost to owner.

Requirements for Ball & Burlap Tree Stock:

Provide trees dug with firm, natural ball of earth in which they are grown. Provide freshly dug trees to the greatest extent possible. Provide ball size that meets or exceeds the diameter and

depth recommended by ANSI Z60.1, or most current edition, for type and size of tree required. Increase ball size or modify ratio of depth to diameter as required to encompass fibrous and feeding root system necessary for full recovery of trees subject to unusual or non-typical conditions of growth, soil conditions, or horticultural practice.

Requirements for Container Grown Stock:

Provide healthy, vigorous, well-rooted plant materials established in a container in which they are sold. Established container stock is defined as a tree grown in or transplanted into a container and grown in the container to develop new fibrous roots, so that root mass will retain its shape and hold together when removed from container.

Use rigid containers that will hold ball shape and protect root mass during shipping. Provide trees established in containers that meet or exceed minimum sizes recommended by ANSI X60.1, or most current edition, for kind, type, and size of trees required.

Protection:

Any property damage during delivery resulting from, arising out of, or caused by the operations of the vendor will be repaired or replaced by the vendor at no cost to the owner.

Availability:

For trees that the City will pick up from the vendor, trees must be available within 5 business days of receipt of order. If trees are not available within 5 business days after receipt of order, the City reserves the right to use the next responsive and responsible vendor or procure elsewhere. For trees to be delivered, delivery is required within 8 business days after receipt of order. If delivery of trees cannot be accomplished within 8 business days, vendor shall notify the City as soon as possible, and the City reserves the right to use the next responsive and responsible vendor or procure elsewhere.

Delivery of Trees:

The City representative will approve all deliveries. The vendor must provide protection of root systems and balls from drying winds and sun. Do not bend or bind-tie trees in such a manner as to damage bark, break branches, or destroy natural shape. The vendor must provide protective covering to avoid sun and wind damage during transport and delivery. Do not drop or stack ball and burlap tree stock during delivery.

Planting:

All planting operations must follow the most current edition of ANSI A300 Part 6 on Planting and Transplanting, or most current edition. No planting will be done without the approval of the City representative. The City representative reserves the right to oversee all planting projects.

Warranty:

All trees shall be under warranty for one year from the day of installation at said address and same location of original planting.



GENERAL INFORMATION
CITY OF FRISCO PURCHASING

BID FORM

CSB 2010-006

TREE FURNISHING AND PLANTING

PRICING

1. **Complete Pricing Exhibit A.** (Available at www.friscotexas.gov/bids, or upon request). For Evaluation Purposes, please submit the pricing in Excel format on a CD or flash drive or submit through bonfire. Pricing must be provided for all unit costs. In the event of a no bid on a line item, please leave the unit costs for that line item blank.

2. For items not listed on Exhibit A, the City is requesting a blanket discount off the retail pricing for tree inventory and a price markup for special order items that are not tree inventory. The discount and mark up listing is located below Exhibit A. This is intended to allow additional items to be added to the contract at the stated discount and markup rates.

3. **Warranty:** Minimum warranty should be one (1) year. Please provide the length of the warranty as well as what is and is not covered under the warranty.

PROVIDE THREE COMPARABLE REFERENCES TO THE SIZE AND NATURE OF THE SERVICES REQUESTED BY THE CITY OF FRISCO. PLEASE UTILIZE EXHIBIT B ATTACHED.

ANY EXCEPTIONS OR ADDITIONAL PRICING INFORMATION:



PROGRESS IN MOTION

SIGNATURE FORM

CSB 2010-006

TREE FURNISHING AND PLANTING

The undersigned certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all product/service upon which prices are extended at the price offered, and upon the conditions in the specifications of the Invitation for Bid.

"I hereby certify that the foregoing bid has not been prepared in collusion with any other bidder or other person or persons engaged in the same line of business prior to the official opening of this bid. Further, I certify that the bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination to control the price of product/service bid on, or to influence any person or persons to bid or not to bid thereon."

Name of Bidder: _____

Address of Bidder: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax: _____

E-mail address: _____

By (print name) _____ Cash Discount Terms: _____

Title: _____ Federal ID #/SSN #: _____

Signature: _____

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

EXHIBIT B: REFERENCES

VENDOR NAME: _____
ADDRESS: _____
CITY: _____ STATE ____ ZIP _____
CONTACT NAME: _____ PHONE _____ EMAIL: _____

REFERENCES		
REFERENCE 1		
Entity Name:		
Contact Name:		
Address:		
City:	State:	Zip code:
Phone Number:	Email:	
Years doing business with Entity and Capacity:		
REFERENCE 2		
Entity Name:		
Contact Name:		
Address:		
City:	State:	Zip code:
Phone Number:	Email:	
Years doing business with Entity and Capacity:		
REFERENCE 3		
Entity Name:		
Contact Name:		
Address:		
City:	State:	Zip code:
Phone Number:	Email:	
Years doing business with Entity and Capacity:		



CITY OF FRISCO

GEORGE A. PUREFOY MUNICIPAL CENTER
6101 FRISCO SQUARE BLVD
FRISCO, TEXAS 75034
TEL 972.292.5000
WWW.FRISCOTEXAS.GOV

September 21, 2022

Fannin Tree Farm
15700 State Highway 121
Frisco, Texas 75035
972-742-9233
Barrett Fannin
barrett@fannintreefarm.com

Contract # 2010-006 – Tree Furnishing and Planting

Awarded: 12/04/2019
Contract Renewal Period: 12/04/2022 – 12/04/2023
Renewal 3 of 4

The City of Frisco is requesting a one-year renewal to continue your services under the same terms and conditions on the above referenced contract. The City will issue Purchase Orders to you as necessary. Please acknowledge receipt of this letter by signing and emailing it to Allye Potter at apotter@friscotexas.gov.

Barrett Fannin

Name

9/22/2022

Date

[Signature]

Signature

Thank you for your interest in serving our needs. We look forward to a successful business relationship. If you have any further questions, please contact the Purchasing Division at (972) 292-5546.

Sincerely,

Allye Potter, CTCD, CTCM
Senior Buyer



CITY OF FRISCO COMPETITIVE SEALED BID NO. 2010-006

TREE FURNISHING AND PLANTING

**BIDS ARE DUE TO THE OFFICE OF THE
PURCHASING MANAGER PRIOR TO:**

**October 31, 2019
@ 2:00PM CDT**

NO LATE SUBMITTALS WILL BE ACCEPTED.

Questions are to be sent to
purchasing@friscotexas.gov prior to:

October 24, 2019 @ 4:00PM CDT

**Bids must be supplied on a CD or
flash drive along with a hard copy or
submitted electronically through**

Bonfire,

<https://friscotexas.bonfirehub.com>.

For CD/flash drive and hard copy
submittals, deliver or mail to:

CITY OF FRISCO

DANIEL FORD

PURCHASING MANAGER

6101 FRISCO SQUARE BLVD

FRISCO, TX 75034

For additional information concerning this Bid please contact:

Daniel Ford, CPPO, CPPB
Purchasing Manager
dford@friscotexas.gov
972 292 5545

Austin Fox
Buyer
afox@friscotexas.gov
972 292 5549

City of Frisco
 CSB 2010-006
 Tree Furnishing and Planting
 Closed 10/31/2019 at 2:00PM CDT

Fannin Tree Farm
Barrett Fannin
Barrett@fannintreefarm.com
972-742-9233

Item	Description	Units	Estimated Qty.	Unit Cost Pick up	Unit Cost Delivery	Unit Cost Delivery and Planting	Ext. Cost for Delivery and Planting
BALLED & BURLAPPED TREES							
OAK TREES							
1	BUR OAK – QUERCUS MACROCARPA – 2-1/2"	EACH	1	\$ 145.00	\$ 155.00	\$ 275.00	\$ 275.00
2	BUR OAK – QUERCUS MACROCARPA – 3"	EACH	40	\$ 215.00	\$ 225.00	\$ 315.00	\$ 12,600.00
3	BUR OAK – QUERCUS MACROCARPA 3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
4	BUR OAK – QUERCUS MACROCARPA- 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
5	BUR OAK – QUERCUS MACROCARPA – 4-1/2"	EACH	1	\$ 625.00	\$ 640.00	\$ 950.00	\$ 950.00
6	BUR OAK – QUERCUS MACROCARPA – 5'	EACH	1	\$ 795.00	\$ 820.00	\$ 1,150.00	\$ 1,150.00
7	BUR OAK – QUERCUS MACROCARPA – 6"	EACH	1	\$ 925.00	\$ 955.00	\$ 1,350.00	\$ 1,350.00
8	BUR OAK – QUERCUS MACROCARPA – 7"	EACH	1	\$ 1,450.00	\$ 1,565.00	\$ 2,450.00	\$ 2,450.00
9	BUR OAK – QUERCUS MACROCARPA – 8"	EACH	20	\$ 1,850.00	\$ 2,075.00	\$ 2,950.00	\$ 59,000.00
10	BUR OAK – QUERCUS MACROCARPA – 9"	EACH	1	\$ 2,450.00	\$ 2,900.00	\$ 3,650.00	\$ 3,650.00
11	BUR OAK – QUERCUS MACROCARPA – 10"	EACH	1	\$ 3,150.00	\$ 3,650.00	\$ 4,250.00	\$ 4,250.00
12	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 2-1/2"	EACH	1	\$ 145.00	\$ 155.00	\$ 275.00	\$ 275.00
13	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 3"	EACH	1	\$ 215.00	\$ 225.00	\$ 315.00	\$ 315.00
14	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
15	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
16	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 4-1/2"	EACH	1				\$ -
17	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 5"	EACH	1				\$ -
18	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 6"	EACH	1				\$ -
19	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 7"	EACH	1				\$ -
20	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 8"	EACH	1				\$ -
21	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 9"	EACH	1				\$ -
22	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 10"	EACH	1				\$ -
23	LACEY OAK - QUERCUS LACEYI – 2-1/2"	EACH	1				\$ -
24	LACEY OAK - QUERCUS LACEYI – 3"	EACH	10				\$ -
25	LACEY OAK - QUERCUS LACEYI – 3-1/2"	EACH	20				\$ -

26	LACEY OAK - QUERCUS LACEYI – 4"	EACH	40					\$	-
27	LACEY OAK - QUERCUS LACEYI – 4-1/2"	EACH	1					\$	-
28	LACEY OAK - QUERCUS LACEYI – 5"	EACH	1					\$	-
29	LACEY OAK - QUERCUS LACEYI – 6"	EACH	1					\$	-
30	LACEY OAK - QUERCUS LACEYI – 7"	EACH	1					\$	-
31	LACEY OAK - QUERCUS LACEYI – 8"	EACH	1					\$	-
32	LACEY OAK - QUERCUS LACEYI – 9"	EACH	1					\$	-
33	LACEY OAK - QUERCUS LACEYI – 10"	EACH	1					\$	-
34	LIVE OAK – QUERCUS VIRGINIANA – 2-1/2"	EACH	1	\$	145.00	\$	155.00	\$	275.00
35	LIVE OAK – QUERCUS VIRGINIANA – 3"	EACH	40	\$	215.00	\$	225.00	\$	315.00
36	LIVE OAK – QUERCUS VIRGINIANA – 3-1/2"	EACH	20	\$	325.00	\$	335.00	\$	425.00
37	LIVE OAK – QUERCUS VIRGINIANA – 4"	EACH	1	\$	395.00	\$	410.00	\$	495.00
38	LIVE OAK – QUERCUS VIRGINIANA – 4-1/2"	EACH	1	\$	625.00	\$	640.00	\$	950.00
39	LIVE OAK – QUERCUS VIRGINIANA – 5"	EACH	1	\$	795.00	\$	820.00	\$	1,150.00
40	LIVE OAK – QUERCUS VIRGINIANA – 6"	EACH	1	\$	925.00	\$	955.00	\$	1,350.00
41	LIVE OAK – QUERCUS VIRGINIANA – 7"	EACH	1	\$	1,450.00	\$	1,565.00	\$	2,450.00
42	LIVE OAK – QUERCUS VIRGINIANA – 8"	EACH	1	\$	1,850.00	\$	2,075.00	\$	2,950.00
43	LIVE OAK – QUERCUS VIRGINIANA – 9"	EACH	1	\$	2,450.00	\$	2,900.00	\$	3,650.00
44	LIVE OAK – QUERCUS VIRGINIANA – 10"	EACH	5	\$	3,150.00	\$	3,650.00	\$	4,250.00
45	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 2-1/2"	EACH	1	\$	145.00	\$	155.00	\$	275.00
46	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 3"	EACH	100	\$	215.00	\$	225.00	\$	315.00
47	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 3-1/2"	EACH	1	\$	325.00	\$	335.00	\$	425.00
48	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 4"	EACH	50	\$	395.00	\$	410.00	\$	495.00
49	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 4-1/2"	EACH	1	\$	625.00	\$	640.00	\$	950.00
50	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 5"	EACH	1	\$	795.00	\$	820.00	\$	1,150.00
51	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 6"	EACH	1	\$	925.00	\$	955.00	\$	1,350.00
52	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 7"	EACH	1	\$	1,450.00	\$	1,565.00	\$	2,450.00
53	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 8"	EACH	1	\$	1,850.00	\$	2,075.00	\$	2,950.00
54	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 9"	EACH	1	\$	2,450.00	\$	2,900.00	\$	3,650.00

55	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 10"	EACH	10	\$ 3,150.00	\$ 3,650.00	\$ 4,250.00	\$ 42,500.00
56	MONTERREY OAK – QUERCUS POLYMORPHA – 2-1/2"	EACH	5				\$ -
57	MONTERREY OAK – QUERCUS POLYMORPHA – 3"	EACH	20				\$ -
58	MONTERREY OAK – QUERCUS POLYMORPHA – 3-1/2"	EACH	1				\$ -
59	MONTERREY OAK – QUERCUS POLYMORPHA – 4"	EACH	1				\$ -
60	MONTERREY OAK – QUERCUS POLYMORPHA – 4-1/2"	EACH	20				\$ -
61	MONTERREY OAK – QUERCUS POLYMORPHA – 5"	EACH	1				\$ -
62	MONTERREY OAK – QUERCUS POLYMORPHA – 6"	EACH	1				\$ -
63	MONTERREY OAK – QUERCUS POLYMORPHA – 7"	EACH	1				\$ -
64	MONTERREY OAK – QUERCUS POLYMORPHA – 8"	EACH	1				\$ -
65	MONTERREY OAK – QUERCUS POLYMORPHA – 9"	EACH	1				\$ -
66	MONTERREY OAK – QUERCUS POLYMORPHA – 10"	EACH	1				\$ -
67	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 2-1/2"	EACH	1	\$ 145.00	\$ 155.00	\$ 275.00	\$ 275.00
68	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 3"	EACH	5	\$ 215.00	\$ 225.00	\$ 315.00	\$ 1,575.00
69	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 3-1/2"	EACH	20	\$ 325.00	\$ 335.00	\$ 425.00	\$ 8,500.00
70	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
71	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 4-1/2"	EACH	1	\$ 625.00	\$ 640.00	\$ 950.00	\$ 950.00
72	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 5"	EACH	1	\$ 795.00	\$ 820.00	\$ 1,150.00	\$ 1,150.00
73	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 6"	EACH	1	\$ 925.00	\$ 955.00	\$ 1,350.00	\$ 1,350.00
74	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 7"	EACH	1	\$ 1,450.00	\$ 1,565.00	\$ 2,450.00	\$ 2,450.00
75	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 8"	EACH	1	\$ 1,850.00	\$ 2,075.00	\$ 2,950.00	\$ 2,950.00
76	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 9"	EACH	1	\$ 2,450.00	\$ 2,900.00	\$ 3,650.00	\$ 3,650.00
77	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 10"	EACH	1	\$ 3,150.00	\$ 3,650.00	\$ 4,250.00	\$ 4,250.00
78	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 2-1/2"	EACH	1				\$ -
79	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 3"	EACH	40				\$ -
80	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 3-1/2"	EACH	1				\$ -
81	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 4"	EACH	1				\$ -
82	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 4-1/2"	EACH	1				\$ -
83	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 5"	EACH	1				\$ -

84	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 6"	EACH	1				\$ -
85	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 7"	EACH	1				\$ -
86	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 8"	EACH	1				\$ -
87	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 9"	EACH	1				\$ -
88	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 10"	EACH	1				\$ -
89	WILLOW OAK – QUERCUS PHELLOS – 2-1/2"	EACH	10				\$ -
90	WILLOW OAK – QUERCUS PHELLOS – 3"	EACH	20				\$ -
91	WILLOW OAK – QUERCUS PHELLOS – 3-1/2"	EACH	1				\$ -
92	WILLOW OAK – QUERCUS PHELLOS – 4"	EACH	10				\$ -
93	WILLOW OAK – QUERCUS PHELLOS – 4-1/2"	EACH	1				\$ -
94	WILLOW OAK – QUERCUS PHELLOS – 5"	EACH	1				\$ -
95	WILLOW OAK – QUERCUS PHELLOS – 6"	EACH	1				\$ -
96	WILLOW OAK – QUERCUS PHELLOS – 7"	EACH	1				\$ -
97	WILLOW OAK – QUERCUS PHELLOS – 8"	EACH	1				\$ -
98	WILLOW OAK – QUERCUS PHELLOS – 9"	EACH	1				\$ -
99	WILLOW OAK – QUERCUS PHELLOS – 10"	EACH	1				\$ -
	OAK TREE TOTALS			\$ 50,380.00	\$ 56,045.00	\$ 74,550.00	\$ 283,270.00
	ELM TREES						
100	CEDAR ELM – ULMUS CRASSIFOLIA – 2-1/2"	EACH	5	\$ 145.00	\$ 155.00	\$ 275.00	\$ 1,375.00
101	CEDAR ELM – ULMUS CRASSIFOLIA – 3"	EACH	20	\$ 215.00	\$ 225.00	\$ 315.00	\$ 6,300.00
102	CEDAR ELM – ULMUS CRASSIFOLIA – 3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
103	CEDAR ELM – ULMUS CRASSIFOLIA – 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
104	CEDAR ELM – ULMUS CRASSIFOLIA – 4-1/2"	EACH	1	\$ 625.00	\$ 640.00	\$ 950.00	\$ 950.00
105	CEDAR ELM – ULMUS CRASSIFOLIA – 5"	EACH	1	\$ 795.00	\$ 820.00	\$ 1,150.00	\$ 1,150.00
106	CEDAR ELM – ULMUS CRASSIFOLIA – 6"	EACH	1	\$ 925.00	\$ 955.00	\$ 1,350.00	\$ 1,350.00
107	CEDAR ELM – ULMUS CRASSIFOLIA – 7"	EACH	1	\$ 1,450.00	\$ 1,565.00	\$ 2,450.00	\$ 2,450.00
108	CEDAR ELM – ULMUS CRASSIFOLIA – 8"	EACH	1	\$ 1,850.00	\$ 2,075.00	\$ 2,950.00	\$ 2,950.00
109	CEDAR ELM – ULMUS CRASSIFOLIA – 9"	EACH	1	\$ 2,450.00	\$ 2,900.00	\$ 3,650.00	\$ 3,650.00
110	CEDAR ELM – ULMUS CRASSIFOLIA – 10"	EACH	1	\$ 3,150.00	\$ 3,650.00	\$ 4,250.00	\$ 4,250.00

111	LACEBARK ELM – ULMUS PARVIFOLIA – 2-1/2"	EACH	20	\$ 145.00	\$ 155.00	\$ 275.00	\$ 5,500.00
112	LACEBARK ELM – ULMUS PARVIFOLIA – 3"	EACH	20	\$ 215.00	\$ 225.00	\$ 315.00	\$ 6,300.00
113	LACEBARK ELM – ULMUS PARVIFOLIA – 3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
114	LACEBARK ELM – ULMUS PARVIFOLIA – 4"	EACH	20	\$ 395.00	\$ 410.00	\$ 495.00	\$ 9,900.00
115	LACEBARK ELM – ULMUS PARVIFOLIA – 4-1/2"	EACH	1	\$ 625.00	\$ 640.00	\$ 950.00	\$ 950.00
116	LACEBARK ELM – ULMUS PARVIFOLIA – 5"	EACH	1	\$ 795.00	\$ 820.00	\$ 1,150.00	\$ 1,150.00
117	LACEBARK ELM – ULMUS PARVIFOLIA – 6"	EACH	1	\$ 925.00	\$ 955.00	\$ 1,350.00	\$ 1,350.00
118	LACEBARK ELM – ULMUS PARVIFOLIA – 7"	EACH	1				\$ -
119	LACEBARK ELM – ULMUS PARVIFOLIA – 8"	EACH	1				\$ -
120	LACEBARK ELM – ULMUS PARVIFOLIA – 9"	EACH	1				\$ -
121	LACEBARK ELM – ULMUS PARVIFOLIA – 10"	EACH	1				\$ -
122	PRINCETON ELM – ULMUS AMERICANA – 2-1/2"	EACH	1				\$ -
123	PRINCETON ELM – ULMUS AMERICANA – 3"	EACH	100				\$ -
124	PRINCETON ELM – ULMUS AMERICANA – 3-1/2"	EACH	1				\$ -
125	PRINCETON ELM – ULMUS AMERICANA – 4"	EACH	1				\$ -
126	PRINCETON ELM – ULMUS AMERICANA – 4-1/2"	EACH	1				\$ -
127	PRINCETON ELM – ULMUS AMERICANA – 5"	EACH	1				\$ -
128	PRINCETON ELM – ULMUS AMERICANA – 6"	EACH	1				\$ -
129	PRINCETON ELM – ULMUS AMERICANA – 7"	EACH	1				\$ -
130	PRINCETON ELM – ULMUS AMERICANA – 8"	EACH	1				\$ -
131	PRINCETON ELM – ULMUS AMERICANA – 9"	EACH	1				\$ -
132	PRINCETON ELM – ULMUS AMERICANA – 10"	EACH	3				\$ -
	ELM TREE TOTALS			\$ 15,750.00	\$ 17,270.00	\$ 23,220.00	\$ 50,920.00
	CYPRESS TREES						
133	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 2-1/2"	EACH	20				\$ -
134	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 3"	EACH	50				\$ -
135	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 3-1/2"	EACH	1				\$ -
136	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 4"	EACH	1				\$ -
137	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 4-1/2"	EACH	1				\$ -

138	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 5"	EACH	1					\$	-		
139	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 6"	EACH	1					\$	-		
140	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 7"	EACH	1					\$	-		
141	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 8"	EACH	1					\$	-		
142	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 9"	EACH	1					\$	-		
143	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 10"	EACH	1					\$	-		
144	BALD CYPRESS – TAXODIUM DISTICHUM – 2-1/2"	EACH	20	\$	145.00	\$	155.00	\$	275.00	\$	5,500.00
145	BALD CYPRESS – TAXODIUM DISTICHUM – 3"	EACH	30	\$	215.00	\$	225.00	\$	315.00	\$	9,450.00
146	BALD CYPRESS – TAXODIUM DISTICHUM – 3-1/2"	EACH	1	\$	325.00	\$	335.00	\$	425.00	\$	425.00
147	BALD CYPRESS – TAXODIUM DISTICHUM – 4"	EACH	1	\$	395.00	\$	410.00	\$	495.00	\$	495.00
148	BALD CYPRESS – TAXODIUM DISTICHUM – 4-1/2"	EACH	1	\$	625.00	\$	640.00	\$	950.00	\$	950.00
149	BALD CYPRESS – TAXODIUM DISTICHUM – 5"	EACH	1	\$	795.00	\$	820.00	\$	1,150.00	\$	1,150.00
150	BALD CYPRESS – TAXODIUM DISTICHUM – 6"	EACH	10	\$	925.00	\$	955.00	\$	1,350.00	\$	13,500.00
151	BALD CYPRESS – TAXODIUM DISTICHUM – 7"	EACH	1	\$	1,450.00	\$	1,565.00	\$	2,450.00	\$	2,450.00
152	BALD CYPRESS – TAXODIUM DISTICHUM – 8"	EACH	1	\$	1,850.00	\$	2,075.00	\$	2,950.00	\$	2,950.00
153	BALD CYPRESS – TAXODIUM DISTICHUM – 9"	EACH	1	\$	2,450.00	\$	2,900.00	\$	3,650.00	\$	3,650.00
154	BALD CYPRESS – TAXODIUM DISTICHUM – 10"	EACH	1	\$	3,150.00	\$	3,650.00	\$	4,250.00	\$	4,250.00
	CYPRESS TREE TOTALS			\$	12,325.00	\$	13,730.00	\$	18,260.00	\$	44,770.00
	WILLOW TREES										
155	DESERT WILLOW – CHILOPSIS LINEARIS – 2-1/2"	EACH	10	\$	125.00	\$	135.00	\$	245.00	\$	2,450.00
156	DESERT WILLOW – CHILOPSIS LINEARIS – 3"	EACH	10	\$	165.00	\$	175.00	\$	295.00	\$	2,950.00
157	DESERT WILLOW – CHILOPSIS LINEARIS – 3-1/2"	EACH	1	\$	285.00	\$	300.00	\$	395.00	\$	395.00
158	DESERT WILLOW – CHILOPSIS LINEARIS – 4"	EACH	1	\$	345.00	\$	360.00	\$	425.00	\$	425.00
159	DESERT WILLOW – CHILOPSIS LINEARIS – 4-1/2"	EACH	1						\$	-	
160	DESERT WILLOW – CHILOPSIS LINEARIS – 5"	EACH	1						\$	-	
161	DESERT WILLOW – CHILOPSIS LINEARIS – 6"	EACH	1						\$	-	
162	DESERT WILLOW – CHILOPSIS LINEARIS – 7"	EACH	1						\$	-	
163	DESERT WILLOW – CHILOPSIS LINEARIS – 8"	EACH	1						\$	-	
164	DESERT WILLOW – CHILOPSIS LINEARIS – 9"	EACH	1						\$	-	

165	WEeping WILLOW – SALIX BABYLONICA – 2-1/2"	EACH	1				\$ -
166	WEeping WILLOW – SALIX BABYLONICA – 3"	EACH	10				\$ -
167	WEeping WILLOW – SALIX BABYLONICA – 3-1/2"	EACH	1				\$ -
168	WEeping WILLOW – SALIX BABYLONICA– 4"	EACH	10				\$ -
169	WEeping WILLOW – SALIX BABYLONICA – 4-1/2"	EACH	1				\$ -
170	WEeping WILLOW – SALIX BABYLONICA – 5"	EACH	1				\$ -
171	WEeping WILLOW – SALIX BABYLONICA – 6"	EACH	1				\$ -
172	WEeping WILLOW – SALIX BABYLONICA – 7"	EACH	1				\$ -
173	WEeping WILLOW – SALIX BABYLONICA – 8"	EACH	1				\$ -
174	WEeping WILLOW – SALIX BABYLONICA – 9"	EACH	1				\$ -
175	WEeping WILLOW – SALIX BABYLONICA – 10"	EACH	1				\$ -
	WILLOW TREE TOTALS			\$ 920.00	\$ 970.00	\$ 1,360.00	\$ 6,220.00
	VARIOUS TREES						
176	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 2-1/2"	EACH	5				\$ -
177	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 3"	EACH	10				\$ -
178	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 3-1/2"	EACH	1				\$ -
179	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA– 4"	EACH	1				\$ -
180	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 4-1/2"	EACH	1				\$ -
181	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 5"	EACH	1				\$ -
182	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 6"	EACH	1				\$ -
183	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 7"	EACH	1				\$ -
184	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 8"	EACH	8				\$ -
185	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 9"	EACH	1				\$ -
186	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 10"	EACH	1				\$ -
187	BLACK GUM - NYSSA SYLVATICA – 2-1/2"	EACH	10				\$ -
188	BLACK GUM - NYSSA SYLVATICA – 3"	EACH	10				\$ -
189	BLACK GUM - NYSSA SYLVATICA – 3-1/2"	EACH	1				\$ -
190	BLACK GUM - NYSSA SYLVATICA – 4"	EACH	1				\$ -
191	BLACK GUM - NYSSA SYLVATICA – 4-1/2"	EACH	1				\$ -

192	BLACK GUM - NYSSA SYLVATICA – 5"	EACH	1				\$ -
193	BLACK GUM - NYSSA SYLVATICA – 6"	EACH	1				\$ -
194	BLACK GUM - NYSSA SYLVATICA – 7"	EACH	1				\$ -
195	BLACK GUM - NYSSA SYLVATICA – 8"	EACH	5				\$ -
196	BLACK GUM - NYSSA SYLVATICA – 9"	EACH	1				\$ -
197	BLACK GUM - NYSSA SYLVATICA – 10"	EACH	1				\$ -
198	EASTERN COTTONWOOD - POPULUS DELTOIDES – 2-1/2"	EACH	10				\$ -
199	EASTERN COTTONWOOD - POPULUS DELTOIDES – 3"	EACH	40				\$ -
200	EASTERN COTTONWOOD - POPULUS DELTOIDES – 3-1/2"	EACH	1				\$ -
201	EASTERN COTTONWOOD - POPULUS DELTOIDES – 4"	EACH	1				\$ -
202	EASTERN COTTONWOOD - POPULUS DELTOIDES – 4-1/2"	EACH	1				\$ -
203	EASTERN COTTONWOOD - POPULUS DELTOIDES – 5"	EACH	1				\$ -
204	EASTERN COTTONWOOD - POPULUS DELTOIDES – 6"	EACH	1				\$ -
205	EASTERN COTTONWOOD - POPULUS DELTOIDES – 7"	EACH	1				\$ -
206	EASTERN COTTONWOOD - POPULUS DELTOIDES – 8"	EACH	10				\$ -
207	EASTERN COTTONWOOD - POPULUS DELTOIDES – 9"	EACH	1				\$ -
208	EASTERN COTTONWOOD - POPULUS DELTOIDES – 10"	EACH	1				\$ -
209	GINKGO BILOBA – 2-1/2"	EACH	20				\$ -
210	GINKGO BILOBA – 3"	EACH	10				\$ -
211	GINKGO BILOBA – 3-1/2"	EACH	1				\$ -
212	GINKGO BILOBA – 4"	EACH	1				\$ -
213	GINKGO BILOBA – 4-1/2"	EACH	1				\$ -
214	GINKGO BILOBA – 5"	EACH	1				\$ -
215	GINKGO BILOBA – 6"	EACH	10				\$ -
216	GINKGO BILOBA – 7"	EACH	1				\$ -
217	GINKGO BILOBA – 8"	EACH	1				\$ -
218	GINKGO BILOBA – 9"	EACH	1				\$ -
219	GINKGO BILOBA – 10"	EACH	1				\$ -
220	JAPANESE ZELKOVA - ZELKOVA SERRATA – 2-1/2"	EACH	20				\$ -

221	JAPANESE ZELKOVA - ZELKOVA SERRATA – 3"	EACH	10				\$ -
222	JAPANESE ZELKOVA - ZELKOVA SERRATA – 3-1/2"	EACH	1				\$ -
223	JAPANESE ZELKOVA - ZELKOVA SERRATA – 4"	EACH	1				\$ -
224	JAPANESE ZELKOVA - ZELKOVA SERRATA – 4-1/2"	EACH	1				\$ -
225	JAPANESE ZELKOVA - ZELKOVA SERRATA – 5"	EACH	1				\$ -
226	JAPANESE ZELKOVA - ZELKOVA SERRATA – 6"	EACH	1				\$ -
227	JAPANESE ZELKOVA - ZELKOVA SERRATA – 7"	EACH	1				\$ -
228	JAPANESE ZELKOVA - ZELKOVA SERRATA – 8"	EACH	1				\$ -
229	JAPANESE ZELKOVA - ZELKOVA SERRATA – 9"	EACH	1				\$ -
230	JAPANESE ZELKOVA - ZELKOVA SERRATA – 10"	EACH	5				\$ -
231	MEXICAN SYCAMORE - PLATANUS MEXICANA– 2-1/2"	EACH	5				\$ -
232	MEXICAN SYCAMORE - PLATANUS MEXICANA – 3"	EACH	20				\$ -
233	MEXICAN SYCAMORE - PLATANUS MEXICANA – 3-1/2"	EACH	1				\$ -
234	MEXICAN SYCAMORE - PLATANUS MEXICANA – 4"	EACH	1				\$ -
235	MEXICAN SYCAMORE - PLATANUS MEXICANA – 4-1/2"	EACH	1				\$ -
236	MEXICAN SYCAMORE - PLATANUS MEXICANA – 5"	EACH	1				\$ -
237	MEXICAN SYCAMORE - PLATANUS MEXICANA – 6"	EACH	1				\$ -
238	MEXICAN SYCAMORE - PLATANUS MEXICANA – 7"	EACH	1				\$ -
239	MEXICAN SYCAMORE - PLATANUS MEXICANA – 8"	EACH	1				\$ -
240	MEXICAN SYCAMORE - PLATANUS MEXICANA – 9"	EACH	1				\$ -
241	MEXICAN SYCAMORE - PLATANUS MEXICANA – 10"	EACH	1				\$ -
242	MUSEUM PALO VERDE - PARKINSONIA ACULEATA– 2-1/2"	EACH	10				\$ -
243	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 3"	EACH	1				\$ -
244	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 3-1/2"	EACH	1				\$ -
245	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 4"	EACH	8				\$ -
246	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 4-1/2"	EACH	1				\$ -
247	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 5"	EACH	1				\$ -
248	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 6"	EACH	1				\$ -
249	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 7"	EACH	10				\$ -

250	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 8"	EACH	1					\$ -
251	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 9"	EACH	1					\$ -
252	MUSEUM PALO VERDE - PARKINSONIA ACULEATA – 10"	EACH	1					\$ -
253	PECAN TREE - CARYA ILLINOINENSIS – 2-1/2"	EACH	10	\$ 145.00	\$ 155.00	\$ 275.00	\$ 2,750.00	
254	PECAN TREE - CARYA ILLINOINENSIS – 3"	EACH	20	\$ 215.00	\$ 225.00	\$ 315.00	\$ 6,300.00	
255	PECAN TREE - CARYA ILLINOINENSIS – 3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00	
256	PECAN TREE - CARYA ILLINOINENSIS – 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00	
257	PECAN TREE - CARYA ILLINOINENSIS – 4-1/2"	EACH	1	\$ 695.00	\$ 725.00	\$ 950.00	\$ 950.00	
258	PECAN TREE - CARYA ILLINOINENSIS – 5"	EACH	1	\$ 895.00	\$ 925.00	\$ 1,350.00	\$ 1,350.00	
259	PECAN TREE - CARYA ILLINOINENSIS – 6"	EACH	10	\$ 1,250.00	\$ 1,350.00	\$ 1,950.00	\$ 19,500.00	
260	PECAN TREE - CARYA ILLINOINENSIS – 7"	EACH	1	\$ 1,650.00	\$ 1,750.00	\$ 2,250.00	\$ 2,250.00	
261	PECAN TREE - CARYA ILLINOINENSIS – 8"	EACH	1	\$ 2,150.00	\$ 2,250.00	\$ 3,650.00	\$ 3,650.00	
262	PECAN TREE - CARYA ILLINOINENSIS – 9"	EACH	1	\$ 2,850.00	\$ 2,950.00	\$ 4,450.00	\$ 4,450.00	
263	PECAN TREE - CARYA ILLINOINENSIS – 10"	EACH	1	\$ 3,450.00	\$ 3,750.00	\$ 5,750.00	\$ 5,750.00	
264	RIVER BIRCH - BETULA NIGRA – 2-1/2"	EACH	10				\$ -	
265	RIVER BIRCH - BETULA NIGRA – 3"	EACH	20				\$ -	
266	RIVER BIRCH - BETULA NIGRA – 3-1/2"	EACH	1				\$ -	
267	RIVER BIRCH - BETULA NIGRA – 4"	EACH	20				\$ -	
268	RIVER BIRCH - BETULA NIGRA – 4-1/2"	EACH	1				\$ -	
269	RIVER BIRCH - BETULA NIGRA – 5"	EACH	1				\$ -	
270	RIVER BIRCH - BETULA NIGRA – 6"	EACH	1				\$ -	
271	RIVER BIRCH - BETULA NIGRA – 7"	EACH	1				\$ -	
272	RIVER BIRCH - BETULA NIGRA – 8"	EACH	1				\$ -	
273	RIVER BIRCH - BETULA NIGRA – 9"	EACH	1				\$ -	
274	RIVER BIRCH - BETULA NIGRA – 10"	EACH	3				\$ -	
275	SHANTUNG MAPLE - ACER TRUNCATUM – 2-1/2"	EACH	10				\$ -	
276	SHANTUNG MAPLE - ACER TRUNCATUM – 3"	EACH	1				\$ -	
277	SHANTUNG MAPLE - ACER TRUNCATUM – 3-1/2"	EACH	1				\$ -	
278	SHANTUNG MAPLE - ACER TRUNCATUM – 4"	EACH	1				\$ -	

279	SHANTUNG MAPLE - ACER TRUNCATUM – 4-1/2"	EACH	1				\$ -
280	SHANTUNG MAPLE - ACER TRUNCATUM – 5"	EACH	1				\$ -
281	SHANTUNG MAPLE - ACER TRUNCATUM – 6"	EACH	10				\$ -
282	SHANTUNG MAPLE - ACER TRUNCATUM – 7"	EACH	1				\$ -
283	SHANTUNG MAPLE - ACER TRUNCATUM – 8"	EACH	1				\$ -
284	SHANTUNG MAPLE - ACER TRUNCATUM – 9"	EACH	1				\$ -
285	SHANTUNG MAPLE - ACER TRUNCATUM – 10"	EACH	1				\$ -
286	SOUTHERN MAGNOLIA - GRANDIFLORA – 2-1/2"	EACH	10				\$ -
287	SOUTHERN MAGNOLIA - GRANDIFLORA – 3"	EACH	5				\$ -
288	SOUTHERN MAGNOLIA - GRANDIFLORA – 3-1/2"	EACH	1				\$ -
289	SOUTHERN MAGNOLIA - GRANDIFLORA – 4"	EACH	10				\$ -
290	SOUTHERN MAGNOLIA - GRANDIFLORA – 4-1/2"	EACH	1				\$ -
291	SOUTHERN MAGNOLIA - GRANDIFLORA – 5"	EACH	1				\$ -
292	SOUTHERN MAGNOLIA - GRANDIFLORA – 6"	EACH	1				\$ -
293	SOUTHERN MAGNOLIA - GRANDIFLORA – 7"	EACH	1				\$ -
294	SOUTHERN MAGNOLIA - GRANDIFLORA – 8"	EACH	1				\$ -
295	SOUTHERN MAGNOLIA - GRANDIFLORA – 9"	EACH	1				\$ -
296	SOUTHERN MAGNOLIA - GRANDIFLORA – 10"	EACH	1				\$ -
297	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 2-1/2"	EACH	10				\$ -
298	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 3"	EACH	20				\$ -
299	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 3-1/2"	EACH	1				\$ -
300	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 4"	EACH	1				\$ -
301	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 4-1/2"	EACH	1				\$ -
302	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 5"	EACH	1				\$ -
303	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 6"	EACH	30				\$ -
304	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 7"	EACH	1				\$ -
305	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 8"	EACH	1				\$ -
306	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 9"	EACH	1				\$ -
307	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 10"	EACH	1				\$ -

VARIOUS TREE TOTALS				\$ 14,020.00	\$ 14,825.00	\$ 21,860.00	\$ 47,870.00
CONTAINER TREES							
OAK TREES							
308	BUR OAK – QUERCUS MACROCARPA – 30 GALLON	EACH	5	\$ 145.00	\$ 155.00	\$ 285.00	\$ 1,425.00
309	BUR OAK – QUERCUS MACROCARPA – 45 GALLON	EACH	30	\$ 225.00	\$ 235.00	\$ 315.00	\$ 9,450.00
310	BUR OAK – QUERCUS MACROCARPA – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00
311	BUR OAK – QUERCUS MACROCARPA – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
312	BUR OAK – QUERCUS MACROCARPA – 200 GALLON	EACH	1				\$ -
313	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 30 GALLON	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
314	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 45 GALLON	EACH	30	\$ 225.00	\$ 235.00	\$ 315.00	\$ 9,450.00
315	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00
316	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
317	CHINKAPIN OAK – QUERCUS MUEHLENBERGII – 200 GALLON	EACH	1				\$ -
318	LACEY OAK - QUERCUS LACEYI – 30 GALLON	EACH	20				\$ -
319	LACEY OAK - QUERCUS LACEYI – 45 GALLON	EACH	5				\$ -
320	LACEY OAK - QUERCUS LACEYI – 65 GALLON	EACH	1				\$ -
321	LACEY OAK - QUERCUS LACEYI – 100 GALLON	EACH	1				\$ -
322	LACEY OAK - QUERCUS LACEYI – 200 GALLON	EACH	1				\$ -
323	LIVE OAK – QUERCUS VIRGINIANA – 30 GALLON	EACH	10	\$ 145.00	\$ 155.00	\$ 285.00	\$ 2,850.00
324	LIVE OAK – QUERCUS VIRGINIANA – 45 GALLON	EACH	50	\$ 225.00	\$ 235.00	\$ 315.00	\$ 15,750.00
325	LIVE OAK – QUERCUS VIRGINIANA – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00
326	LIVE OAK – QUERCUS VIRGINIANA – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
327	LIVE OAK – QUERCUS VIRGINIANA – 200 GALLON	EACH	1				\$ -
328	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 30 GALLON	EACH	20				\$ -
329	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 45 GALLON	EACH	40				\$ -
330	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 65 GALLON	EACH	1				\$ -
331	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 100 GALLON	EACH	1				\$ -
332	LIVE OAK MULTI TRUNK – QUERCUS VIRGINIANA – 200 GALLON	EACH	1				\$ -
333	MONTERREY OAK – QUERCUS POLYMORPHA – 30 GALLON	EACH	10				\$ -

334	MONTERREY OAK – QUERCUS POLYMORPHA – 45 GALLON	EACH	1				\$ -
335	MONTERREY OAK – QUERCUS POLYMORPHA – 65 GALLON	EACH	1				\$ -
336	MONTERREY OAK – QUERCUS POLYMORPHA – 100 GALLON	EACH	1				\$ -
337	MONTERREY OAK – QUERCUS POLYMORPHA – 200 GALLON	EACH	1				\$ -
338	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 30 GALLON	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
339	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 45 GALLON	EACH	30	\$ 225.00	\$ 235.00	\$ 315.00	\$ 9,450.00
340	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00
341	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
342	RED OAK-QUERCUS SHUMARDI/QUERCUS TEXANA – 200 GALLON	EACH	1				\$ -
343	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 30 GALLON	EACH	1				\$ -
344	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 45 GALLON	EACH	10				\$ -
345	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 65 GALLON	EACH	10				\$ -
346	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 100 GALLON	EACH	1				\$ -
347	SAWTOOTH OAK – QUERCUS ACUTISSIMA – 200 GALLON	EACH	1				\$ -
348	WILLOW OAK – QUERCUS PHELLOS – 30 GALLON	EACH	10				\$ -
349	WILLOW OAK – QUERCUS PHELLOS – 45 GALLON	EACH	5				\$ -
350	WILLOW OAK – QUERCUS PHELLOS – 65 GALLON	EACH	20				\$ -
351	WILLOW OAK – QUERCUS PHELLOS – 100 GALLON	EACH	1				\$ -
352	WILLOW OAK – QUERCUS PHELLOS – 200 GALLON	EACH	1				\$ -
	OAK TREE TOTALS			\$ 4,420.00	\$ 4,640.00	\$ 8,480.00	\$ 55,025.00
	ELM TREES						
353	CEDAR ELM – ULMUS CRASSIFOLIA – 30 GALLON	EACH	5	\$ 145.00	\$ 155.00	\$ 285.00	\$ 1,425.00
354	CEDAR ELM – ULMUS CRASSIFOLIA – 45 GALLON	EACH	50	\$ 225.00	\$ 235.00	\$ 315.00	\$ 15,750.00
355	CEDAR ELM – ULMUS CRASSIFOLIA – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00
356	CEDAR ELM – ULMUS CRASSIFOLIA – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
357	CEDAR ELM – ULMUS CRASSIFOLIA – 200 GALLON	EACH	1				\$ -
358	LACEBARK ELM – ULMUS PARVIFOLIA – 30 GALLON	EACH	5	\$ 145.00	\$ 155.00	\$ 285.00	\$ 1,425.00
359	LACEBARK ELM – ULMUS PARVIFOLIA – 45 GALLON	EACH	10	\$ 225.00	\$ 235.00	\$ 315.00	\$ 3,150.00
360	LACEBARK ELM – ULMUS PARVIFOLIA – 65 GALLON	EACH	1	\$ 285.00	\$ 300.00	\$ 595.00	\$ 595.00

361	LACEBARK ELM – ULMUS PARVIFOLIA – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
362	LACEBARK ELM – ULMUS PARVIFOLIA – 200 GALLON	EACH	1				\$ -
363	PRINCETON ELM – ULMUS AMERICANA – 30 GALLON	EACH	1				\$ -
364	PRINCETON ELM – ULMUS AMERICANA – 45 GALLON	EACH	40				\$ -
365	PRINCETON ELM – ULMUS AMERICANA – 65 GALLON	EACH	1				\$ -
366	PRINCETON ELM – ULMUS AMERICANA – 100 GALLON	EACH	10				\$ -
367	PRINCETON ELM – ULMUS AMERICANA – 200 GALLON	EACH	1				\$ -
	ELM TREE TOTALS			\$ 2,210.00	\$ 2,320.00	\$ 4,240.00	\$ 24,790.00
	CYPRESS TREE						
368	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 30 GALLON	EACH	10	\$ 155.00	\$ 165.00	\$ 325.00	\$ 3,250.00
369	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 45 GALLON	EACH	10				\$ -
370	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 65 GALLON	EACH	1				\$ -
371	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 100 GALLON	EACH	1				\$ -
372	ARIZONA CYPRESS – CUPRESSUS ARIZONICA – 200 GALLON	EACH	1				\$ -
373	BALD CYPRESS – TAXODIUM DISTICHUM – 30 GALLON	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
374	BALD CYPRESS – TAXODIUM DISTICHUM – 45 GALLON	EACH	1	\$ 225.00	\$ 235.00	\$ 315.00	\$ 315.00
375	BALD CYPRESS – TAXODIUM DISTICHUM – 65 GALLON	EACH	50	\$ 285.00	\$ 300.00	\$ 595.00	\$ 29,750.00
376	BALD CYPRESS – TAXODIUM DISTICHUM – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
377	BALD CYPRESS – TAXODIUM DISTICHUM – 200 GALLON	EACH	1				\$ -
	CYPRESS TREE TOTALS			\$ 1,260.00	\$ 1,325.00	\$ 2,445.00	\$ 34,525.00
	WILLOW TREES						
378	DESERT WILLOW – CHILOPSIS LINEARIS – 30 GALLON	EACH	10	\$ 125.00	\$ 135.00	\$ 275.00	\$ 2,750.00
379	DESERT WILLOW – CHILOPSIS LINEARIS – 45 GALLON	EACH	1	\$ 295.00	\$ 305.00	\$ 425.00	\$ 425.00
380	DESERT WILLOW – CHILOPSIS LINEARIS – 60 GALLON	EACH	5				\$ -
381	DESERT WILLOW – CHILOPSIS LINEARIS – 100 GALLON	EACH	1				\$ -
382	DESERT WILLOW – CHILOPSIS LINEARIS – 200 GALLON	EACH	1				\$ -
383	WEeping WILLOW – SALIX BABYLONICA – 30 GALLONS	EACH	5				\$ -
384	WEeping WILLOW – SALIX BABYLONICA – 45 GALLONS	EACH	10				\$ -
385	WEeping WILLOW – SALIX BABYLONICA – 60 GALLONS	EACH	1				\$ -

386	WEeping WILLOW – SALIX BABYLONICA – 100 GALLONS	EACH	1				\$ -
387	WEeping WILLOW – SALIX BABYLONICA – 200 GALLONS	EACH	1				\$ -
WILLOW TREE TOTALS				\$ 420.00	\$ 440.00	\$ 700.00	\$ 3,175.00
VARIOUS TREES							
388	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 30 GALLON	EACH	10				\$ -
389	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 45 GALLON	EACH	20				\$ -
390	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 65 GALLON	EACH	1				\$ -
391	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 100 GALLON	EACH	1				\$ -
392	AMERICAN BEECH TREE - FAGUS GRANDIFOLIA – 200 GALLON	EACH	1				\$ -
393	BLACK GUM - NYSSA SYLVATICA – 30 GALLON	EACH	20				\$ -
394	BLACK GUM - NYSSA SYLVATICA – 45 GALLON	EACH	10				\$ -
395	BLACK GUM - NYSSA SYLVATICA – 65 GALLON	EACH	1				\$ -
396	BLACK GUM - NYSSA SYLVATICA – 100 GALLON	EACH	1				\$ -
397	BLACK GUM - NYSSA SYLVATICA – 200 GALLON	EACH	1				\$ -
398	EASTERN COTTONWOOD - POPULUS DELTOIDES – 30 GALLON	EACH	20				\$ -
399	EASTERN COTTONWOOD - POPULUS DELTOIDES – 45 GALLON	EACH	1				\$ -
400	EASTERN COTTONWOOD - POPULUS DELTOIDES – 65 GALLON	EACH	1				\$ -
401	EASTERN COTTONWOOD - POPULUS DELTOIDES – 100 GALLON	EACH	1				\$ -
402	EASTERN COTTONWOOD - POPULUS DELTOIDES – 200 GALLON	EACH	1				\$ -
403	GINKGO BILOBA– 30 GALLON	EACH	1				\$ -
404	GINKGO BILOBA – 45 GALLON	EACH	1				\$ -
405	GINKGO BILOBA – 65 GALLON	EACH	20				\$ -
406	GINKGO BILOBA – 100 GALLON	EACH	1				\$ -
407	GINKGO BILOBA – 200 GALLON	EACH	1				\$ -
408	JAPANESE ZELKOVA - ZELKOVA SERRATA – 30 GALLON	EACH	10				\$ -
409	JAPANESE ZELKOVA - ZELKOVA SERRATA – 45 GALLON	EACH	40				\$ -
410	JAPANESE ZELKOVA - ZELKOVA SERRATA – 65 GALLON	EACH	1				\$ -
411	JAPANESE ZELKOVA - ZELKOVA SERRATA – 100 GALLON	EACH	1				\$ -
412	JAPANESE ZELKOVA - ZELKOVA SERRATA – 200 GALLON	EACH	1				\$ -

413	MEXICAN SYCAMORE - PLATANUS MEXICANA – 30 GALLON	EACH	1	\$ 225.00	\$ 235.00	\$ 375.00	\$ 375.00
414	MEXICAN SYCAMORE - PLATANUS MEXICANA – 45 GALLON	EACH	20	\$ 365.00	\$ 375.00	\$ 650.00	\$ 13,000.00
415	MEXICAN SYCAMORE - PLATANUS MEXICANA – 65 GALLON	EACH	1	\$ 495.00	\$ 505.00	\$ 895.00	\$ 895.00
416	MEXICAN SYCAMORE - PLATANUS MEXICANA – 100 GALLON	EACH	1				\$ -
417	MEXICAN SYCAMORE - PLATANUS MEXICANA – 200 GALLON	EACH	1				\$ -
418	PECAN TREE - CARYA ILLINOINENSIS – 30 GALLON	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
419	PECAN TREE - CARYA ILLINOINENSIS – 45 GALLON	EACH	20	\$ 225.00	\$ 235.00	\$ 315.00	\$ 6,300.00
420	PECAN TREE - CARYA ILLINOINENSIS – 65 GALLON	EACH	1				\$ -
421	PECAN TREE - CARYA ILLINOINENSIS – 100 GALLON	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
422	PECAN TREE - CARYA ILLINOINENSIS – 200 GALLON	EACH	1				\$ -
423	RIVER BIRCH - BETULA NIGRA – 30 GALLON	EACH	1	\$ 165.00	\$ 175.00	\$ 295.00	\$ 295.00
424	RIVER BIRCH - BETULA NIGRA – 45 GALLON	EACH	40				\$ -
425	RIVER BIRCH - BETULA NIGRA – 65 GALLON	EACH	1				\$ -
426	RIVER BIRCH - BETULA NIGRA – 100 GALLON	EACH	1				\$ -
427	RIVER BIRCH - BETULA NIGRA – 200 GALLON	EACH	1				\$ -
428	SHANTUNG MAPLE - ACER TRUNCATUM– 30 GALLON	EACH	10				\$ -
429	SHANTUNG MAPLE - ACER TRUNCATUM – 45 GALLON	EACH	5				\$ -
430	SHANTUNG MAPLE - ACER TRUNCATUM – 65 GALLON	EACH	1				\$ -
431	SHANTUNG MAPLE - ACER TRUNCATUM – 100 GALLON	EACH	5				\$ -
432	SHANTUNG MAPLE - ACER TRUNCATUM – 200 GALLON	EACH	1				\$ -
433	SOUTHERN MAGNOLIA - GRANDIFLORA – 30 GALLON	EACH	1	\$ 185.00	\$ 195.00	\$ 325.00	\$ 325.00
434	SOUTHERN MAGNOLIA - GRANDIFLORA – 45 GALLON	EACH	10	\$ 325.00	\$ 340.00	\$ 575.00	\$ 5,750.00
435	SOUTHERN MAGNOLIA - GRANDIFLORA – 65 GALLON	EACH	1	\$ 895.00	\$ 925.00	\$ 1,450.00	\$ 1,450.00
436	SOUTHERN MAGNOLIA - GRANDIFLORA – 100 GALLON	EACH	1	\$ 1,450.00	\$ 1,550.00	\$ 2,150.00	\$ 2,150.00
437	SOUTHERN MAGNOLIA - GRANDIFLORA – 200 GALLON	EACH	1	\$ 1,950.00	\$ 2,150.00	\$ 3,250.00	\$ 3,250.00
438	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 30 GALLON	EACH	1				\$ -
439	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 45 GALLON	EACH	5				\$ -
440	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 65 GALLON	EACH	1				\$ -
441	SWEET GUM - LIQUIDAMBAR STYRACIFLUA – 100 GALLON	EACH	1				\$ -

442	SWEET GUM - LIQUIDAMBAR STYRACIFLUA - 200 GALLON	EACH	1				\$ -
VARIOUS TREE TOTALS				\$ 6,875.00	\$ 7,310.00	\$ 11,490.00	\$ 35,000.00
ORNAMENTAL CONTAINER GROWN TREES							
443	CHASTE TREE - VITEX AGNUS-CASTUS -30 GALLON	EACH	20	\$ 125.00	\$ 135.00	\$ 275.00	\$ 5,500.00
444	CHASTE TREE - VITEX AGNUS-CASTUS -45 GALLON	EACH	1	\$ 225.00	\$ 235.00	\$ 315.00	\$ 315.00
445	CHERRY LAUREL - PRUNUS CAROLINIANA - 30 GALLON	EACH	60				\$ -
446	CHERRY LAUREL - PRUNUS CAROLINIANA - 45 GALLON	EACH	1				\$ -
447	EAGLESTON HOLLY TREE - ILEX X EAGLESTON - 30 GALLON	EACH	50	\$ 235.00	\$ 245.00	\$ 365.00	\$ 18,250.00
448	EAGLESTON HOLLY TREE - ILEX X EAGLESTON - 45 GALLON	EACH	1	\$ 365.00	\$ 375.00	\$ 595.00	\$ 595.00
449	EASTERN RED CEDAR - JUNIPERUS VIRGINIANA - 30 GALLON	EACH	20	\$ 125.00	\$ 135.00	\$ 275.00	\$ 5,500.00
450	EASTERN RED CEDAR - JUNIPERUS VIRGINIANA - 45 GALLON	EACH	10	\$ 195.00	\$ 205.00	\$ 325.00	\$ 3,250.00
451	EVES NECKLACE - SOPHORA AFFINIS - 30 GALLON	EACH	10				\$ -
452	EVES NECKLACE - SOPHORA AFFINIS - 45 GALLON	EACH	1				\$ -
453	FLAME SUMAC - RHUS COPALLINUM - 30 GALLON	EACH	10				\$ -
454	FLAME SUMAC - RHUS COPALLINUM - 45 GALLON	EACH	1				\$ -
455	FRUITLESS OLIVE - OLEA EUROPAEA 'WILSONII' - 30 GALLON	EACH	10				\$ -
456	FRUITLESS OLIVE - OLEA EUROPAEA 'WILSONII' - 45 GALLON	EACH	5				\$ -
457	GOLDEN RAIN TREE - KOELREUTERIA PANICULATA - 30 GALLON	EACH	5				\$ -
458	GOLDEN RAIN TREE - KOELREUTERIA PANICULATA - 45 GALLON	EACH	5				\$ -
459	HEARTS OF GOLD REDBUD - CERCIS CANADENSIS- 30 GALLON	EACH	10				\$ -
460	HEARTS OF GOLD REDBUD - CERCIS CANADENSIS - 45 GALLON	EACH	20				\$ -
461	MEXICAN BUCKEYE - UNGNADIA SPECIOSA - 30 GALLON	EACH	10				\$ -
462	MEXICAN BUCKEYE - UNGNADIA SPECIOSA - 45 GALLON	EACH	4				\$ -
463	MEXICAN OLIVE - CORDIA BOISSIERI - 30 GALLON	EACH	10				\$ -
464	MEXICAN OLIVE - CORDIA BOISSIERI - 45 GALLON	EACH	1				\$ -
465	MEXICAN PLUM - PRUNUS MEXICANA - 30 GALLON	EACH	30	\$ 185.00	\$ 195.00	\$ 305.00	\$ 9,150.00
466	MEXICAN PLUM - PRUNUS MEXICANA - 45 GALLON	EACH	1				\$ -
467	NATCHEZ CREPE MYRTLE - LAGERSTROEMIA - 30 GALLON	EACH	10	\$ 195.00	\$ 205.00	\$ 325.00	\$ 3,250.00
468	NATCHEZ CREPE MYRTLE - LAGERSTROEMIA - 45 GALLON	EACH	60	\$ 285.00	\$ 295.00	\$ 425.00	\$ 25,500.00

469	NELLIE R STEVENS - ILEX - 30 GALLON	EACH	30	\$ 195.00	\$ 205.00	\$ 325.00	\$ 9,750.00
470	NELLIE R STEVENS - ILEX - 45 GALLON	EACH	1	\$ 325.00	\$ 335.00	\$ 495.00	\$ 495.00
471	OKLAHOMA REDBUD - CERCIS CANADENSIS - 30 GALLON	EACH	20	\$ 125.00	\$ 135.00	\$ 275.00	\$ 5,500.00
472	OKLAHOMA REDBUD - CERCIS CANADENSIS - 45 GALLON	EACH	1				\$ -
473	PAW PAW - ASIMINA TRILOBA - 30 GALLON	EACH	20				\$ -
474	PAW PAW - ASIMINA TRILOBA - 45 GALLON	EACH	1				\$ -
475	PERSIMMON - DIOSPYROS KAKI - 30 GALLON	EACH	20				\$ -
476	PERSIMMON - DIOSPYROS KAKI - 45 GALLON	EACH	1				\$ -
477	ROUGH LEAF DOGWOOD - CORNUS DRUMMONDII - 30 GALLON	EACH	20				\$ -
478	ROUGH LEAF DOGWOOD - CORNUS DRUMMONDII - 45 GALLON	EACH	1				\$ -
479	RUSTY BLACKHAW - VIBURNUM RUFIDULUM - 30 GALLON	EACH	5				\$ -
480	RUSTY BLACKHAW - VIBURNUM RUFIDULUM - 45 GALLON	EACH	1				\$ -
481	SKYROCKET JUNIPER - JUNIPERUS SCOPULORUM - 30 GALLON	EACH	10				\$ -
482	SKYROCKET JUNIPER - JUNIPERUS SCOPULORUM - 45 GALLON	EACH	1				\$ -
483	SMOKE TREE - COTINUS - 30 GALLON	EACH	1				\$ -
484	SMOKE TREE - COTINUS - 45 GALLON	EACH	20				\$ -
485	TEXAS EBONY - EBENOPSIS EBANO - 30 GALLON	EACH	5				\$ -
486	TEXAS EBONY - EBENOPSIS EBANO - 45 GALLON	EACH	1				\$ -
487	TEXAS MOUNTAIN LAUREL - DERMATOPHYLLUM SECUNDIFLORUM - 30 GALLON	EACH	1				\$ -
488	TEXAS MOUNTAIN LAUREL - DERMATOPHYLLUM SECUNDIFLORUM - 45 GALLON	EACH	20				\$ -
489	WALNUT TREE - JUGLANS - 30 GALLON	EACH	1				\$ -
490	WALNUT TREE - JUGLANS - 45 GALLON	EACH	10				\$ -
491	WAX MYRTLE - MYRICA - 30 GALLON	EACH	10	\$ 185.00	\$ 195.00	\$ 305.00	\$ 3,050.00
492	WAX MYRTLE - MYRICA - 45 GALLON	EACH	1	\$ 265.00	\$ 275.00	\$ 395.00	\$ 395.00
493	WEeping REDBUD - CERCIS CANADENSIS - 30 GALLON	EACH	1				\$ -
494	WEeping REDBUD - CERCIS CANADENSIS - 45 GALLON	EACH	20				\$ -
495	WHITE FRINGE - CHIONANTHUS VIRGINICUS - 30 GALLON	EACH	40				\$ -
496	WHITE FRINGE - CHIONANTHUS VIRGINICUS - 45 GALLON	EACH	1				\$ -
ORNAMENTAL TOTALS				\$ 3,030.00	\$ 3,170.00	\$ 5,000.00	\$ 90,500.00

TOTAL COST FOR DELIVERY AND PLANTING

\$ 676,065.00

Item	Additional Items	Units	Response
1	PERCENT DISCOUNT OFF RETAIL PRICE FOR TREE INVENTORY NOT LISTED ABOVE	PERCENT	20%
2	PERCENT MARK UP OF COST FOR SPECIAL ORDER NON INVENTORY TREES NOT LISTED ABOVE	PERCENT	30%
3	TREE WARRANTY	MONTHS	12 Months

Additional material / stock

1	Description	Units	Estimated Qty.	Unit Cost Pick up	Unit Cost Delivery	Unit Cost Delivery and Planting	Ext. Cost for Delivery and Planting
2	AUTUMN BLAZE MAPLE - 2-1/2"	EACH	1	\$ 145.00	\$ 155.00	\$ 275.00	\$ 275.00
3	AUTUMN BLAZE MAPLE - 3"	EACH	1	\$ 215.00	\$ 225.00	\$ 315.00	\$ 315.00
4	AUTUMN BLAZE MAPLE -3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
5	AUTUMN BLAZE MAPLE - 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
6	AUTUMN BLAZE MAPLE - 30 Gallon	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
7	AUTUMN BLAZE MAPLE - 45 Gallon	EACH	1	\$ 225.00	\$ 235.00	\$ 315.00	\$ 315.00
8	CHINESE PISTACHE - 2-1/2"	EACH	1	\$ 145.00	\$ 155.00	\$ 275.00	\$ 275.00
9	CHINESE PISTACHE - 3"	EACH	1	\$ 215.00	\$ 225.00	\$ 315.00	\$ 315.00
10	CHINESE PISTACHE -3-1/2"	EACH	1	\$ 325.00	\$ 335.00	\$ 425.00	\$ 425.00
11	CHINESE PISTACHE - 4"	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
12	CHINESE PISTACHE - 4-1/2"	EACH	1	\$ 625.00	\$ 640.00	\$ 950.00	\$ 950.00
13	CHINESE PISTACHE - 5"	EACH	1	\$ 795.00	\$ 820.00	\$ 1,150.00	\$ 1,150.00
14	CHINESE PISTACHE - 6"	EACH	1	\$ 925.00	\$ 995.00	\$ 1,350.00	\$ 1,350.00
15	CHINESE PISTACHE - 30 Gallon	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00

16	CHINESE PISTACHE- 45 Gallon	EACH	1	\$ 225.00	\$ 235.00	\$ 315.00	\$ 315.00
17	CHINESE PISTACHE- 100 Gallon	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00
18	ELDERICA PINE - 6' B&B	EACH	1	\$ 135.00	\$ 145.00	\$ 325.00	\$ 325.00
19	EASTERN RED CEDAR - 6-8' B&B	EACH	1	\$ 135.00	\$ 145.00	\$ 315.00	\$ 315.00
20	EASTERN RED CEDAR - 8-10' B&B	EACH	1	\$ 185.00	\$ 195.00	\$ 395.00	\$ 395.00
21	EASTERN RED CEDAR - 10-12' B&B	EACH	1	\$ 295.00	\$ 305.00	\$ 525.00	\$ 525.00
22	TEXAS ASH - 3" B&B	EACH	1	\$ 215.00	\$ 225.00	\$ 315.00	\$ 315.00
23	TEXAS ASH - 4" B&B	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
24	POND CYPRESS - 3" B&B	EACH	1	\$ 215.00	\$ 225.00	\$ 315.00	\$ 315.00
25	POND CYPRESS - 4" B&B	EACH	1	\$ 395.00	\$ 410.00	\$ 495.00	\$ 495.00
26	POND CYPRESS- 30 Gallon	EACH	1	\$ 145.00	\$ 155.00	\$ 285.00	\$ 285.00
27	POND CYPRESS- 45 Gallon	EACH	1	\$ 225.00	\$ 235.00	\$ 315.00	\$ 315.00
28	POND CYPRESS- 100 Gallon	EACH	1	\$ 450.00	\$ 470.00	\$ 925.00	\$ 925.00

Council Meeting 2023

9.

Meeting Date: 04/25/2023

Department: Finance

AGENDA CAPTION:

Consider Action on an **Ordinance to Amend Article II, Section 2-31 of the Town's Code of Ordinances Related to Mayor and Councilmember 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 (\$5,200 annually) while City Councilmembers are paid \$100 on a bi-weekly basis (\$2,600 annually). This section of the Code of Ordinances was last updated on April 9, 2002. At the April 11, 2023 Council meeting, Council gave direction to bring forward an updated ordinance that would set the Mayor's pay to \$400 on a bi-weekly basis (\$10,400 annually) and the City Councilmembers' pay to \$200 on a bi-weekly basis (\$5,200 annually).

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - Amending Council Compensation

ORDINANCE NO. O23-__

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 2, ARTICLE 2 (CITY COUNCIL) BY AMENDING SECTION 2-31 PROVIDING FOR CITY COUNCIL COMPENSATION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to amend Section 2-31, Compensation, to increase the compensation paid to the mayor and councilmembers for meeting attendance; and

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

SECTION 1. The Code of Ordinances of the Town of Addison, Texas Chapter 2, Article II, Sec. 2-31 is hereby amended and restated to read as follows:

Sec. 2-31. Compensation.

Compensation shall be in accordance with the following schedule:

Mayor	\$400.00 per bi-weekly pay period (\$400.00 × 26 = \$10,400 per year)
Councilmembers:	\$200.00 per bi-weekly pay period (\$200.00 × 26 = \$5,200 per year)

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 25th 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

Meeting Date: 04/25/2023

Department: Public Works

AGENDA CAPTION:

Consider Action on a **Resolution Approving an Interlocal Cooperation Agreement with the City of Farmers Branch, Texas for the Provision of Sanitary Sewer Services at a 1.0065 Acre Tract of Land Located in the City of Farmers Branch and Authorizing the City Manager to Execute the Agreement.**

BACKGROUND:

The purpose of this item is to seek approval for an interlocal agreement (ILA) between the Town and the City of Farmers Branch regarding the provision of sanitary sewer services.

Specifically, the agreement pertains to the parcel of land located on the south side of Spring Valley Road, just east of the Vitruvian Development, within the city limits of Farmers Branch. Previously occupied by a City fire station, this tract had no access to Farmers Branch sanitary sewer service and had been served by a Town owned 8" sanitary sewer main located under Spring Valley Road since 1990.

Although the sewer service account for the fire station was closed in 2020, Town staff were approached in early 2023 about the possibility of resuming the service to facilitate the construction of a small townhome development on the land. Given the change in land use, it was deemed necessary to have an ILA in place to formalize the conditions of service.

The proposed development will comprise of 19 single-family attached dwelling units (Townhomes), each on an individually platted lot.

Some of the key points covered in the ILA include the following:

- Farmers Branch will meet all of the Town's sanitary sewer discharge requirements.
- Farmers Branch will own and maintain the sanitary sewer line at or beyond the connection to the Town's main.
- Farmers Branch will provide monthly meter readings to the Town for billing purposes.
- Farmers Branch will pay the then-current sewer charges outlined in the Town's rate ordinance.

The Town's sanitary sewer service has sufficient capacity for this development.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Approving ILA re Sanitary Sewer Services with Farmers Branch
Site Layout

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT WITH THE CITY OF FARMERS BRANCH, TEXAS ALLOWING SANITARY SEWER SERVICE AT A 1.0065 ACRE TRACT OF LAND LOCATED IN THE NOAH GOOD SURVEY, ABSTRACT NO. 520, CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmers Branch, Texas owns a 1.0065 acre tract of land located in the Noah Good Survey, Abstract No. 520 (the “Served Property”), which is located within the corporate limits of the City of Farmers Branch, Texas; and

WHEREAS, the Town owns and operates the Addison Line, an eight-inch (8.0”) gravity sanitary sewer main located within the Town’s corporate limits in the right-of-way of Spring Valley Road; and

WHEREAS, the Served Property has no direct access to a gravity sanitary sewer line or associated facilities owned or operated by the City of Farmers Branch for purposes of providing sanitary sewer services to the Served Property; and

WHEREAS, the Town previously provided sanitary sewer collection services to the Served Property through a tap provided in the Addison Line; and

WHEREAS, the City of Farmers Branch, Texas has contracted to sell the Served Property to a Developer who intends to construct a new residential project on the Served Property; and

WHEREAS, the Developer will construct a new wastewater collection system to serve the project that will ultimately connect to the Addison Line if the Town is willing to accept wastewater generated from the future development of the project; and

WHEREAS, the City of Farmers Branch has requested that the Town accept wastewater flow into the Addison Line from the Served Property subject to specific terms and conditions set forth in an Interlocal Cooperation Agreement, including monthly fees paid to the Town; and

WHEREAS, in consideration of these promises, Town staff recommends that it is in the best interest of the Town of Addison to enter into the Interlocal Cooperation Agreement with the City of Farmers Branch, Texas attached hereto as **Exhibit A**.

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

SECTION 1. The City Manager is hereby authorized to execute the attached Interlocal Cooperation Agreement (**Exhibit A**) with the City of Farmers Branch, Texas allowing sanitary

sewer service at a 1.0065 acre tract of land located in the Noah Good Survey, Abstract No. 520, City of Farmers Branch, Dallas County, Texas.

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 **25th** day of **APRIL**, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A
INTERLOCAL COOPERATION AGREEMENT
FOR SANITARY SEWER SERVICE

STATE OF TEXAS
COUNTY OF DALLAS

§
§
§

INTERLOCAL COOPERATION AGREEMENT
FOR SANITARY SEWER SERVICE

This **Interlocal Cooperation Agreement for Sanitary Sewer Service** (“**Agreement**”) is made by and between the **City of Farmers Branch** (“**Farmers Branch**”), and the **Town of Addison** (“**Addison**”), (collectively **Farmers Branch** and **Addison** are hereafter referred to as “**the Parties**” or individually as “**Party**”), acting by and through their authorized officers.

RECITALS:

WHEREAS, this Agreement is being entered into pursuant to the Interlocal Cooperation Act, V.T.C.A., Government Code, Section 791.001, *et seq.* (the “**Act**”); and

WHEREAS, **Farmers Branch** owns the Served Property (hereafter defined), which is located within the corporate limits of the City of Farmers; and

WHEREAS, **Addison** owns and operates the **Addison Line** (hereafter defined); and

WHEREAS, the Served Property was previously developed, occupied, and used by **Farmers Branch** as a fire station, which occupancy and use ceased following construction and occupation of a new fire station at a different location within **Farmers Branch**; and

WHEREAS, while occupied as a fire station by **Farmers Branch**, **Addison** provided sanitary sewer collection services to the Served Property through a tap provided in the **Addison Line**; and

WHEREAS, the Served Property has no direct access to a gravity sanitary sewer line or associated facilities owned or operated by **Farmers Branch** for purposes of providing sanitary sewer service to the Served Property; and

WHEREAS, **Farmers Branch** has contracted to sell the Served Property to **Developer** subject to a restrictive covenant that will require **Developer** to develop the Served Property for the Project; and

WHEREAS, **Developer** has advised **Farmers Branch** that it desires to construct a new wastewater collection system to serve the Project, which will then tap into a sewer gravity line that would ultimately connect to the **Addison Line** at the **Addison Connection** if **Addison** is willing to accept wastewater generated from future development of the Project; and

WHEREAS, **Farmers Branch** has requested **Addison** accept wastewater flow into the **Addison Line** from the Served Property and the Project pursuant to the terms set forth herein; and

WHEREAS, the Parties are each a Texas home rule municipality and a “local government” as defined by Section 791.003(4) of the Act engaged in the provision of governmental functions and services to their citizens; and

WHEREAS, these functions and services serve the public health, safety and welfare, promote efficiency and effectiveness of local government and are of mutual concern to the Parties; and

WHEREAS, the Parties desire to enter into this Agreement to set forth the Parties' respective rights and obligations with regard to public sanitary sewer access and fees related thereto.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

**Article I
Term**

The term of this Agreement shall be for a period of one (1) year commencing on the Effective Date and shall thereafter automatically continue for successive terms of one year each, unless terminated as provided herein.

**Article II
Definitions**

“Addison” means the Town of Addison, Texas, acting by and through its Town Manager and the lawful authority of its Town Council.

“Addison Connection” means the point at which the Facilities are connected to the Addison Line in accordance with the Approved Plan.

“Addison Line” means an eight-inch (8.0”) gravity sanitary sewer main owned and operated by Addison located within Addison’s corporate limits in the right-of-way of Spring Valley Road approximately as depicted in **Exhibit “B”** attached hereto.

“Approved Plans” means the Plans which have been approved by Farmers Branch and Addison.

“Business Day” means a day that is not a Saturday, a Sunday, a federally recognized holiday, the Friday after Thanksgiving Day, or such other day the Farmers Branch City Council and/or Addison Town Council has determined by motion, resolution, or ordinance that Farmers Branch City Hall (in the case of Farmers Branch) and/or Addison Town Hall (in the case of Addison) will not be open to the public for general city business. For sake of clarity, it is not a “Business Day” if either Farmers Branch City Hall or Addison Town Hall is not open to the public for general city business.

“Developer” means, initially, TCCI Land Company, LLC, a Texas limited liability company, or such other party to who Farmers Branch may sell the Served Property for purposes of developing the Project.

“Effective Date” means the date the signatures of authorized representative of both Parties are affixed to this Agreement, whether on the same document or identical counterparts.

“Facilities” collectively means all portions of the wastewater collection system(s) to be constructed to serve the Served Property in accordance with Approved Plans.

“Farmers Branch” means the City of Farmers Branch, Texas acting by and through its City Manager and the lawful authority of its City Council.

“Plans” shall mean the plans and specifications submitted for the design, installation and construction of the Facilities, or respective portions thereof, and any related work including, but not limited to, the cutting and repair of the sidewalk, curb, and pavement along and in Spring Valley Road, to Farmers Branch and Addison.

“Project” means the construction of no more than nineteen (19) single family attached dwelling units (i.e., “townhomes”) on nineteen (19) individual platted lots within the Served Property and all related public streets and utilities and other improvements and facilities in accordance with applicable ordinances and regulations enacted by Farmers Branch. For the avoidance of doubt, it is the intent of the Parties that the lots developed on the Property will be developed to be owned separately in fee simple and will not be operated, in whole or in part, as multifamily units during the term of this Agreement.

“Served Property” means a 1.0065 acre tract located in the Noah Good Survey, Abstract No. 520, City of Farmers Branch, Dallas County, Texas, more particularly described in Exhibit “A” attached hereto.

Article III Sanitary Sewer Facilities and Acceptance of Flow

3.1 Acceptance of Wastewater by Addison. Addison agrees to allow the connection of the Facilities to Addison’s sanitary sewer main at the Addison Connection subject to the following:

- (a) Design, construction and installation of the Facilities shall be at no cost to Addison;
- (b) Construction of the Facilities shall be only in accordance with the Approved Plans and shall not commence until all approvals and/or permits required by the Parties or other applicable governmental authorities for construction of the Facilities or any portion thereof have been obtained by Developer;
- (c) The Facilities and any associated work that must be performed in association with the construction of the Facilities including, but not limited to, the cutting and repair of the

sidewalk, curb, and pavement along and in Spring Valley Road, must be designed, installed, and constructed in accordance with the Standard Specifications for Public Works Construction published by the North Central Texas Council of Governments, as amended and/or modified by Farmers Branch and/or Addison, respectively; provided, however, in any instance where any provision of such standards conflict, the most stringent standard shall govern unless the Parties' Public Works Directors and Developer agree in writing to the lesser standard among the conflicting standards; and

- (d) Construction of the Facilities shall not commence until all necessary right-of-way permits, sanitary sewer easements, and other agreements which authorize the construction, reconstruction, operation, repair, maintenance, and removal of the Facilities from the Served Property to the Addison Connection have been obtained from Addison, Farmers Branch, and any third parties who own or control use of the property along the route of the proposed location for the Facilities, which permits, easements, and agreements shall be obtained at no cost to Addison, if any such permits, easements, or agreements are required.

3.2 Ownership of Sanitary Sewer Accounts; Tap Fees. Addison acknowledges and agrees that all sanitary sewer utility accounts for customers located within the Served Property which are served by a wastewater collection line that is connected to the Facilities shall at all times be owned by Farmers Branch. Addison shall at no time be entitled to, or have any ownership in, any connection fees, disconnections fees, tap fees, or sanitary sewer use fees collected by Farmers Branch from the sanitary sewer customers owning and/or occupying the lots developed within the Served Property.

3.3 Sewer Flow Charge Determination. As additional consideration for Addison's agreement to receive into Addison's wastewater collection system the wastewater flows generated from the Served Property, Farmers Branch agrees to pay Addison on a monthly basis an amount equal to:

- (a) The then current sewer rate for Municipal sewer customers as adopted by ordinance from time to time by Addison's City Council, which amount is presently set forth in Section 82-76 of the Code of Ordinances of the Town of Addison, Texas, based on the amount of domestic water used on the Served Property as determined by the monthly water meter readings of Farmers Branch's water utility customers located within the Served Property, excluding any water meters designated and used solely for irrigation purposes; plus
- (b) Any pass-through rate component assessed on sewer customers in accordance with Section 82-78 of the Code of Ordinances of the Town of Addison, Texas;

(collectively, the "**Sewer Flow Charge**"). Notwithstanding the foregoing to the contrary, at no time shall Farmers Branch be required to pay a monthly Sewer Flow Charge in an amount exceeding the maximum amount that would be charged cumulatively to nineteen (19) single-family residential sewer customers as determined by Section 82-76(2) of the Code of Ordinances of the Town of Addison, Texas. The Parties acknowledge that the pass-through charges described in paragraph (b), above, include, but may not be limited to, charges assessed to Addison by the Trinity River Authority ("**TRA**") for the treatment of wastewater collected by Addison through

Addison's sanitary sewer system and transported to TRA that Addison passes through to Addison's sanitary sewer service customers.

3.4 Sewer Flow Charge Payments.

- (a) Not later than the twenty-fifth (25th) day of each calendar month (or the first Business Day following such 25th day if the 25th day is not a Business Day), Farmers Branch shall deliver to Addison a report showing the beginning and ending readings for the domestic water meter readings and the water meter readings exclusively measuring irrigation and the total usage for each meter during each period between meter readings (the "**Usage Report**").
- (b) Addison shall determine the amount of Sewer Flow Charges due each month based on the Usage Reports and shall invoice Farmers Branch in accordance with Addison's standard billing practices and policies applicable to Addison's other water and sanitary sewer customers. Farmers Branch agrees to pay the Sewer Flow Charges based on the invoice received from Addison; provided, however, Farmers Branch shall not be required to pay such invoice or bill on or before (i) the thirtieth (30th) day after receipt of such bill, if such bill is delivered by first class mail to the billing address established by Farmers Branch on the customer account or (ii) the twenty-second (22nd) day after receipt of a bill by electronic mail if emailed through Addison's e-billing system to the e-mail address registered by Farmers Branch. Farmers Branch agrees to register to receive e-mailed bills so long as Addison maintains an e-billing system.
- (c) Addison shall have the right, at Addison's cost, upon reasonable written notice to Farmers Branch, and during Farmers Branch's regular business hours, to read such water meters, request meter reading data, require full disclosure of any other data, and require testing of the meters, as needed to resolve any irregularities that might occur during the term of this Agreement.
- (d) Farmers Branch shall be entitled to pay the Sewer Flow Charges by such methods of payment as are made available to Addison's other utility customers.
- (e) Farmers Branch shall pay Addison the full amount of Sewer Flow Charges due pursuant to this Section 3.4 notwithstanding any delinquency in the payment of sanitary sewer charges to Farmers Branch by Farmers Branch sanitary sewer customers receiving sanitary sewer service on the Served Property. Farmers Branch shall be solely responsible for collection of sanitary sewer service fees to customers receiving sanitary sewer service at the Served Property.
- (f) For purposes of this Agreement, Farmers Branch shall be deemed by Addison to be the sole sanitary sewer service customer receiving sanitary sewer service through the Addison Line at the Addison Connection. Addison shall look to no person or entity other than Farmers Branch for payment of the Sewer Flow Charges.

3.5 Amendments to Sewer Rates. Addison shall have the right from time to time during the Term of this Agreement to modify the rates on which the Sewer Flow Charge is based; provided, however, such rates shall not become effective for purposes of calculating the portion of the Sewer

Flow Charge determined pursuant to Section 3.3(a) until the later of (i) the thirtieth (30th) day after Addison provides Farmers Branch written notice of such amended sanitary sewer service rates (the “**Rate Change Notice**”) and (ii) the effective date of the ordinance amending Addison’s sanitary sewer service rates Inclusion of the Rate Change Notice with the monthly invoice for the Sewer Flow Charge will be sufficient to satisfy Addison’s obligation to provide the Rate Change Notice..

3.6 Construction and Plan Review Fees. Addison shall not be entitled to payment of any construction and plan review fees to be paid by Developer to Farmers Branch for review of the Approved Plans and inspection of construction of the Facilities. Addison agrees and authorizes Farmers Branch to review and approve the Approved Plans and to inspect the construction of the Facilities and to collect any fees for such review and inspection from the Developer in accordance with Farmers Branch’s ordinances. Notwithstanding the foregoing, Addison shall have the right, at its sole discretion, to review and comment on the Plans for the Addison Connection prior to their approval by Farmers Branch, conduct such inspections of the Facilities during and after their construction, and to provide comments to Farmers Branch regarding such reviews and inspections. Farmers Branch agrees to receive and reasonably consider such comments from Addison prior to granting any approvals or making decisions relating to the design and construction of the Facilities if such comments are delivered to the Director of Public Works prior to the approval being granted or decision being made.

3.7 Use of Existing Easements and ROW. Addison agrees to allow the Facilities to cross portion of the Spring Valley Road (the “**Spring Valley ROW**”) located within Addison’s corporate limits as necessary to connect to the Addison Line at no cost to Farmers Branch or Developer so long as the Facilities can be located without unreasonably interfering with existing pipes, conduits, lines, poles, equipment, and other facilities and improvements (“**the Existing Utilities**”) owned by other users of the Spring Valley ROW. If locating the Facilities within the Spring Valley ROW at the location shown on Exhibit “B” would unreasonably interfere with one or more Existing Utilities, Addison agrees to reasonably cooperate with and assist Farmers Branch and/or Developer to modify the Facilities and/or coordinate with the other owners of the Existing Utilities to eliminate the interference at no cost to Addison.

3.8 Certain Connections Prohibited. The Parties acknowledge and agree this Agreement is limited to the provision of residential sanitary sewer service to the Served Property. Farmers Branch shall not authorize any connection to the Facilities:

- (a) By an Industrial User, as that term is defined in Section 82-127 of the Town of Addison Code of Ordinances; or
- (b) By any customer not located on the Served Property.

3.9 Ownership and Maintenance of Facilities. Upon completion of construction and acceptance by Farmers Branch, Farmers Branch shall own the Facilities as part of Farmers Branch’s wastewater collection system up to the point of the common boundary between the Parties’ corporate limits located within Spring Valley Road (the “**City Limits**”). At all times during the term of this Agreement, Farmers Branch shall be solely responsible for all maintenance

and repair of the Facilities south of the City Limits. Addison shall own and be solely responsible for any maintenance or repair of the Facilities north of the City Limits and all sanitary sewer system at or beyond of the Addison Connection.

Article IV Termination and Suspension

4.1 Termination. This Agreement shall terminate not earlier than 180 days following delivery of notice from either Party to the other Party in the event the other Party breaches any of the material terms or conditions of this Agreement and such breach is not cured within said 180 day period.

4.2 Suspension of Service. Addison may temporarily suspend the acceptance of sanitary sewer flow from the Served Property if:

- (a) Farmers Branch fails to make a timely payment of the Sewer Flow Charge and such payment becomes past due more than ninety (90) days; provided that service shall resume upon Farmers Branch becoming current on the payment of all Sewer Flow Charges;
- (b) If Farmers Branch authorizes a connection to the Facilities that is prohibited by Section 3.8 and such connection is not terminated by Farmers Branch within five (5) after receipt of notice from Addison to terminate such connection; or
- (c) where such suspension is otherwise expressly authorized by law.

Article V Miscellaneous

5.1 Assignment. This Agreement may not be assigned without the written consent of the other Party.

5.2 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and assigns of all Parties.

5.3 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that is granted and assumed under this Agreement. The governing bodies of both Addison and Farmers Branch have approved this Agreement as required by Texas Gov't Code § 791.011(d)(1) and have authorized the signatories below to execute this Agreement on behalf of Addison and Farmers Branch.

5.4 Notice. All notices required by this Agreement shall be in writing and addressed to the receiving Party at the addresses set forth below (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), or (c) nationally recognized overnight courier (with all fees pre-paid). 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. For purposes of notification, the addresses of the Parties shall be as follows:

If intended for Farmers Branch, to:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch Texas 75234

With copies to:

City of Farmers Branch, Texas
Attn: Director of Public Works
13000 William Dodson Parkway
Farmers Branch, Texas 75234

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

If intended for Addison, to:

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

With copies to:

Town of Addison
Attn: Director of Public Works
5300 Belt Line Road
Addison, Texas 75254

Whitt L. Wyatt
Wyatt Hamilton Findlay, PLLC
5810 Long Prairie Road, Ste. 700-220
Flower Mound, Texas 75028

5.5 Entire Agreement. This Agreement embodies the complete agreement of the Parties, superseding all oral or written, previous and contemporary agreements between the Parties and relating to the matters in this Agreement.

5.6 Governing Law. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

5.7 Amendment. This Agreement may be amended only by written agreement of the Parties.

5.8 Severability. If 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 other provisions, and it is the intention of the Parties that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement, which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

5.9 Recitals. The recitals to this Agreement are incorporated herein.

5.10 Counterparts. This Agreement may be executed in identical counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

5.11 Exhibits. Any exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

5.12 Compliance with Laws. The Parties shall fully comply with all local, state and federal laws, including all codes, ordinances and regulations applicable to this Agreement and the work to be done thereunder, which exist or which may be enacted later by governmental bodies having jurisdiction or authority for such enactment.

5.13 No Third-Party Beneficiaries. This Agreement does not confer in or on behalf of any person or entity not a Party to this Agreement, inclusive of Developer, or to the public at large, any rights, benefits, causes of action, or remedies with respect to the subject matter or any provision of this Agreement.

5.14 Payments from Current Revenues. All payments for governmental functions or services made by a Party pursuant to this Agreement must be made from the current revenues available to the paying Party.

5.15 Fair Compensation. The Parties agree that the payments described in this Agreement constitute fair compensation for all of the services or functions to be performed pursuant to its terms.

5.16 Force Majeure. If either Party is rendered unable in whole or in part by force majeure to carry out any obligation to be performed by such Party under this Agreement, insofar as such obligation is affected by such force majeure, the obligation shall be suspended during the continuance of any liability so caused, and such default will be remedied with all reasonable dispatch. The term “force majeure” as employed in this section includes acts of God, labor disputes, acts of a public enemy, war, blockades, riots, a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, earthquakes, explosions, accidents induced by third party, acts by public authorities not a Party to this Agreement, delays of carriers, inability by reason of governmental regulation to obtain materials, or other causes, whether or not of the same kind as specifically enumerated herein, which are not within the control of the party claiming suspension and which by the exercise of due diligence or the payment of money such party is unable to overcome. The Party asserting force majeure (i) shall give prompt notice to the other Party of the prevention of performance as soon as the asserting Party is reasonably aware of such prevention, and (ii) has the burden of demonstrating (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the force majeure event itself), and (3) that the Party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Agreement as soon as reasonably practicable.

5.17 Drafting Provisions. This Agreement shall be deemed to have been drafted equally by all Parties. The language of all parts of this Agreement shall be constructed as a whole according to its fair and common meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this Agreement.

5.18 Independent Contractor. Except as otherwise expressly provided herein, Addison and Farmers Branch agree and acknowledge that each entity is not an agent of the other entity and that each entity is responsible for its own acts, forbearance, negligence, and deeds, and for those of its agents or employees in conjunction with the performance of services covered under this Agreement.

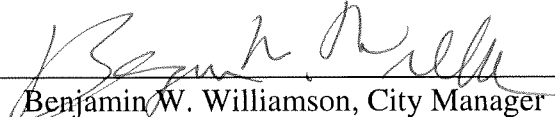
5.19 Termination. This Agreement shall terminate upon:

- (a) written agreement of the Parties; or
- (b) completion of construction and acceptance by Farmers Branch of a sanitary sewer line connecting the Facilities to a sanitary sewer main owned and operated by Farmers Branch.


SIGNATURE PAGE FOLLOWS

SIGNED AND AGREED this 19 day of April 2023.

CITY OF FARMERS BRANCH, TEXAS

By: 
Benjamin W. Williamson, City Manager

ATTEST


Stacy Henderson, City Secretary

APPROVED AS TO FORM


Peter G. Smith, City Attorney

SIGNED AND AGREED this _____ day of _____ 2023.

TOWN OF ADDISON, TEXAS

By: _____
David Gaines, City Manager

ATTEST:

Irma Parker, City Secretary

APPROVED AS TO FORM:

Whitt L. Wyatt, City Attorney

Exhibit A
Description and Survey of the Served Property

BEING all of that certain lot, tract or parcel of land situated in the NOAH GOOD SURVEY, ABSTRACT NO. 520, Farmers Branch, Texas, and being all of that same tract of land described in deed to the City of Farmers Branch, Texas, recorded in Volume 74063, Page 2159 of the Deed Records of Dallas County, Texas, and said tract being more particularly, described as follows:

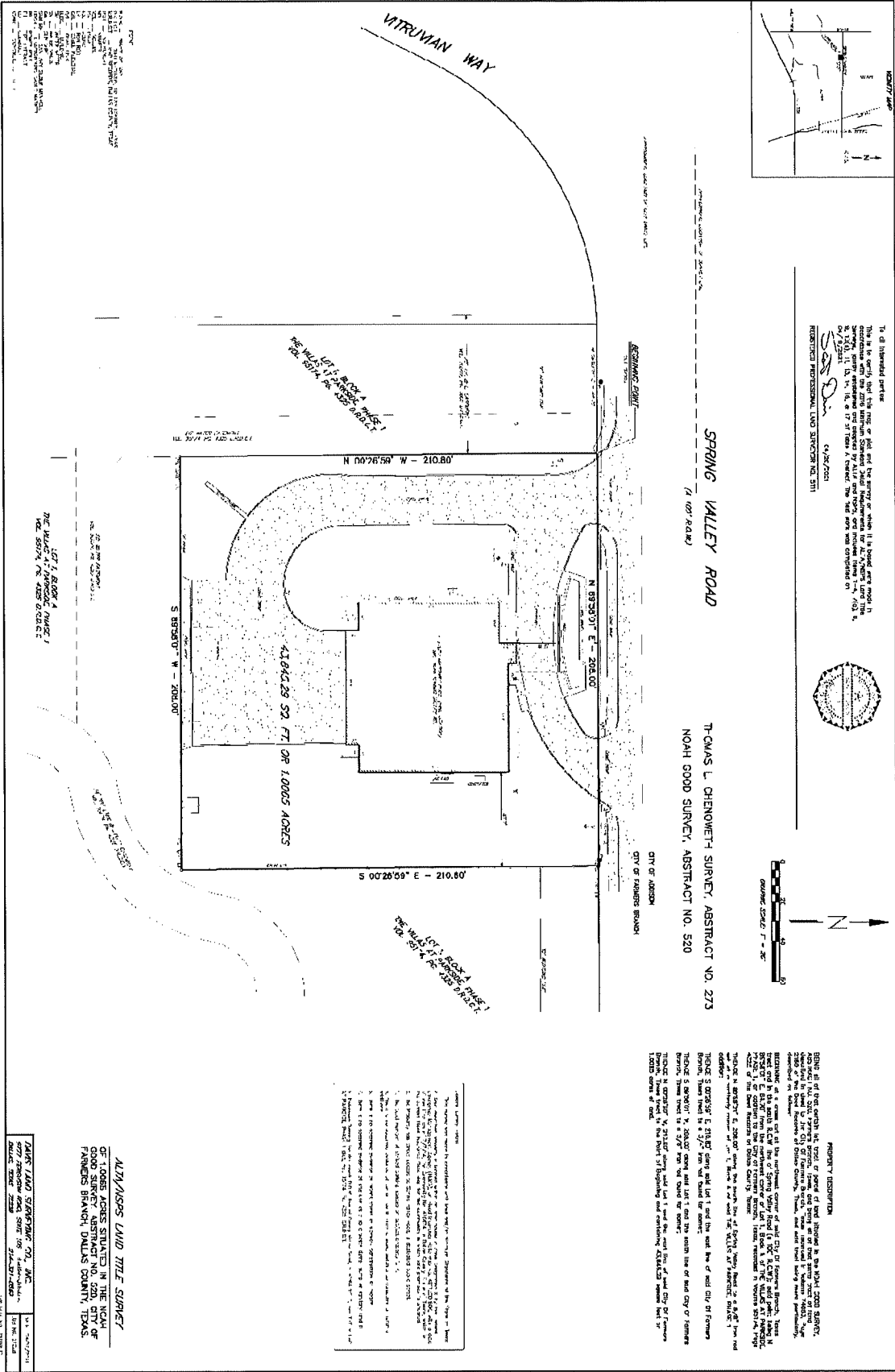
BEGINNING at a cross cut at the northwest corner of said City of Farmers Branch, Texas tract and in the south R.O.W. line of Spring Valley Road (a 100 foot R.O.W.); said point being N 89 deg. 58 min. 01 sec. E, 64.70 feet from the northwest corner of Lot 1, Block A of THE VILLAS AT PARKSIDE, PHASE 1, an addition to the City of Farmers Branch, Texas, recorded in Volume 95174, Page 4325 of the Deed Records of Dallas County, Texas

THENCE N 89 deg. 58 min. 01 sec. E, 208.00 feet along the south line of Spring Valley Road to a 5/8-inch iron rod set at a northerly corner of Lot 1, Block A of said THE VILLAS AT PARKSIDE, PHASE 1 addition;

THENCE S 00·deg. 25 min. 59 sec. E, 210.80 feet along said Lot 1 and the east line of said City of Farmers Branch, Texas tract to a 3/4-inch iron rod found for corner;

THENCE S 89 deg. 58 min. 01 sec. W, 208.00 feet along said Lot 1 and the south line of said City of Farmers Branch, Texas tract to a 5/8-inch iron rod found for corner;

THENCE N 00·deg. 25 min. 59 sec. W, 210.80 feet along said Lot 1 and the west line of said City of Farmers Branch, Texas tract to the Point of Beginning and containing 43,845.29 square feet or 1.0065 acres of land.



This is to certify that the map or plan and the area or whole or a portion thereof in the above described land has been prepared and approved by the Surveyor General of Texas, State of Texas, on this 14th day of August, 2023, for the purposes herein stated, and that the same are correct and conform to the provisions of the laws of the State of Texas, and that the same are a true and correct copy of the original on file in the office of the Surveyor General of Texas, State of Texas, at Austin, Texas, on this 14th day of August, 2023.

S. D. SOBEL
SURVEYOR GENERAL OF TEXAS
6/4/20/2021



SPRING VALLEY ROAD
1/1, 027 R.A.D.W.

THOMAS L. CHENOWETH SURVEY, ABSTRACT NO. 273
NOAH GOOD SURVEY, ABSTRACT NO. 520
CITY OF FARMERS BRANCH

PROPERTY DESCRIPTION

SECTIONS 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

ALTIANSYS LAND TILE SURVEY
OF 1,006 ACRES SITUATED IN THE NOAH
GOOD SURVEY, ABSTRACT NO. 520, CITY OF
FARMERS BRANCH, DALLAS COUNTY, TEXAS

PLAT NO. 2023-0001

PLAT DATE: 08/14/2023

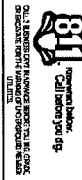
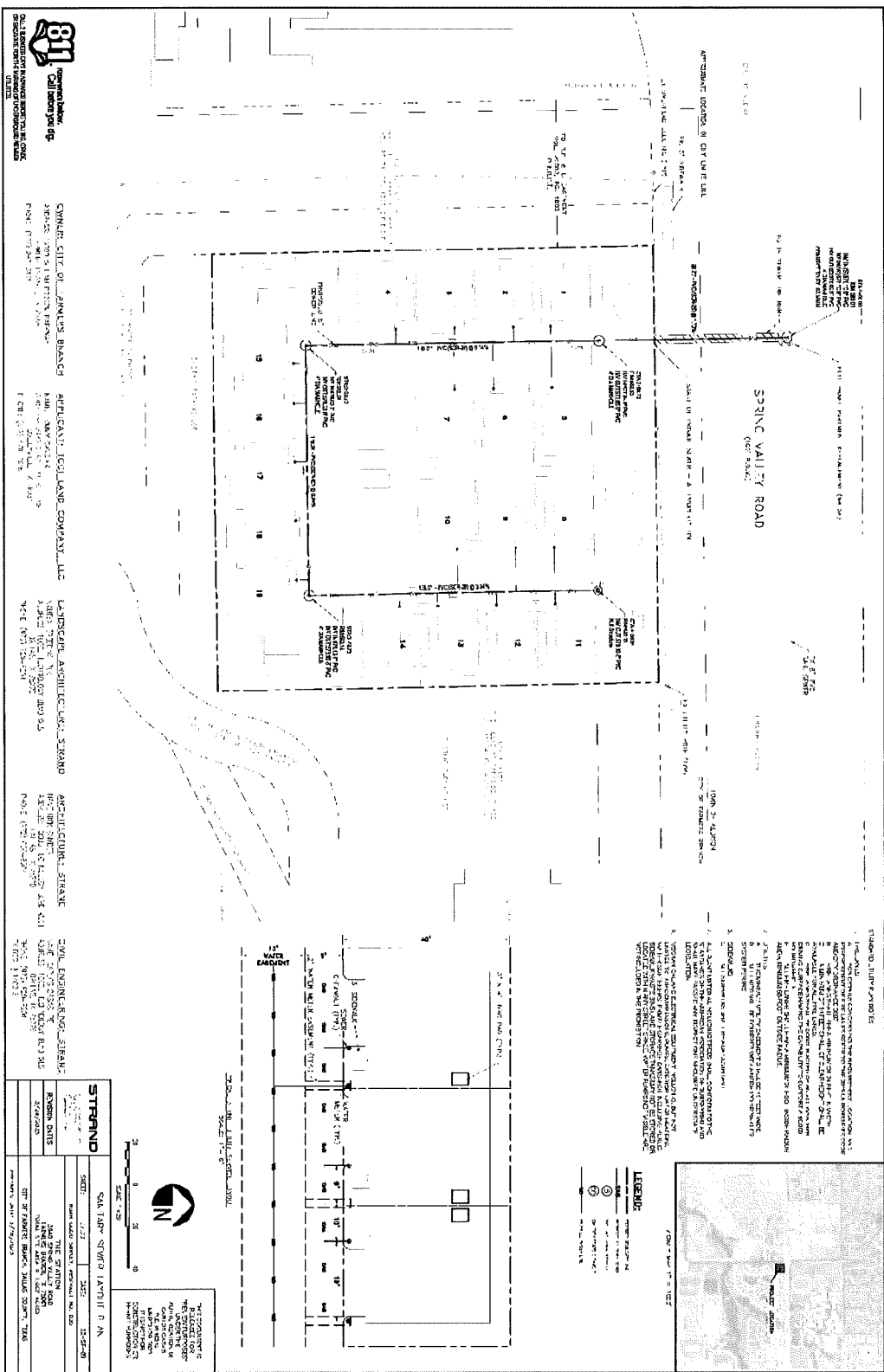
PLAT SCALE: 1" = 20'

PREPARED BY: S. D. SOBEL

APPROVED BY: S. D. SOBEL

FILED IN: DALLAS COUNTY

Exhibit B Depiction of Approximate Route of the Facilities and Location of Addison Line and Addison Connection



COWNER, CITY OF FARMERS BRANCH
 ADDRESS: 3001 S. WILSON STREET
 FARMERS BRANCH, TX 75438
 PHONE: (972) 241-2341
 FAX: (972) 241-2341

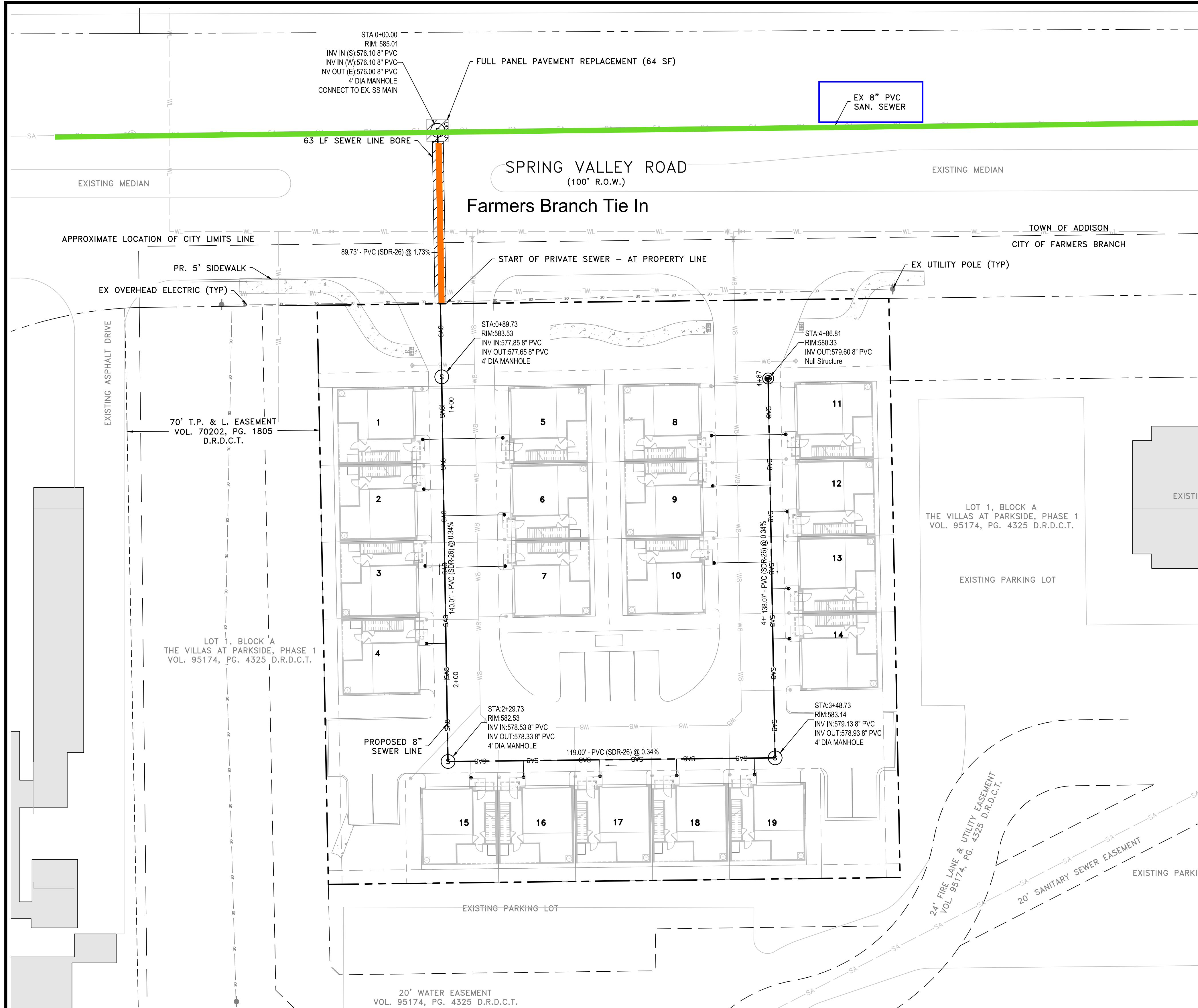
APPLICANT: ISOLA LAND COMPANY, LLC
 ADDRESS: 10000 W. WILSON STREET
 FARMERS BRANCH, TX 75438
 PHONE: (972) 241-2341
 FAX: (972) 241-2341

LAURENCE ARCHITECTURAL STUDIO
 ADDRESS: 1000 W. WILSON STREET
 FARMERS BRANCH, TX 75438
 PHONE: (972) 241-2341
 FAX: (972) 241-2341

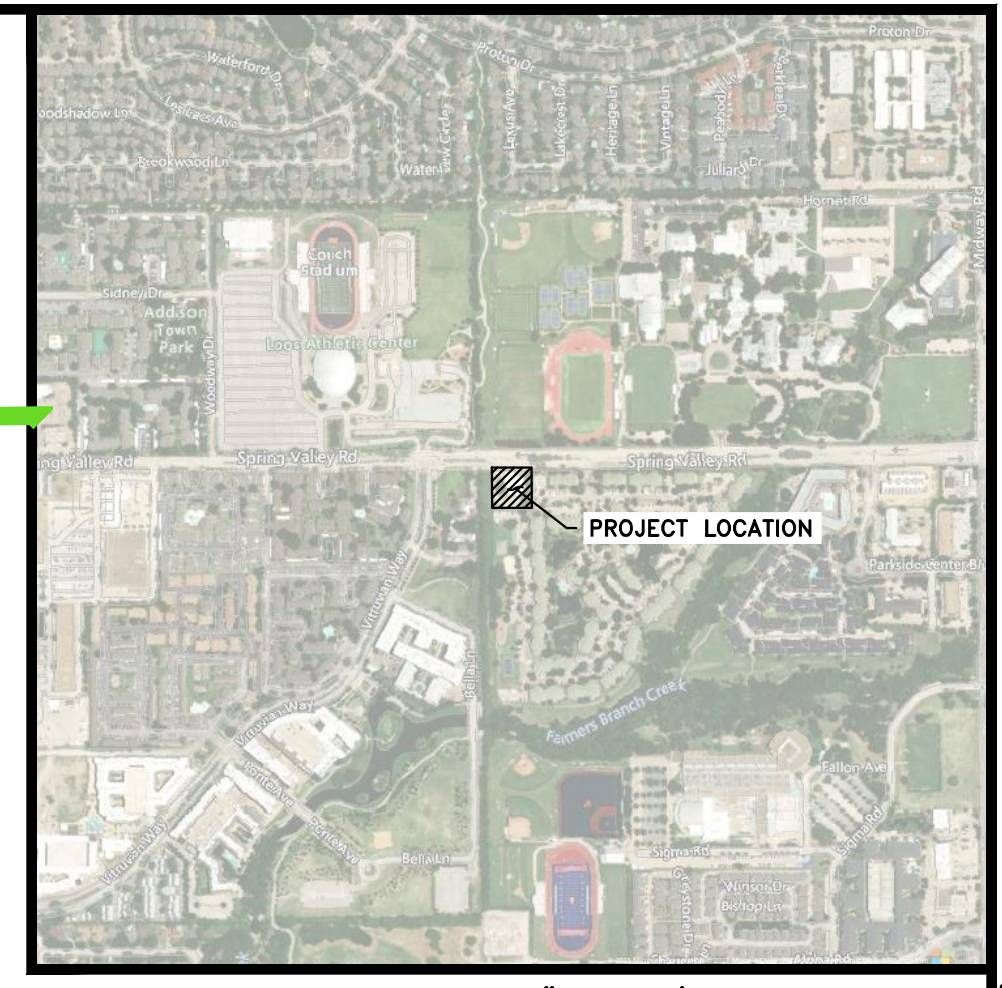
ARCHITECTURAL STUDIO
 ADDRESS: 1000 W. WILSON STREET
 FARMERS BRANCH, TX 75438
 PHONE: (972) 241-2341
 FAX: (972) 241-2341

CIVIL ENGINEERING STUDIO
 ADDRESS: 1000 W. WILSON STREET
 FARMERS BRANCH, TX 75438
 PHONE: (972) 241-2341
 FAX: (972) 241-2341

STAFF	
DATE	2/27/23
SCALE	AS SHOWN
PROJECT	ISOLA LAND COMPANY, LLC
PROJECT NO.	23-001
PROJECT NAME	ISOLA LAND COMPANY, LLC
PROJECT ADDRESS	10000 W. WILSON STREET, FARMERS BRANCH, TX 75438
PROJECT CONTACT	LAURENCE ARCHITECTURAL STUDIO
PROJECT PHONE	(972) 241-2341
PROJECT FAX	(972) 241-2341
PROJECT EMAIL	LAURENCE@ARCHITECTURALSTUDIO.COM



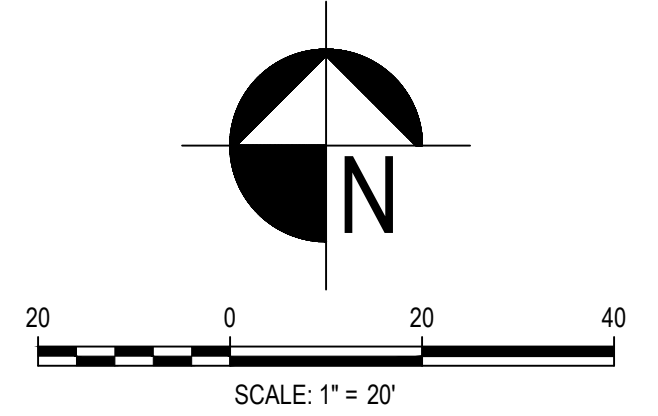
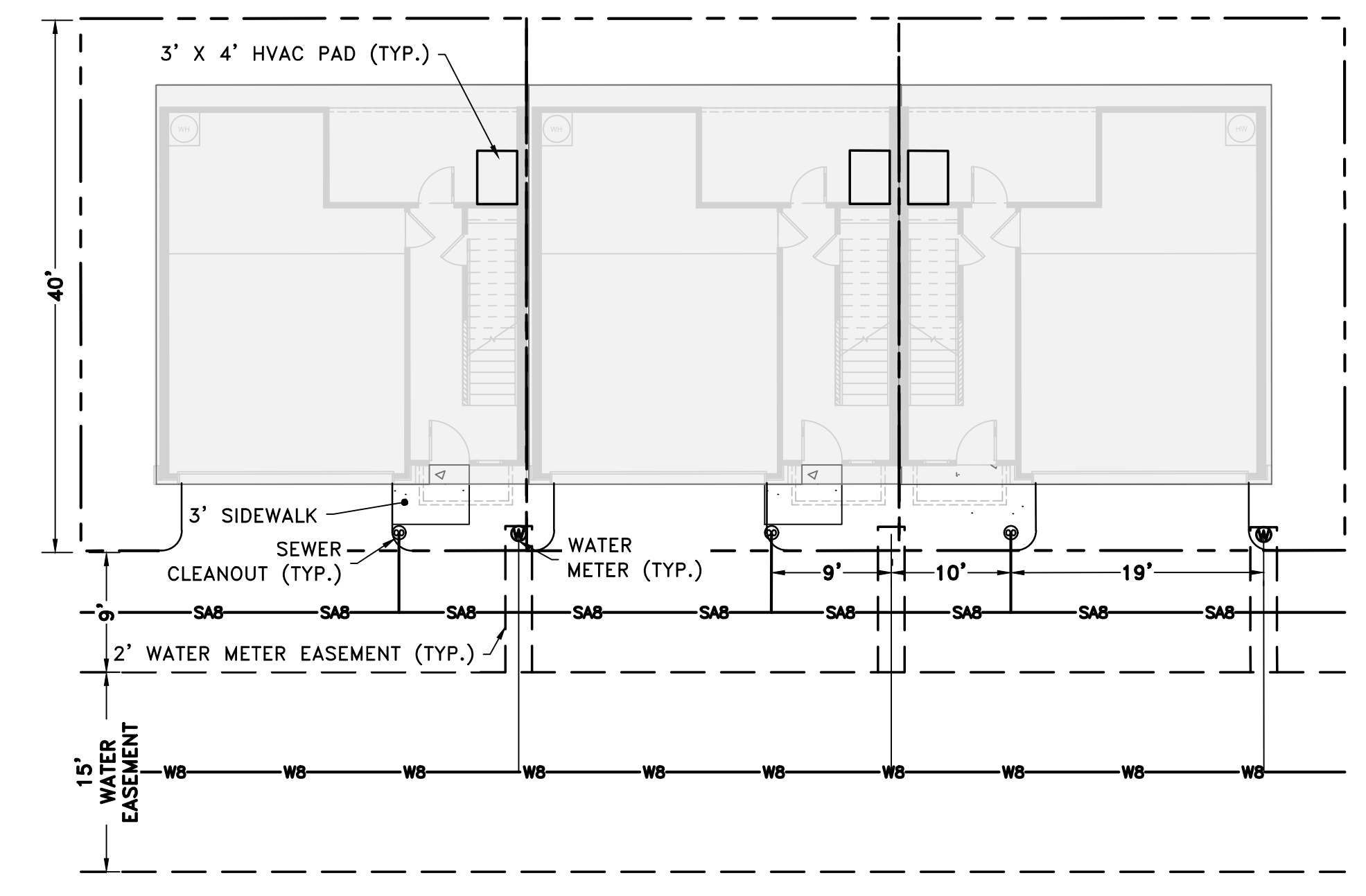
- STANDARD UTILITY PLAN NOTES:**
- FIRE LANES**
 - FOR DETAILS CONCERNING THE REQUIREMENT, LOCATION, AND ENFORCEMENT OF FIRE LANES REFER TO THE 2018 UNIFORM FIRE CODE AND CITY ORDINANCE 3607.
 - FIRE LANES SHALL BE A MINIMUM OF 24 FEET IN WIDTH.
 - A MINIMUM OF 14 FEET SHALL OF CLEAR HEIGHT SHALL BE AVAILABLE FOR ALL FIRE LANES.
 - FIRE LANES SHALL BE CONSTRUCTED OF AN ALL-WEATHER DRIVING SURFACE HAVING THE CAPABILITY TO SUPPORT A 80,000
 - ALL FIRE LANES SHALL HAVE A MINIMUM 26-FOOT INSIDE RADIUS AND A MINIMUM 50-FOOT OUTSIDE RADIUS.
 - UTILITIES**
 - THE MINIMUM UTILITY EASEMENT SHALL BE 15 FEET WIDE.
 - ALL UNITS WILL BE EQUIPPED WITH A NFPA 13D SPRINKLER SYSTEM PER IRC.
 - SIDEWALKS**
 - ALL SIDEWALKS SHALL BE ADA COMPLIANT.
 - ALL PLANT MATERIAL INCLUDING TREES SHALL CONFORM TO THE STANDARDS OF THE AMERICAN ASSOCIATION OF NURSEYMEN AND SHALL HAVE PASSED ANY INSPECTIONS REQUIRED UNDER STATE LEGISLATION.**
 - MECHANICAL AND ELECTRICAL EQUIPMENT INCLUDING, BUT NOT LIMITED TO, AIR COMPRESSORS, PUMPS, EXTERIOR WATER HEATERS, WATER SOFTENERS, PRIVATE GARBAGE CANS (NOT INCLUDING PUBLIC SIDEWALK WASTE BINS), AND STORAGE TANKS MAY NOT BE STORED OR LOCATED WITHIN ANY STREET SPACE. WATER PUMPS NOT VISIBLE ARE NOT INCLUDED IN THE PROHIBITION.**



VICINITY MAP 1" = 1000'

LEGEND:

- PROPERTY BOUNDARY LINE
- SAB PROPOSED SANITARY SEWER
- (S) SANITARY SEWER MANHOLE
- (C) SANITARY SEWER CLEANOUT
- WB PROPOSED WATER LINE



THIS DOCUMENT IS RELEASED FOR "REVIEW PURPOSES" UNDER THE AUTHORIZATION OF CARLOS CASAS, P.E. #140218 MARCH 29, 2023. IT IS NOT FOR CONSTRUCTION OR PERMIT PURPOSES.

811 Know what's below. Call before you dig.
CALL 3 BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

OWNER: CITY OF FARMERS BRANCH
ADDRESS: 13000 WILLIAM DODSON PARKWAY
FARMERS BRANCH, TX 75234
PHONE: (972) 247-3131

APPLICANT: TCCI LAND COMPANY, LLC
NAME: TOMMY CANSLER
ADDRESS: 3930 GLADE RD, STE 108,
COLLEYVILLE, TX 76034
PHONE: (512) 470-2615

LANDSCAPE ARCHITECTURE: STRAND
NAME: XI BREEDING, PLA
ADDRESS: 10003 TECHNOLOGY BLVD WEST
DALLAS, TX 75220
PHONE: (972) 620-8204

ARCHITECTURE: STRAND
NAME: NICK SNYDER
ADDRESS: 10003 TECHNOLOGY BLVD WEST
DALLAS, TX 75220
PHONE: (972) 620-8204

CIVIL ENGINEERING: STRAND
NAME: CARLOS CASAS, PE
ADDRESS: 10003 TECHNOLOGY BLVD WEST
DALLAS, TX 75220
PHONE: (972) 620-8204
TX REG. # 140218

STRAND 10003 Technology Blvd. West Dallas, TX 75220 972-620-8204 Registration No. F-1629	SANITARY SEWER LAYOUT PLAN	
	SHEET: C7.00	CASE: 22-SP-09
NOAH GOOD SURVEY, ABSTRACT NO. 520		
THE STATION 3940 SPRING VALLEY ROAD FARMERS BRANCH, TX 75001 TOTAL SITE AREA = 1.007 ACRES		
CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS		
PREPARED DATE: 3/28/2023		
REVISION DATES		
3/28/2023		

Council Meeting 2023

11.

Meeting Date: 04/25/2023

Department: Development Services

AGENDA CAPTION:

Hold a Public Hearing, Present, Discuss, and Consider Action on a **Request for a Special Use Permit (SUP) to allow a Religious Institution on 1.28± Acres Located at the Northwest Corner of Celestial Road and Winnwood Road (5555 Celestial Road), that is currently zoned Planned Development (PD), through Ordinance No. O91-083** Case 1868-SUP/5555 Celestial Road (White Rock Chapel). **THE APPLICANT HAS REQUESTED TO POSTPONE CONSIDERATION OF THIS ITEM TO A LATER DATE.**

BACKGROUND:

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on April 18, 2023, voted to postpone consideration of the request for a Special Use Permit (SUP) to allow a Religious Institution on property located at 5555 Celestial Road, that is currently zoned Planned Development, though Ordinance No. O91-083, until the next scheduled Planning and Zoning Commission meeting in order to allow for additional time for the applicant to address feedback from Town staff and neighborhood representatives.

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

Voting Nay: none

Absent: none

SPEAKERS AT THE PUBLIC HEARING:

For: none

On: none

Against: none

RECOMMENDATION:

Postpone consideration of this item until the Planning and Zoning Commission has made a formal recommendation on the request. Staff will re-notice the case when it is ready to move forward for Town consideration.

Council Meeting 2023

12.

Meeting Date: 04/25/2023

Department: Development Services

Pillars: Optimize the Addison Brand

Milestones: Promote Silver Line Development

AGENDA CAPTION:

Present, Discuss, and Consider Action on a **Resolution Approving a Third Amended and Restated Memorandum of Understanding (MOU) Between the Town of Addison and Co-Developers AMLI Residential and Stream Realty for the Addison Circle Area Transit Oriented Mixed-Use Development Project and Authorizing the City Manager to Execute the Third Amended and Restated MOU**

BACKGROUND:

At its April 12, 2022 meeting, the City Council approved a Memorandum of Understanding (MOU) between the Town and a co-developer team of AMLI Residential and Stream Realty Partners to execute a multi-phase, transit-oriented mixed use development on Town and DART owned land in the vicinity of the future Addison Silver Line Station. Since that time two subsequent amendments to the MOU were approved as the Town and the developer team worked to advance the due diligence, zoning and concept plan process, and draft incentive agreements, ground leases and other documents necessary to advance the project. The first amendment to the MOU, approved on November 8, 2022, provided an updated project schedule and due diligence period. The second MOU amendments included minor modifications to the office and restaurant/retail/entertainment square footage, the number of multifamily residential units and associated parking and site improvements. The Second Amendment, approved on January 10, 2023, also included refinements to the project schedule and set conditions for the developer team to pursue a new partner for the retail/restaurant/entertainment node at the core of the project.

As negotiations have continued on the final development agreements, additional amendments to the MOU have been identified. The purpose of this third amendment to the MOU is to reflect changes to the project schedule and to amend the terms and conditions of public incentives to support the development, reflecting the changing conditions for construction and financing costs.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - 3rd Amended MOU

MOU - 3rd Amended
MOU - Redline 3rd Amended

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A THIRD AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE TOWN OF ADDISON AND CO-DEVELOPERS AMLI RESIDENTIAL PARTNERS, L.L.C. AND STREAM REALTY ACQUISITION, L.L.C. FOR THE ADDISON CIRCLE AREA TRANSIT ORIENTED MIXED-USE DEVELOPMENT PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRD AMENDED AND RESTATED MOU; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 2018 Special Area Study commissioned by the City Council for the Town of Addison (“Town”) envisioned the creation of a distinctive and creative regional destination linking the new DART Silver Line rail station with Addison Circle Park, combining a mix of non-residential and residential uses and urban densities appropriate for the location, and compatible with Addison Circle and the surrounding area; and

WHEREAS, in April 2021, the City Council solicited proposals from qualified developers that included a conceptual development plan for the project consistent with the Town’s vision; and

WHEREAS, on April 12, 2022, the City Council accepted the proposal submitted by co-developers AMLI Residential Partners, L.L.C. and Stream Realty Acquisition, L.L.C. (collectively, “Co-developers”) and authorized the execution of a Memorandum of Understanding (the “MOU”) with Co-developers approving a master concept plan and preliminary schedule for various components of the project; and

WHEREAS, the Town and Co-developers executed a First Amendment to the MOU on November 8, 2022 extending due diligence and submittal schedules set forth in Section 3.1 of the MOU to correspond with the current anticipated completion dates for the outstanding due diligence items; and

WHEREAS, the Town and Co-developers executed a Second Amendment to the MOU on January 10, 2023 to update the proposed development program, master concept plans, and development schedules; and

WHEREAS, the Town and Co-developers now wish to further amend and restate the MOU to amend the economic development incentive program and to amend the schedule to complete the due diligence period and completion of the definitive agreements.

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

SECTION 1. The City Council hereby approves the Third Amended and Restated Memorandum of Understanding between the Town of Addison and Co-Developers AMLI Residential Partners, LLC and Stream Realty Acquisition, L.L.C. for the Addison Circle Area Transit Oriented Development Project, a copy of which is attached to this Resolution as **Exhibit A.** The City Manager is hereby authorized to execute the same.

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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 **25th** day of **APRIL** 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

THIRD AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ADDISON, AMLI RESIDENTIAL, AND STREAM REALTY FOR THE ADDISON CIRCLE AREA TRANSIT ORIENTED DEVELOPMENT PROJECT

This Third Amended and Restated Memorandum of Understanding (“MOU”) is effective as of April 25, 2023 (the “Effective Date”) between the Town of Addison, Texas (“City” or “Addison”), and AMLI Residential Partners, LLC (“AMLI”) and Stream Realty Acquisition, L.L.C. (“Stream”) as co-developers, collectively referred to herein as (“Co-Developers”) (each a “party” and collectively the “parties”), acting by and through their authorized representatives.

RECITALS

WHEREAS, the parties entered into this MOU to engage in negotiations related to a proposed mixed-use development within the City that will create a first-class regional destination by extending Addison Circle to the new DART Silver Line rail station (the “Project”); and

WHEREAS, the purpose of this MOU is to set forth the general understanding of the parties with regard to the Project and the terms and conditions of the Definitive Agreements that will ultimately govern the development of the Project; and

WHEREAS, the parties executed a First Amendment to the MOU approved by the City on November 8, 2022, and a Second Amendment to the MOU approved by the City on January 10, 2023, and now find it necessary to make additional amendments to the MOU; and

NOW, THEREFORE, in consideration of the expressions of intent and representations set forth herein, the parties agree as follows:

1. PROJECT DESCRIPTION

1.1. Master Concept Plan. The Project will be a transit-oriented (herein “TOD”), mixed-use development consisting of three (3) phases that will be developed in general conformance with the formal proposal submitted by Co-Developers, including all agreed amendments thereto (the “Proposal”), and the revised Master Concept Plan attached as Exhibit A to this MOU (the “Master Concept Plan”), subject to the terms, covenants, and conditions contained in the Definitive Agreements (defined herein). It is acknowledged and agreed by City and Co-Developers that the Master Concept Plan is subject to additional modification upon mutual agreement of the parties prior to execution of the Definitive Agreements.

1.2. Project Improvements. The completed Phase 1 of the Project will, at a minimum, include the following improvements: (i) Class A office building, (ii) Class A residential high-rise facilities, (iii) high-quality retail/restaurant/entertainment facilities designed to encourage activation of Project site, (iv) outdoor park and open space activation features, (vii) upgraded hardscapes, landscapes and pedestrian areas, (viii) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to City staff review and the Definitive Agreements), as further described in Section 2 of this MOU. The completed Phases 2 & 3 of the Project will, at a minimum include the following improvements: (i) Class A office building, (ii) a DART transit station and associated parking, (iii) a boutique hotel, (iv) upgraded hardscapes, landscapes and pedestrian areas, (v) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to negotiation of deal terms between the Parties, City staff review and the Definitive Agreements), as further described in Section 2 of this MOU.

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The minimum required improvements described in this section are collectively referred to herein as the "Improvements".

1.3. Project Administration. Co-Developers will be generally responsible for Project administration and agrees that it will finance, design, develop, construct and market the Project in conformance with this MOU and the Definitive Agreements. Co-Developers will be required to consult with City regarding the administration of the Project in conformance with the terms of the Definitive Agreements.

1.4. Minimum Developer Investment; Incentives. The parties anticipate that the Project will be developed in three (3) phases with a total development cost of not less than \$469,540,000, including a minimum investment of \$371,273,000 by Co-Developers in phase 1 of the Project (inclusive of incentives), as more particularly described in Section 2 of this MOU. For all purposes of this MOU, the minimum investment amount includes hard construction costs as well as soft costs attributable to the Project (including design costs, development fees, feasibility studies, legal costs, permitting, contributions, incentives, operating deficit reserves, internal financing and fees). The parties acknowledge that maintaining the agreed minimum investment in the Project is essential to the successful development of the Project and shall be a condition precedent to City's obligation to provide the various public incentives set forth in this MOU. Co-Developers will therefore be required to certify the development costs for each component and phase of the Project. In the event Co-Developers' minimum investment is below the agreed minimum investment for any component of the Project, the City's incentives related to that component of the Project will be offset by an amount equal to the difference between the agreed minimum investment and the actual investment (e.g., the cap on permit fees and/or infrastructure costs may be increased in an equivalent amount).

1.5. Definitive Agreements. Promptly following the Effective Date of this MOU, the parties will negotiate in good faith mutually satisfactory Definitive Agreements and related documents with respect to the Project (the "Definitive Agreements"), which shall provide for construction of the Improvements and be phased in conformance with Section 2, below. The parties anticipate that the Definitive Agreements will include the following:

- (a) AMLI Tower Ground Lease
- (b) AMLI Podium Ground Lease
- (c) AMLI Retail Ground Lease
- (d) Stream Purchase and Sale Agreement
- (e) Stream Master Office Lease with Addison
- (f) Stream Parking Agreement(s) with Addison
- (g) Master Incentive Agreement between AMLI, Stream and Addison
- (h) AMLI and Stream Form of Guarantee
- (i) Addison License Agreement (for activation of Festival Way, Quorum Drive, and park/open space area)
- (j) POA and CCR for Phase 1
- (k) Approved Phase 1 Concept Plans
- (l) Addison PD Ordinance Number O-23-8 (including any subsequent amendments thereto)

2. PROJECT PHASES; SCOPE AND ECONOMICS

2.1 Phase 1 Scope:

- (a) *Minimum Investment*. Co-Developers will invest a minimum of \$371,273,000 in connection with the Improvements for phase 1 of the Project. The parties anticipate that

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Stream will invest a minimum of \$78,500,000 and AMLI will invest a minimum development cost of \$292,773,000 for phase 1 of the Project.

- (b) *Platting; Governing Property Agreements.* The parties anticipate that each component of the development will be platted as a separate lot to accommodate future disposition of the various components. The parties (together with DART) will agree to amenable CC&Rs allowing for a cohesive class-A TOD mixed-use development that provides superior connectivity, security, and maintenance obligations commensurate to other high-quality, similar TOD developments in DFW. The parties will also create a property owner's association (POA) to maintain the open/shared space in the development, which the parties anticipate will outline Addison's obligations for the maintenance, security, public events (festivals), and daily programming of Addison Circle Park.
- (c) *City License Agreement.* The parties anticipate entering into a license agreement for the park/open space area and along Festival Way and Quorum to support activation of the retail connection and programming in Addison Circle Park.
- (d) *Office.* Stream will construct an office building with ground level retail and 623 stall public parking garage ("Stream Phase 1"), further described as follows:

Land Area:	Approximately 2.4 acres (subject to mutual agreement of Addison and Stream).
Minimum Area:	160,000 sf of office floor area, inclusive of approximately 157,000 net rentable square feet of office space. The exact square footage is to be adjusted based on BOMA calculations by the architect and again at construction completion, tolerance to be within one percent (1%); there will be approximately 3,800 sf of retail at the ground level of the office building.
Parking Garage:	623 stall parking garage to be initially financed and owned by Addison and subject to one or more parking agreements with Stream, which shall include such terms as necessary to comply with the City's public financing requirements and restrictions and satisfy the requirements for Stream's tenants as described in Section 2.2(a)(3) below. The final number of spaces shall be subject to the parking study described in Section 2.2(a)(2) below.
Other:	The project shall be built substantially as shown in PD O23-8 in design and quality, subject to City staff review and the Definitive Agreements; Stream may utilize a condominium structure to allow for the parceling of specific units within a platted lot (i.e., office, shared parking, retail components, etc.). Stream and City agree that amendment of this MOU shall not be required for minor

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modifications to the square footage or number of parking spaces provided for in this MOU (not to exceed 10%), provided that such modifications are agreed upon by both parties and memorialized in a written 'side letter' to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in building height, net rentable office area, or retail floor area without written amendment of this MOU approved by the City Council.

- (e) *Multifamily/Retail/Entertainment.* AMLI will construct multifamily buildings with ground level retail and a stand-alone retail/restaurant/entertainment parcel ("AMLI Phase 1"), further described as follows:

AMLI Phase 1 Land Details:

The AMLI Phase 1 will be constructed upon the three parcels of real property generally described below and depicted on the Master Concept Plan attached hereto as Exhibit A (to be more particularly defined in the Definitive Agreements). AMLI will be responsible for all required survey and platting required for the below properties.

<u>Parcel</u>	<u>Description</u>	<u>Anticipated Use</u>
Lot 3, Block A:	Approximately 1.79 acres	13-story residential tower with 10,000 sf of ground level retail
Lot 1, Block B and Lot 1X, Block C:	Approximately 3.32 acres	7-story residential podium project with 5,000 sf of ground level retail on approximately 2.88 acres; with realignment of Spectrum Drive and approximately 0.44 acres of public open space
Lot 2, Block A:	Approximately 1.9 acres	Stand-alone retail/restaurant/entertainment operation as shown on the latest Master Concept Plan with a minimum twenty percent (20%) of the total lot area to serve as public open space.

AMLI Phase 1 Multifamily Building Details:

Number of Buildings: 2 residential structures consisting of:

- 13-story tower (the "Tower") with:
 - Units: 270
 - NRSF: 250,000 – 300,000 sf
 - Ground level retail: 10,000 sf
 - Parking spaces: 380 – 420, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking

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garage in accordance with the requirements specified below

- 7-story podium (the “Podium”) building with:
 - Units: approximately 412
 - NRSF: 330,000 – 375,000 sf
 - Ground level retail: 5,000 sf
 - Parking spaces: 590 - 630, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking garage in accordance with the requirements specified below

Multifamily Building
Development Parameters:

Minimum
Units: 682 residential units
NRSF: 580,000 sf
Parking spaces: 970 parking spaces in two structures;

Maximum
Units: 700 residential units
NRSF: 675,000 sf
Parking spaces: 1,050 parking spaces in two structures.

Net Rentable Area:

15,000 sf of retail below residential; 25,000 sf retail/restaurant/entertainment component and associated outdoor space exclusively dedicated to programming for entertainment and other authorized activation.

Parking Garage:

2-separate parking garages for each residential building for residences, to include +/- 60 public parking spaces to support the ground level retail and guest parking.

Other:

The project shall be built substantially as shown in the Master Concept Plan and in general conformance with Proposal in design and quality, subject to City staff review and the Definitive Agreements. AMLI and City agree that amendment of this MOU shall not be required for minor modifications that do not exceed a ten percent (10%) total reduction to the square footage or number of parking spaces provided for in this MOU, a reduction in the number of residential units to not less than 650 leasable units, or an increase in the number of

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residential units to not more than 700 leasable units. Any such modifications shall be agreed upon by both parties and memorialized in a written 'side letter' to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in multifamily building height or net rentable floor area for the ground floor retail integrated within the multifamily buildings, nor any increase in the number of residential units beyond the maximum number of units currently identified herein without written amendment of this MOU approved by the City Council.

2.2 Phase I Economics

- (a) *Stream Phase I Economics (Office)*. The parties agree to the following general economic terms for the Stream Phase 1, which shall be defined in further detail in the Definitive Agreements:
- (1) City will initially (A) convey to Stream for nominal consideration approximately 1.24 acres of land for the office building (the market value of which land the Town estimates is \$1,024,793 (\$18.97 per sq. ft.)), and (B) retain the land for the parking garage. The final acreage shall be as mutually agreed and set forth in the definitive purchase and sale agreement between Addison and Stream.
 - (2) Stream has commissioned a parking study at its sole cost and expense to ensure the proper amount of parking for the Stream Phase 1 development. The result of that parking study shows that 623 parking spaces is adequate. The parking study has been submitted to City for its review and approval.
 - (3) City and Stream will execute one or more parking agreements whereby public parking (including reserved parking spaces for Stream's office tenants [not to exceed 10% of the total parking spaces in the garage]) is available in the parking garage per Section 2.2(a)(6) below. The use of available parking spaces within the parking garage by office tenants and the installation of signage in the parking garage designating such parking spaces as "Office Building Parking" to facilitate the leasing of the office building at market rates will be subject to an agreed-upon parking management plan and all necessary requirements and restrictions under the City's public financing for the parking garage.
 - (4) City will commit to a 3-year master lease (the "Master Lease") for 60,000 square feet of space (40% of the building) at \$57.50 per square foot gross (\$3,450,000 per year). The Master Lease shall commence upon final certificate of occupancy of the office building and shall not provide the City with the right to physically occupy any space in the office building, except for City's rights with respect to the Optional Permanent Lease (as defined below). During the term of the Master Lease, the City will have an option to lease all or a portion of City's leased space at market rate, plus triple net and will include a tenant allowance in the amount of \$65 per square foot ("Optional Permanent Lease"). The term of the Optional Permanent Lease shall be for a minimum of seven (7) years. If City elects to enter into the Optional Permanent

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Lease, all payments made by the City under such Optional Permanent Lease will be credited against the City's obligation to pay rent under the Master Lease.

- (5) City's lease obligations will be reduced on a 50/50 basis until City's lease obligation is removed entirely. Reduction of City's lease obligation will take place three (3) months after lease commencement date for leases less than 50,000 RSF and six (6) months after lease commencement date for leases greater than 50,000 RSF. For example purposes only, if Stream leases 20,000 square feet to a 3rd party tenant, City's lease obligation will be reduced by 10,000 square feet and will continue to have a lease obligation of 50,000 square feet. Once Stream has executed leases for 120,000 square feet, City's lease obligations will be removed entirely. As a material inducement for the City's lease obligation incentive, Stream, as developer, agrees that it will use commercially reasonable efforts to market and lease (including pre-leasing during construction) the Stream Phase 1 office to prospective tenants. Stream further acknowledges that it is the intent of the parties to limit competing projects in the area and agrees that it will not build a competitive project within a 1.5 mile radius of the Project until such time as the City's lease obligation has been removed entirely, by way of lease up or terminated by mutual agreement between both parties. The parties do not intend to limit Stream's third-party service business from leasing or managing speculative new-build office buildings nor exclude Stream from developments where Stream has no financial investment (i.e., fee developments). The foregoing will be fully documented in the Definitive Agreements.
- (6) The City will finance, build, and initially own the parking garage, until such time as it is conveyed to Stream under the terms of a definitive agreement between City and Stream. The City will engage Stream to manage the construction of the parking garage under a construction management agreement, in consideration of an agreed-upon market rate construction management fee to be included as part of the overall construction budget for the parking garage and not as a separate fee that is paid by City. The parties acknowledge that City intends to issue debt to fund the parking garage and, to legally qualify as city-issued debt, the funds are required to be used for public infrastructure; meaning the parking garage will need to be available for public use in the manner required by the terms of such financing. City will finance the cost of the garage through a 20-year amortizing loan at the City's borrowing costs (the "Financing Period"). City will pay one hundred percent (100%) of the debt service payments on \$6,000,000 of such debt and Stream will pay one hundred percent (100%) of the debt service payments on the amount of such debt above \$6,000,000 (with the characterization of such payment obligations to be agreed upon by City and Stream). By way of example and not limitation, if the total debt for the garage is \$15,000,000, City will pay 100% of the debt service payments allocable to \$6,000,000 of the total \$15,000,000 debt and Stream will pay 100% of the debt service payments allocable to \$9,000,000 of the total \$15,000,000 debt. During the Financing Period, City and Stream will enter into a one or more parking agreements whereby Stream will have certain management authority for, and be responsible for, operations and maintenance of the parking garage, including all costs associated therewith, including, without limitation, the parking rights of the general public and rights with respect to reserved and unreserved spaces for tenants of the office building described in Section 2.2(a)(2) above. Upon completion of the Financing Period (i) City will convey fee simple ownership of the garage and land to Stream (or its authorized successor in interest) for nominal consideration in conformance with the definitive agreement between City and Stream, and (ii) contemporaneous

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with closing, City and Stream will terminate the parking agreements and enter into a perpetual parking license or other agreement whereby all parking spaces in the garage (other than the 10% reserved spaces for office tenants) will be made available for retail tenants and customers during the day and all patrons and public users of the Addison Circle development during nights, weekends and for special events.

- (7) In lieu of providing retail space at the ground floor of the parking garage at the Festival Way frontage, Stream will provide increased office area in accordance with Section 2.1(d), as well as alternative forms of street activation and screening as depicted in the final approved development plans.
 - (8) Stream will activate the 0.23 acre Lot 4X, Block A by constructing and installing fitness-oriented improvements (e.g., outdoor fitness court(s), pavilion, pickle ball court(s), etc.) and associated site furnishings and landscape, as determined by City in its reasonable discretion and subject to an agreed-upon cap on Stream's obligation to fund such construction costs. City will retain fee title ownership to the foregoing parcel. Maintenance of the fitness and site furnishings, and site landscape improvements constructed on this parcel will be the responsibility of City following final inspection and acceptance.
 - (9) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to the Stream Phase 1 office and parking facilities.
 - (10) City agrees that its permit fees will be capped at \$150,000 and Stream will not have an obligation for offsite infrastructure costs for the office component of the Project.
 - (11) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.
- (b) *AML Phase 1 Economics for Multifamily with Ground Level Retail.* The parties agree to the following general economic terms for the multifamily and retail components of the AML Phase 1, which shall be defined in further detail in the Definitive Agreements:
- (1) Ground Lease: AMLI will enter into a 99-year ground lease with City for approximately 7 acres of land that includes the general terms and conditions set forth in this Section 2.2(b).

Deposit and Pre-Paid Ground Rent: AMLI will pay to City \$2,000,000 as pre-paid ground rent for the three (3) AML Phase 1 properties (subject to the provisions of this Section 2.2) in the form of a single, lump sum payment pursuant to the negotiated terms of the Definitive Agreements (the "Pre-Paid Ground Rent"). The Pre-Paid Ground Rent will initially be held in escrow and applied to rent in conformance with the respective ground leases. The Pre-Paid Ground Rent will be non-refundable, provided, upon AMLI's timely submittal (and City's acceptance) of both a

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completed infrastructure plan reasonably acceptable to City and AMLI on or before December 15, 2023 and application for a building permit for the Tower on or before June 30, 2024, AMLI will be entitled to a refund of the Pre-Paid Ground Rent during the period of time commencing upon AMLI's submittal of its application for a building permit for the Tower and ending ninety (90) days following submittal, but in no event later than September 30, 2024.

- (2) Ground Rent: The initial ground rent will be \$500,000 which will be adjusted annually by CPI, with a maximum annual increase of no greater than 3.0% on a non-cumulative basis.
- (3) Rent Commencement Date: The earlier of (i) 84 months from commencement of construction of AMLI Phase 1 or (ii) December 30, 2032 (as used herein, the "Rent Commencement Date"). Addison will receive the first ground rent payment no later than January 30, 2035, after the Pre-Paid Ground Rent is depleted.
- (4) Economic Development Incentive Grant: Beginning the first full year following stabilization of the AMLI Tower (defined as 94.25% occupancy), City will provide to AMLI five (5) consecutive annual economic development grants from the City's ad valorem taxes actually collected by City for the applicable grant year, subject to the payment terms set forth herein and in the Master Incentive Agreement. Each year of the grant period AMLI will provide their Net Operating Income per GAAP before ground lease payments, capital expenditures, tenant improvement allowances and leasing commissions, certified by their Chief Financial Officer (the "Certified NOI"). The Certified NOI (numerator) will be divided by AMLI's Actual Certified Construction Costs (denominator) to calculate an Annual Return on Cost (ROC) for the Project. If the Annual Return on Cost is below the ROC thresholds outlined in the schedule below, AMLI will be entitled to receive a grant not to exceed \$1.6 million each year there is a gap between the computed Actual ROC and the Required ROC threshold. The ROC thresholds for each grant year shall be:

Grant Year	Threshold (%)
Year 1	6.91
Year 2	6.98
Year 3	7.20
Year 4	7.42
Year 5	7.45

AMLI will be entitled to roll over any amount greater than the \$1.6 million each year to the following grant year, but in no event shall the reimbursement amount exceed \$1.6 million annually and \$6,500,000 cumulatively for the entire grant period. AMLI will provide annual audited financial statements for each grant year.

- (5) Other AMLI Phase 1 Terms:
 - (i) In order to consistently maintain a Class A mixed-use TOD project to City's standards throughout the term of the ground lease, AMLI (or future tenant) may be required to make capital improvements from time to time. Ten years after the Rent Commencement Date, AMLI will have the right, with City's approval, not to be unreasonably withheld, to offset the cost of certain capital improvements in excess of \$1 million (as adjusted for inflation) against the

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annual ground lease rent once every 10 years. The amount of offset shall not exceed the ground rent in the year the capital improvement project is undertaken. The offset assumes AMLI (or future tenant) has spent the first \$1 million and will be paid on any amounts above the first \$1 million. A detailed description of allowable capital improvement projects will be further defined in the ground lease.

- (ii) If City elects to offer its fee interest in the residential or retail/restaurant/entertainment parcel for sale, then AMLI will have the right of first refusal (ROFR) to purchase the fee simple interest in such parcels at the determined fair market value (FMV) to be further defined in the Definitive Agreements.
- (iii) AMLI will be prohibited from transferring its interest in the ground lease for a period of 10 years after the Rent Commencement Date without City's approval unless to a qualified owner, such as an institutional owner having similar experience managing over 1 million square feet of similar "Class A" TOD, mixed-use developments or ownership of over \$500 million of "Class A" multifamily properties (to be further defined in the ground lease).
- (iv) The timelines and deadlines in the ground leases and other Definitive Agreements shall be subject to change based on events of force majeure and other unforeseen circumstances outside of AMLI's reasonable control which affect construction progress (to be defined in the Definitive Agreements).
- (v) AMLI has completed (and City has approved) a Master Streetscape Development Plan ("Streetscape Plan") prepared for the office, retail, park, and streetscape plan in the surrounding areas from the North Dallas Tollway to Addison Road and from Addison Circle to Beltline Road. The purpose of this Streetscape Plan is to enhance and promote the retail and transit experience to "Complete the Circle." This will include but is not limited to tree relocation along Festival Way, burying power lines along +/- 150' of Quorum Drive, and the realignment of Spectrum Road. Other potential improvements addressed in the Streetscape Plan are enhanced paving, planting, improved lighting, signage, and wayfinding to attract more patrons to the circle. The Streetscape Plan will include all offsite infrastructure improvements for the office component of the Project, including the parking garage. All infrastructure improvements shall be as reasonably agreed by City and AMLI and the characterization of items as infrastructure improvements shall not conflict with other components of this MOU.
- (vi) The respective obligations of Addison and AMLI will be documented in the Definitive Agreements based on the Streetscape Plan. AMLI's contribution to infrastructure costs contemplated by the Streetscape Plan will not exceed \$1.5 million (plus up to, but not to exceed, \$250,000 in multifamily permit fees for phase 1) with Addison incurring all infrastructure and multifamily permit costs in excess thereof, subject to the final terms of the Definitive Agreements. If Spectrum Road is unable to be re-aligned, the parties agree to discuss alternative design options that will maintain the quality and overall vision for the affected components of the Project. The parties may

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further agree to equitably share in the additional costs or savings associated with the alternative design.

- (vii) AMLI will provide payment and completion guarantees from a reputable entity(ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of AMLI's obligations under the Definitive Agreements and will apply to AMLI phase 1 facilities.
- (viii) There will be no construction or permanent debt placed on the residential property of any kind through final certificate of occupancy. All residential construction and development costs will be financed using equity provided by AMLI on the residential development.
- (ix) Within twelve (12) months after issuance of the initial multifamily building permit, AMLI will donate \$200,000 to the Addison Arbor Foundation to fund public art in the right of way and public spaces within the development (to be further defined in the Definitive Agreements).
- (x) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

(c) *AMLI Phase 1 Economics for Other Retail, Restaurants, and Entertainment*

- (1) Lot 2, Block A of AMLI Phase I (approximately 1.9 acres) will be subject to a ground lease on substantially the same terms as the ground leases for Lot 3, Block A, Lot 1, Block B, and Lot 1X, Block C of AMLI Phase 1; provided, that subject to mutual agreement of the parties, the retail/restaurant/entertainment area may be sub-leased (not assigned) to a third-party developer and/or operator. Notwithstanding, AMLI will be required to obtain the written consent of Addison (which shall not be unreasonably withheld) prior to entering into a sub-lease for the foregoing property and/or its operation by a third party.
- (2) The City and AMLI will work in good faith to select the operator/developer, and to establish deadlines for AMLI to apply for and obtain permits and commence construction of the improvements on Lot 2 following selection of the operator/developer. The City and AMLI will define said deadlines and establish penalties for noncompliance within the Definitive Agreements.
- (3) The following incentive is intended to support the recruitment of a high-quality retail/restaurant/entertainment operator to implement a concept that meets the intent of this first class urban mixed-use development. Application of this incentive is subject to evaluation of and consideration of the merits of the proposed retail/restaurant/entertainment operation, and final approval of the same by the City:

EXHIBIT A

- (i) City will reimburse up to \$3 million for public infrastructure costs associated with phase 1 of the Project (on terms to be further defined in the Definitive Agreements).
- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.3 Phase 2 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$104,200,000 in connection with the Improvements for phase 2 of the Project.
- (b) *Stream Phase 2 (Office).* Stream will construct an office building with ground level retail and a public parking garage ("Stream Phase 2"), further described as follows:

Land Area:	3.966 acres
Net Rentable Area:	150,000 sf of office; 4,000 sf of DART Station Improvements
Parking Garage:	850 stall public parking garage
Other:	The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.4 Phase 2 Economics:

- (a) *Phase 2 Economics.* The parties agree that the following general economic terms shall apply to phase 2 of the Project, which shall be defined in further detail in the Definitive Agreements:
 - (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
 - (2) All ground lease rent will be abated until one year after substantial completion of the Stream Phase 2 office tower.
 - (3) City incentives (if any) for Stream Phase 2 will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
 - (4) The costs of the additional 300 parking spaces required in the garage for Phase 2 and any other DART specific requirements will be addressed in the Definitive Agreements.
 - (5) The parties anticipate construction of a ground enclosed DART Station (not just a platform) that will be in conformance with the quality and vision of the other Project

EXHIBIT A

elements. Stream commits to funding a portion of the development costs consistent with its submitted proposal, which provides for Stream committing \$160,000 based upon a construction cost of \$1,600,000 (to be further defined in the Definitive Agreements). The station will replace the existing DART platform and provide service for all DART riders (subject to DART's approval).

- (6) DART, City and Stream will enter into a perpetual parking agreement whereby public parking is available for DART and retail patrons during the day and the entire Addison Circle development on nights and weekends and for special events, subject to the final interlocal agreement with DART and as subject to the terms of the Definitive Agreements.
- (7) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to Stream's phase 2 office and parking facilities.
- (8) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.5 Phase 3 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$23,500,000 in connection with the Improvements for phase 3 of the Project.
- (b) *Scope.* The Definitive Agreements shall include the following general terms and conditions with regard to the scope for phase 3 of the Project:

Boutique Hotel:

Land Area:	1.156 acres
Number of Rooms:	120
Other:	The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.6 Phase 3 Economics:

- (a) *Phase 3 Economics.* The parties agree that the following general economic terms shall apply to phase 3 of the Project, which shall be defined in further detail in the Definitive Agreements:

EXHIBIT A

- (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
- (2) City incentives (if any) for this phase will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
- (3) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to phase 3 hotel and related development.
- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

3. PROJECT SCHEDULE; DUE DILIGENCE PERIOD

3.1. Project Schedule. The parties acknowledge that time is of the essence with regard to the Project and agree that each will use its best efforts to proceed in conformance with the proposed Project schedule set forth below:

PHASE 1	Date of Completion
Zoning entitlements approved by City Council	March 14, 2023
Execution of all Definitive Agreements	June 30, 2023
AML I submittal of infrastructure plan	December 2023
Stream construction start on office/parking	October 2024
AML I submittal of Tower building permit application	June 2024
AML I construction start on Tower	October 2024
AML I construction start on Podium	January 2026

PHASES 2 & 3	Date of Completion
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Stream construction start on office/parking	TBD*
Stream construction start on hotel	TBD
Office/parking final CO issued	TBD
Hotel final CO issued	TBD

**The parties acknowledge that a required date of completion will be established for Phase 2 as soon as practicable and will be subject, in part, to the interlocal agreement between DART and Addison.*

3.2. Modification of Project Schedule. The dates for completion identified in the Project schedule set forth in Section 3.1, above, may not be modified or extended, except by mutual written agreement of the parties. Notwithstanding the foregoing, a party shall be entitled to an extension when the party unable to comply with the Project schedule as a direct result of an event of Force Majeure. As used in this section, the term "Force Majeure" shall mean that the party is prevented or delayed in performing in compliance with the Project schedule, in whole or in part, to such an extent that the party would not be able to meet a required date of completion therein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance. The party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating (a) how and why their performance was so prevented, (b) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (iii) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this MOU as soon as reasonably practicable.

3.3. Due Diligence Period. The Due Diligence Period will commence on the Effective Date and expire on the earlier of (i) June 30, 2023, or (ii) the date upon which the parties have mutually executed all Definitive Agreements required for the Project. The parties will conduct all due diligence with respect to the Project as the parties may deem necessary or appropriate, and the parties shall fully cooperate with each other in this regard. Each party shall be solely responsible for its own costs in connection with the due diligence required for the Project, except as otherwise mutually agreed by the parties. The Due Diligence Period may be extended by mutual written agreement of the parties.

3.4. Exclusivity. During the Due Diligence Period, City will negotiate exclusively with Co-Developers in good faith to execute the Definitive Agreements for the Project, and will not engage any party other than Co-Developers to act as a developer (or co-developer) of the Project; however, notwithstanding the foregoing, during the Due Diligence Period, City shall have the right to solicit proposals from, and discuss the terms for, other parties to act as a developer (or co-developer) of the Project or a portion thereof. Further, from and after the expiration of the Due Diligence Period, if the Definitive Agreements have not been finalized and executed, City shall have the right to terminate this MOU as to one or both Co-Developers and thereafter engage (or seek to engage) one or more other parties to act as a developer (or co-developer) of the Project or a portion thereof.

3.5. Project Feasibility Assessments. Co-Developers agree that each will promptly, and without undue delay, conduct the feasibility assessments described below during the Due Diligence Period:

EXHIBIT A

- (a) *Property Inspections.* All property due diligence (title examination, surveys, environmental site assessments, soil conditions tests and other physical inspections and similar items) relating to the feasibility of the development of the Project;
- (b) *Zoning and Entitlements.* All required zoning and real property entitlements necessary to develop the Project in conformance with the terms of this MOU and the Definitive Agreements; and
- (c) *Financial Due Diligence.* All financial due diligence reasonably necessary to ensure Co-Developers will be able to secure firm commitments from all lenders, investors, and/or other financing sources related to the design, development, construction, and administration of the Project as contemplated by the parties.

Co-Developers acknowledge that each has already engaged all consultants and/or other third-parties necessary to complete the above-referenced feasibility assessments.

4. MISCELLANEOUS

4.1. Mutual Cooperation; Site Access. The parties agree to work together at all times in good faith, meet regularly, and keep each other informed as to activities of the other, and maintain at all times a formal representative who shall serve as a point of contact for communications related to this MOU. City will furnish such rights-of-access to the Project site as reasonably necessary for the parties to conduct their respective due diligence obligations under this MOU.

4.2. Costs and Expenses. Each party shall be responsible for all costs and expenses associated with the preparation and adoption of this MOU, the preparation and adoption of the Definitive Agreements, and future actions related thereto.

4.3. Certification of No Conflicts. Co-Developers hereby warrant to City that each has made full disclosure in writing of any existing or potential conflicts of interest related to its participation in the Project as contemplated in this MOU. In the event that any conflicts of interest arise after the Effective Date of this MOU, Co-Developers hereby agree to immediately disclose the same to City.

4.4. Public Information Act. Co-Developers acknowledge that this MOU, and all documents provided to City in connection with the Project are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information received by City in connection with the same unless a party has previously notified City in writing that it considers the information to be confidential or proprietary trade secrets and has clearly marked all such information as "Confidential" and/or "Proprietary – Trade Secret" at the time it is delivered or made accessible to City (including City's officers, officials, employees, consultants, attorneys and/or other authorized representatives). In the event City delivers to Co-Developers information that it has expressly marked "Confidential" or has notified Co-Developers is confidential or is the proprietary information of a third-party, Co-Developers agree neither shall disclose to anyone directly or indirectly during the term of this MOU or at any time thereafter, any such information, nor shall either

EXHIBIT A

use any such information for any purpose other than in connection with the Project contemplated in this MOU.

4.5. Governing Law. This MOU shall be construed and governed by the laws of the State of Texas; and venue for any action concerning this MOU 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 court.

4.6. Exhibits. The exhibits to this MOU are incorporated herein.

4.7. Amendment. This MOU may only be amended by mutual written agreement executed by all parties.

4.8. Counterparts. This MOU may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY –
SIGNATURES ON FOLLOWING PAGE(S)]

EXHIBIT A

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

For City:

TOWN OF ADDISON, TEXAS

By: _____
David Gaines, City Manager

Date: _____

NOTICE ADDRESS:

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

For Co-Developer AMLI:

AML RESIDENTIAL PARTNERS, LLC
a Delaware limited liability company

By: _____
Taylor Bowen, Authorized Signatory

Date: _____

NOTICE ADDRESS:

AML Residential Partners, LLC
5057 Keller Springs Road, Suite 250
Addison, TX 75001
Attn: Taylor Bowen and Joe Bruce
E: TBowen@amli.com and JBruce@amli.com

For Co-Developer Stream:

STREAM REALTY ACQUISITION, L.L.C.
a Texas limited liability company

By: _____
Ramsey March, Managing Director

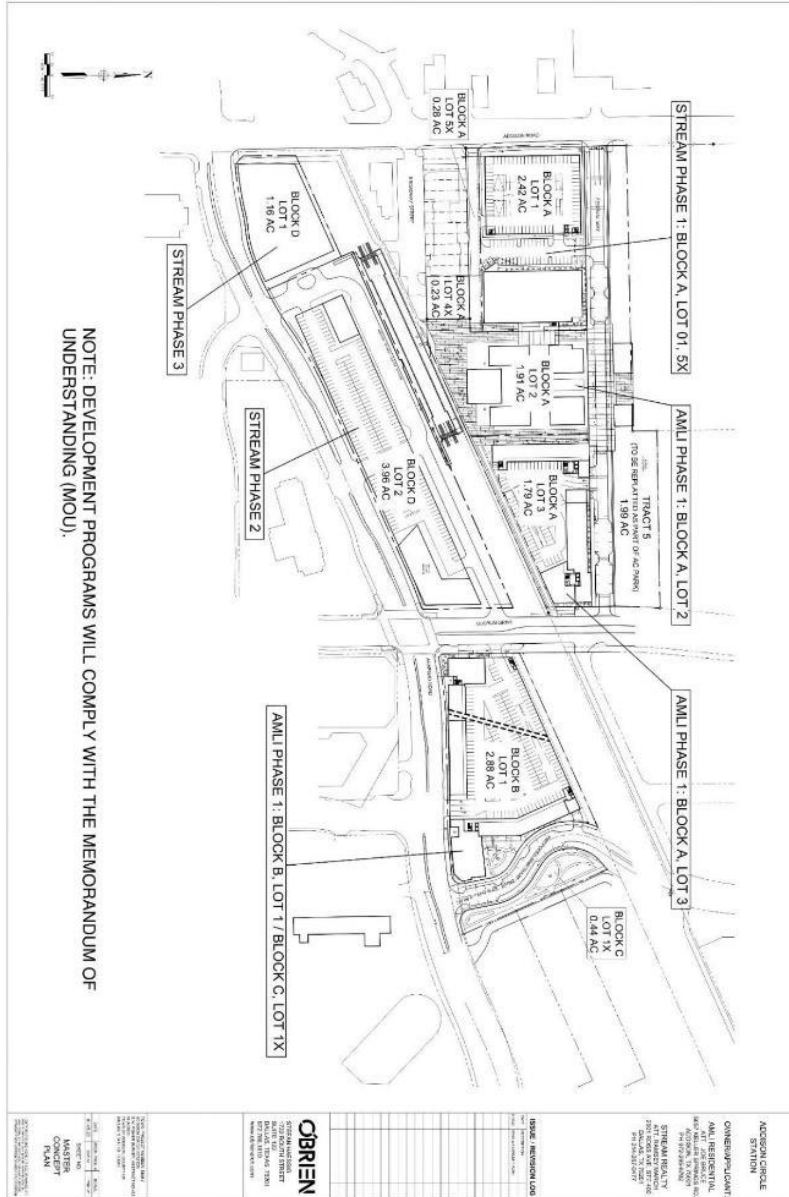
Date: _____

NOTICE ADDRESS:

Stream Realty Acquisition, L.L.C.
2001 Ross Avenue, Suite 400
Dallas, Texas 75201
Attn: Ramsey March
E: rmarch@streamrealty.com

EXHIBIT A

Exhibit A Master Concept Plan



**THIRD AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF ADDISON, AMLI RESIDENTIAL, AND
STREAM REALTY FOR THE ADDISON CIRCLE AREA
TRANSIT ORIENTED DEVELOPMENT PROJECT**

This Third Amended and Restated Memorandum of Understanding (“MOU”) is effective as of April 25, 2023 (the “Effective Date”) between the Town of Addison, Texas (“City” or “Addison”), and AMLI Residential Partners, LLC (“AMLI”) and Stream Realty Acquisition, L.L.C. (“Stream”) as co-developers, collectively referred to herein as (“Co-Developers”) (each a “party” and collectively the “parties”), acting by and through their authorized representatives.

RECITALS

WHEREAS, the parties entered into this MOU to engage in negotiations related to a proposed mixed-use development within the City that will create a first-class regional destination by extending Addison Circle to the new DART Silver Line rail station (the “Project”); and

WHEREAS, the purpose of this MOU is to set forth the general understanding of the parties with regard to the Project and the terms and conditions of the Definitive Agreements that will ultimately govern the development of the Project: and

WHEREAS, the parties executed a First Amendment to the MOU approved by the City on November 8, 2022, and a Second Amendment to the MOU approved by the City on January 10, 2023, and now find it necessary to make additional amendments to the MOU; and

NOW, THEREFORE, in consideration of the expressions of intent and representations set forth herein, the parties agree as follows:

1. PROJECT DESCRIPTION

1.1. Master Concept Plan. The Project will be a transit-oriented (herein “TOD”), mixed-use development consisting of three (3) phases that will be developed in general conformance with the formal proposal submitted by Co-Developers, including all agreed amendments thereto (the “Proposal”), and the revised Master Concept Plan attached as Exhibit A to this MOU (the “Master Concept Plan”), subject to the terms, covenants, and conditions contained in the Definitive Agreements (defined herein). It is acknowledged and agreed by City and Co-Developers that the Master Concept Plan is subject to additional modification upon mutual agreement of the parties prior to execution of the Definitive Agreements.

1.2. Project Improvements. The completed Phase 1 of the Project will, at a minimum, include the following improvements: (i) Class A office building, (ii) Class A residential high-rise facilities, (iii) high-quality retail/restaurant/entertainment facilities designed to encourage activation of Project site, (iv) outdoor park and open space activation features, (vii) upgraded hardscapes, landscapes and pedestrian areas, (viii) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to City staff review and the Definitive Agreements), as further described in Section 2 of this MOU. The completed Phases 2 & 3 of the Project will, at a minimum include the following improvements: (i) Class A office building, (ii) a DART transit station and associated parking, (iii) a boutique hotel, (iv) upgraded hardscapes, landscapes and pedestrian areas, (v) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to negotiation of deal terms between the Parties, City staff review and the Definitive Agreements), as further described in Section 2 of this MOU.

The minimum required improvements described in this section are collectively referred to herein as the “Improvements”.

1.3. Project Administration. Co-Developers will be generally responsible for Project administration and agrees that it will finance, design, develop, construct and market the Project in conformance with this MOU and the Definitive Agreements. Co-Developers will be required to consult with City regarding the administration of the Project in conformance with the terms of the Definitive Agreements.

1.4. Minimum Developer Investment; Incentives. The parties anticipate that the Project will be developed in three (3) phases with a total development cost of not less than \$469,540,000, including a minimum investment of \$371,273,000 by Co-Developers in phase 1 of the Project (inclusive of incentives), as more particularly described in Section 2 of this MOU. For all purposes of this MOU, the minimum investment amount includes hard construction costs as well as soft costs attributable to the Project (including design costs, development fees, feasibility studies, legal costs, permitting, contributions, incentives, operating deficit reserves, internal financing and fees). The parties acknowledge that maintaining the agreed minimum investment in the Project is essential to the successful development of the Project and shall be a condition precedent to City’s obligation to provide the various public incentives set forth in this MOU. Co-Developers will therefore be required to certify the development costs for each component and phase of the Project. In the event Co-Developers’ minimum investment is below the agreed minimum investment for any component of the Project, the City’s incentives related to that component of the Project will be offset by an amount equal to the difference between the agreed minimum investment and the actual investment (e.g., the cap on permit fees and/or infrastructure costs may be increased in an equivalent amount).

1.5. Definitive Agreements. Promptly following the Effective Date of this MOU, the parties will negotiate in good faith mutually satisfactory Definitive Agreements and related documents with respect to the Project (the “Definitive Agreements”), which shall provide for construction of the Improvements and be phased in conformance with Section 2, below. The parties anticipate that the Definitive Agreements will include the following:

- (a) AMLI Tower Ground Lease
- (b) AMLI Podium Ground Lease
- (c) AMLI Retail Ground Lease
- (d) Stream Purchase and Sale Agreement
- (e) Stream Master Office Lease with Addison
- (f) Stream Parking Agreement(s) with Addison
- (g) Master Incentive Agreement between AMLI, Stream and Addison
- (h) AMLI and Stream Form of Guarantee
- (i) Addison License Agreement (for activation of Festival Way, Quorum Drive, and park/open space area)
- (j) POA and CCR for Phase 1
- (k) Approved Phase 1 Concept Plans
- (l) Addison PD Ordinance Number O-23-8 (including any subsequent amendments thereto)

2. PROJECT PHASES; SCOPE AND ECONOMICS

2.1 Phase 1 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$371,273,000 in connection with the Improvements for phase 1 of the Project. The parties anticipate that

Stream will invest a minimum of \$78,500,000 and AMLI will invest a minimum development cost of \$292,773,000 for phase 1 of the Project.

- (b) *Platting; Governing Property Agreements.* The parties anticipate that each component of the development will be platted as a separate lot to accommodate future disposition of the various components. The parties (together with DART) will agree to amenable CC&Rs allowing for a cohesive class-A TOD mixed-use development that provides superior connectivity, security, and maintenance obligations commensurate to other high-quality, similar TOD developments in DFW. The parties will also create a property owner’s association (POA) to maintain the open/shared space in the development, which the parties anticipate will outline Addison’s obligations for the maintenance, security, public events (festivals), and daily programming of Addison Circle Park.
- (c) *City License Agreement.* The parties anticipate entering into a license agreement for the park/open space area and along Festival Way and Quorum to support activation of the retail connection and programming in Addison Circle Park.
- (d) *Office.* Stream will construct an office building with ground level retail and 623 stall public parking garage (“Stream Phase 1”), further described as follows:

Land Area:	Approximately 2.4 acres (subject to mutual agreement of Addison and Stream).
Minimum Area:	160,000 sf of office floor area, inclusive of approximately 157,000 net rentable square feet of office space. The exact square footage is to be adjusted based on BOMA calculations by the architect and again at construction completion, tolerance to be within one percent (1%); there will be approximately 3,800 sf of retail at the ground level of the office building.
Parking Garage:	623 stall parking garage to be initially financed and owned by Addison and subject to one or more parking agreements with Stream, which shall include such terms as necessary to comply with the City’s public financing requirements and restrictions and satisfy the requirements for Stream’s tenants as described in Section 2.2(a)(3) below. The final number of spaces shall be subject to the parking study described in Section 2.2(a)(2) below.
Other:	The project shall be built substantially as shown in PD O23-8 in design and quality, subject to City staff review and the Definitive Agreements; Stream may utilize a condominium structure to allow for the parceling of specific units within a platted lot (i.e., office, shared parking, retail components, etc.). Stream and City agree that amendment of this MOU shall not be required for minor

modifications to the square footage or number of parking spaces provided for in this MOU (not to exceed 10%), provided that such modifications are agreed upon by both parties and memorialized in a written ‘side letter’ to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in building height, net rentable office area, or retail floor area without written amendment of this MOU approved by the City Council.

- (e) *Multifamily/Retail/Entertainment*. AMLI will construct multifamily buildings with ground level retail and a stand-alone retail/restaurant/entertainment parcel (“AMLI Phase 1”), further described as follows:

AMLI Phase 1 Land Details:

The AMLI Phase 1 will be constructed upon the three parcels of real property generally described below and depicted on the Master Concept Plan attached hereto as Exhibit A (to be more particularly defined in the Definitive Agreements). AMLI will be responsible for all required survey and platting required for the below properties.

<u>Parcel</u>	<u>Description</u>	<u>Anticipated Use</u>
Lot 3, Block A:	Approximately 1.79 acres	13-story residential tower with 10,000 sf of ground level retail
Lot 1, Block B and Lot 1X, Block C:	Approximately 3.32 acres	7-story residential podium project with 5,000 sf of ground level retail on approximately 2.88 acres; with realignment of Spectrum Drive and approximately 0.44 acres of public open space
Lot 2, Block A:	Approximately 1.9 acres	Stand-alone retail/restaurant/entertainment operation as shown on the latest Master Concept Plan with a minimum twenty percent (20%) of the total lot area to serve as public open space.

AMLI Phase 1 Multifamily Building Details:

Number of Buildings: 2 residential structures consisting of:

- 13-story tower (the “Tower”) with:
 - Units: 270
 - NRSF: 250,000 – 300,000 sf
 - Ground level retail: 10,000 sf
 - Parking spaces: 380 – 420, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking

garage in accordance with the requirements specified below

- 7-story podium (the “Podium”) building with:
 - Units: approximately 412
 - NRSF: 330,000 – 375,000 sf
 - Ground level retail: 5,000 sf
 - Parking spaces: 590 - 630, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking garage in accordance with the requirements specified below

Multifamily Building
Development Parameters:

Minimum
Units: 682 residential units
NRSF: 580,000 sf
Parking spaces: 970 parking spaces in two structures;

Maximum
Units: 700 residential units
NRSF: 675,000 sf
Parking spaces: 1,050 parking spaces in two structures.

Net Rentable Area:

15,000 sf of retail below residential; 25,000 sf retail/restaurant/entertainment component and associated outdoor space exclusively dedicated to programming for entertainment and other authorized activation.

Parking Garage:

2-separate parking garages for each residential building for residences, to include +/- 60 public parking spaces to support the ground level retail and guest parking.

Other:

The project shall be built substantially as shown in the Master Concept Plan and in general conformance with Proposal in design and quality, subject to City staff review and the Definitive Agreements. AMLI and City agree that amendment of this MOU shall not be required for minor modifications that do not exceed a ten percent (10%) total reduction to the square footage or number of parking spaces provided for in this MOU, a reduction in the number of residential units to not less than 650 leasable units, or an increase in the number of

residential units to not more than 700 leasable units. Any such modifications shall be agreed upon by both parties and memorialized in a written 'side letter' to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in multifamily building height or net rentable floor area for the ground floor retail integrated within the multifamily buildings, nor any increase in the number of residential units beyond the maximum number of units currently identified herein without written amendment of this MOU approved by the City Council.

2.2 Phase 1 Economics

(a) *Stream Phase 1 Economics (Office)*. The parties agree to the following general economic terms for the Stream Phase 1, which shall be defined in further detail in the Definitive Agreements:

- (1) City will initially (A) convey to Stream for nominal consideration approximately 1.24 acres of land for the office building (the market value of which land the Town estimates is \$1,024,793 (\$18.97 per sq. ft.)), and (B) retain the land for the parking garage. The final acreage shall be as mutually agreed and set forth in the definitive purchase and sale agreement between Addison and Stream.
- (2) Stream has commissioned a parking study at its sole cost and expense to ensure the proper amount of parking for the Stream Phase 1 development. The result of that parking study shows that 623 parking spaces is adequate. The parking study has been submitted to City for its review and approval.
- (3) City and Stream will execute one or more parking agreements whereby public parking (including reserved parking spaces for Stream's office tenants [not to exceed 10% of the total parking spaces in the garage]) is available in the parking garage per Section 2.2(a)(6) below. The use of available parking spaces within the parking garage by office tenants and the installation of signage in the parking garage designating such parking spaces as "Office Building Parking" to facilitate the leasing of the office building at market rates will be subject to an agreed-upon parking management plan and all necessary requirements and restrictions under the City's public financing for the parking garage.
- (4) City will commit to a 3-year master lease (the "Master Lease") for 60,000 square feet of space (40% of the building) at \$57.50 per square foot gross (\$3,450,000 per year). The Master Lease shall commence upon final certificate of occupancy of the office building and shall not provide the City with the right to physically occupy any space in the office building, except for City's rights with respect to the Optional Permanent Lease (as defined below). During the term of the Master Lease, the City will have an option to lease all or a portion of City's leased space at market rate, plus triple net and will include a tenant allowance in the amount of \$65 per square foot ("Optional Permanent Lease"). The term of the Optional Permanent Lease shall be for a minimum of seven (7) years. If City elects to enter into the Optional Permanent

Lease, all payments made by the City under such Optional Permanent Lease will be credited against the City's obligation to pay rent under the Master Lease.

- (5) City's lease obligations will be reduced on a 50/50 basis until City's lease obligation is removed entirely. Reduction of City's lease obligation will take place three (3) months after lease commencement date for leases less than 50,000 RSF and six (6) months after lease commencement date for leases greater than 50,000 RSF. For example purposes only, if Stream leases 20,000 square feet to a 3rd party tenant, City's lease obligation will be reduced by 10,000 square feet and will continue to have a lease obligation of 50,000 square feet. Once Stream has executed leases for 120,000 square feet, City's lease obligations will be removed entirely. As a material inducement for the City's lease obligation incentive, Stream, as developer, agrees that it will use commercially reasonable efforts to market and lease (including pre-leasing during construction) the Stream Phase 1 office to prospective tenants. Stream further acknowledges that it is the intent of the parties to limit competing projects in the area and agrees that it will not build a competitive project within a 1.5 mile radius of the Project until such time as the City's lease obligation has been removed entirely, by way of lease up or terminated by mutual agreement between both parties. The parties do not intend to limit Stream's third-party service business from leasing or managing speculative new-build office buildings nor exclude Stream from developments where Stream has no financial investment (i.e., fee developments). The foregoing will be fully documented in the Definitive Agreements.
- (6) The City will finance, build, and initially own the parking garage, until such time as it is conveyed to Stream under the terms of a definitive agreement between City and Stream. The City will engage Stream to manage the construction of the parking garage under a construction management agreement, in consideration of an agreed-upon market rate construction management fee to be included as part of the overall construction budget for the parking garage and not as a separate fee that is paid by City. The parties acknowledge that City intends to issue debt to fund the parking garage and, to legally qualify as city-issued debt, the funds are required to be used for public infrastructure; meaning the parking garage will need to be available for public use in the manner required by the terms of such financing. City will finance the cost of the garage through a 20-year amortizing loan at the City's borrowing costs (the "Financing Period"). City will pay one hundred percent (100%) of the debt service payments on \$6,000,000 of such debt and Stream will pay one hundred percent (100%) of the debt service payments on the amount of such debt above \$6,000,000 (with the characterization of such payment obligations to be agreed upon by City and Stream). By way of example and not limitation, if the total debt for the garage is \$15,000,000, City will pay 100% of the debt service payments allocable to \$6,000,000 of the total \$15,000,000 debt and Stream will pay 100% of the debt service payments allocable to \$9,000,000 of the total \$15,000,000 debt. During the Financing Period, City and Stream will enter into a one or more parking agreements whereby Stream will have certain management authority for, and be responsible for, operations and maintenance of the parking garage, including all costs associated therewith, including, without limitation, the parking rights of the general public and rights with respect to reserved and unreserved spaces for tenants of the office building described in Section 2.2(a)(2) above. Upon completion of the Financing Period (i) City will convey fee simple ownership of the garage and land to Stream (or its authorized successor in interest) for nominal consideration in conformance with the definitive agreement between City and Stream, and (ii) contemporaneous

with closing, City and Stream will terminate the parking agreements and enter into a perpetual parking license or other agreement whereby all parking spaces in the garage (other than the 10% reserved spaces for office tenants) will be made available for retail tenants and customers during the day and all patrons and public users of the Addison Circle development during nights, weekends and for special events.

- (7) In lieu of providing retail space at the ground floor of the parking garage at the Festival Way frontage, Stream will provide increased office area in accordance with Section 2.1(d), as well as alternative forms of street activation and screening as depicted in the final approved development plans.
 - (8) Stream will activate the 0.23 acre Lot 4X, Block A by constructing and installing fitness-oriented improvements (e.g., outdoor fitness court(s), pavilion, pickle ball court(s), etc.) and associated site furnishings and landscape, as determined by City in its reasonable discretion and subject to an agreed-upon cap on Stream's obligation to fund such construction costs. City will retain fee title ownership to the foregoing parcel. Maintenance of the fitness and site furnishings, and site landscape improvements constructed on this parcel will be the responsibility of City following final inspection and acceptance.
 - (9) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to the Stream Phase 1 office and parking facilities.
 - (10) City agrees that its permit fees will be capped at \$150,000 and Stream will not have an obligation for offsite infrastructure costs for the office component of the Project.
 - (11) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.
- (b) *AMLI Phase 1 Economics for Multifamily with Ground Level Retail.* The parties agree to the following general economic terms for the multifamily and retail components of the AMLI Phase 1, which shall be defined in further detail in the Definitive Agreements:
- (1) Ground Lease: AMLI will enter into a 99-year ground lease with City for approximately 7 acres of land that includes the general terms and conditions set forth in this Section 2.2(b).

Deposit and Pre-Paid Ground Rent: AMLI will pay to City \$2,000,000 as pre-paid ground rent for the three (3) AMLI Phase 1 properties (subject to the provisions of this Section 2.2) in the form of a single, lump sum payment pursuant to the negotiated terms of the Definitive Agreements (the "Pre-Paid Ground Rent"). The Pre-Paid Ground Rent will initially be held in escrow and applied to rent in conformance with the respective ground leases. The Pre-Paid Ground Rent will be non-refundable, provided, upon AMLI's timely submittal (and City's acceptance) of both a

completed infrastructure plan reasonably acceptable to City and AMLI on or before December 15, 2023 and application for a building permit for the Tower on or before June 30, 2024, AMLI will be entitled to a refund of the Pre-Paid Ground Rent during the period of time commencing upon AMLI’s submittal of its application for a building permit for the Tower and ending ninety (90) days following submittal, but in no event later than September 30, 2024.

- (2) **Ground Rent:** The initial ground rent will be \$500,000 which will be adjusted annually by CPI, with a maximum annual increase of no greater than 3.0% on a non-cumulative basis.
- (3) **Rent Commencement Date:** The earlier of (i) 84 months from commencement of construction of AMLI Phase 1 or (ii) December 30, 2032 (as used herein, the “Rent Commencement Date”). Addison will receive the first ground rent payment no later than January 30, 2035, after the Pre-Paid Ground Rent is depleted.
- (4) **Economic Development Incentive Grant:** Beginning the first full year following stabilization of the AMLI Tower (defined as 94.25% occupancy), City will provide to AMLI five (5) consecutive annual economic development grants from the City’s ad valorem taxes actually collected by City for the applicable grant year, subject to the payment terms set forth herein and in the Master Incentive Agreement. Each year of the grant period AMLI will provide their Net Operating Income per GAAP before ground lease payments, capital expenditures, tenant improvement allowances and leasing commissions, certified by their Chief Financial Officer (the “Certified NOI”). The Certified NOI (numerator) will be divided by AMLI’s Actual Certified Construction Costs (denominator) to calculate an Annual Return on Cost (ROC) for the Project. If the Annual Return on Cost is below the ROC thresholds outlined in the schedule below, AMLI will be entitled to receive a grant not to exceed \$1.6 million each year there is a gap between the computed Actual ROC and the Required ROC threshold. The ROC thresholds for each grant year shall be:

Grant Year	Threshold (%)
Year 1	6.91
Year 2	6.98
Year 3	7.20
Year 4	7.42
Year 5	7.45

AMLI will be entitled to roll over any amount greater than the \$1.6 million each year to the following grant year, but in no event shall the reimbursement amount exceed \$1.6 million annually and \$6,500,000 cumulatively for the entire grant period. AMLI will provide annual audited financial statements for each grant year.

- (5) **Other AMLI Phase 1 Terms:**
 - (i) In order to consistently maintain a Class A mixed-use TOD project to City’s standards throughout the term of the ground lease, AMLI (or future tenant) may be required to make capital improvements from time to time. Ten years after the Rent Commencement Date, AMLI will have the right, with City’s approval, not to be unreasonably withheld, to offset the cost of certain capital improvements in excess of \$1 million (as adjusted for inflation) against the

annual ground lease rent once every 10 years. The amount of offset shall not exceed the ground rent in the year the capital improvement project is undertaken. The offset assumes AMLI (or future tenant) has spent the first \$1 million and will be paid on any amounts above the first \$1 million. A detailed description of allowable capital improvement projects will be further defined in the ground lease.

- (ii) If City elects to offer its fee interest in the residential or retail/restaurant/entertainment parcel for sale, then AMLI will have the right of first refusal (ROFR) to purchase the fee simple interest in such parcels at the determined fair market value (FMV) to be further defined in the Definitive Agreements.
- (iii) AMLI will be prohibited from transferring its interest in the ground lease for a period of 10 years after the Rent Commencement Date without City's approval unless to a qualified owner, such as an institutional owner having similar experience managing over 1 million square feet of similar "Class A" TOD, mixed-use developments or ownership of over \$500 million of "Class A" multifamily properties (to be further defined in the ground lease).
- (iv) The timelines and deadlines in the ground leases and other Definitive Agreements shall be subject to change based on events of force majeure and other unforeseen circumstances outside of AMLI's reasonable control which affect construction progress (to be defined in the Definitive Agreements).
- (v) AMLI has completed (and City has approved) a Master Streetscape Development Plan ("Streetscape Plan") prepared for the office, retail, park, and streetscape plan in the surrounding areas from the North Dallas Tollway to Addison Road and from Addison Circle to Beltline Road. The purpose of this Streetscape Plan is to enhance and promote the retail and transit experience to "Complete the Circle." This will include but is not limited to tree relocation along Festival Way, burying power lines along +/- 150' of Quorum Drive, and the realignment of Spectrum Road. Other potential improvements addressed in the Streetscape Plan are enhanced paving, planting, improved lighting, signage, and wayfinding to attract more patrons to the circle. The Streetscape Plan will include all offsite infrastructure improvements for the office component of the Project, including the parking garage. All infrastructure improvements shall be as reasonably agreed by City and AMLI and the characterization of items as infrastructure improvements shall not conflict with other components of this MOU.
- (vi) The respective obligations of Addison and AMLI will be documented in the Definitive Agreements based on the Streetscape Plan. AMLI's contribution to infrastructure costs contemplated by the Streetscape Plan will not exceed \$1.5 million (plus up to, but not to exceed, \$250,000 in multifamily permit fees for phase 1) with Addison incurring all infrastructure and multifamily permit costs in excess thereof, subject to the final terms of the Definitive Agreements. If Spectrum Road is unable to be re-aligned, the parties agree to discuss alternative design options that will maintain the quality and overall vision for the affected components of the Project. The parties may

further agree to equitably share in the additional costs or savings associated with the alternative design.

- (vii) AMLI will provide payment and completion guarantees from a reputable entity(ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of AMLI's obligations under the Definitive Agreements and will apply to AMLI phase 1 facilities.
- (viii) There will be no construction or permanent debt placed on the residential property of any kind through final certificate of occupancy. All residential construction and development costs will be financed using equity provided by AMLI on the residential development.
- (ix) Within twelve (12) months after issuance of the initial multifamily building permit, AMLI will donate \$200,000 to the Addison Arbor Foundation to fund public art in the right of way and public spaces within the development (to be further defined in the Definitive Agreements).
- (x) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

(c) *AMLI Phase 1 Economics for Other Retail, Restaurants, and Entertainment*

- (1) Lot 2, Block A of AMLI Phase I (approximately 1.9 acres) will be subject to a ground lease on substantially the same terms as the ground leases for Lot 3, Block A, Lot 1, Block B, and Lot 1X, Block C of AMLI Phase 1; provided, that subject to mutual agreement of the parties, the retail/restaurant/entertainment area may be sub-leased (not assigned) to a third-party developer and/or operator. Notwithstanding, AMLI will be required to obtain the written consent of Addison (which shall not be unreasonably withheld) prior to entering into a sub-lease for the foregoing property and/or its operation by a third party.
- (2) The City and AMLI will work in good faith to select the operator/developer, and to establish deadlines for AMLI to apply for and obtain permits and commence construction of the improvements on Lot 2 following selection of the operator/developer. The City and AMLI will define said deadlines and establish penalties for noncompliance within the Definitive Agreements.
- (3) The following incentive is intended to support the recruitment of a high-quality retail/restaurant/entertainment operator to implement a concept that meets the intent of this first class urban mixed-use development. Application of this incentive is subject to evaluation of and consideration of the merits of the proposed retail/restaurant/entertainment operation, and final approval of the same by the City:

- (i) City will reimburse up to \$3 million for public infrastructure costs associated with phase 1 of the Project (on terms to be further defined in the Definitive Agreements).
- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.3 Phase 2 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$104,200,000 in connection with the Improvements for phase 2 of the Project.
- (b) *Stream Phase 2 (Office).* Stream will construct an office building with ground level retail and a public parking garage (“Stream Phase 2”), further described as follows:

Land Area:	3.966 acres
Net Rentable Area:	150,000 sf of office; 4,000 sf of DART Station Improvements
Parking Garage:	850 stall public parking garage
Other:	The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.4 Phase 2 Economics:

- (a) *Phase 2 Economics.* The parties agree that the following general economic terms shall apply to phase 2 of the Project, which shall be defined in further detail in the Definitive Agreements:
 - (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
 - (2) All ground lease rent will be abated until one year after substantial completion of the Stream Phase 2 office tower.
 - (3) City incentives (if any) for Stream Phase 2 will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
 - (4) The costs of the additional 300 parking spaces required in the garage for Phase 2 and any other DART specific requirements will be addressed in the Definitive Agreements.
 - (5) The parties anticipate construction of a ground enclosed DART Station (not just a platform) that will be in conformance with the quality and vision of the other Project

elements. Stream commits to funding a portion of the development costs consistent with its submitted proposal, which provides for Stream committing \$160,000 based upon a construction cost of \$1,600,000 (to be further defined in the Definitive Agreements). The station will replace the existing DART platform and provide service for all DART riders (subject to DART's approval).

- (6) DART, City and Stream will enter into a perpetual parking agreement whereby public parking is available for DART and retail patrons during the day and the entire Addison Circle development on nights and weekends and for special events, subject to the final interlocal agreement with DART and as subject to the terms of the Definitive Agreements.
- (7) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to Stream's phase 2 office and parking facilities.
- (8) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.5 Phase 3 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$23,500,000 in connection with the Improvements for phase 3 of the Project.
- (b) *Scope.* The Definitive Agreements shall include the following general terms and conditions with regard to the scope for phase 3 of the Project:

Boutique Hotel:

Land Area: 1.156 acres

Number of Rooms: 120

Other: The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.6 Phase 3 Economics:

- (a) *Phase 3 Economics.* The parties agree that the following general economic terms shall apply to phase 3 of the Project, which shall be defined in further detail in the Definitive Agreements:

- (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
- (2) City incentives (if any) for this phase will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
- (3) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to phase 3 hotel and related development.
- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

3. PROJECT SCHEDULE; DUE DILIGENCE PERIOD

3.1. Project Schedule. The parties acknowledge that time is of the essence with regard to the Project and agree that each will use its best efforts to proceed in conformance with the proposed Project schedule set forth below:

PHASE 1	Date of Completion
Zoning entitlements approved by City Council	March 14, 2023
Execution of all Definitive Agreements	June 30, 2023
AML I submittal of infrastructure plan	December 2023
Stream construction start on office/parking	October 2024
AML I submittal of Tower building permit application	June 2024
AML I construction start on Tower	October 2024
AML I construction start on Podium	January 2026
 PHASES 2 & 3	 Date of Completion

Stream construction start on office/parking	TBD*
Stream construction start on hotel	TBD
Office/parking final CO issued	TBD
Hotel final CO issued	TBD

**The parties acknowledge that a required date of completion will be established for Phase 2 as soon as practicable and will be subject, in part, to the interlocal agreement between DART and Addison.*

3.2. Modification of Project Schedule. The dates for completion identified in the Project schedule set forth in Section 3.1, above, may not be modified or extended, except by mutual written agreement of the parties. Notwithstanding the foregoing, a party shall be entitled to an extension when the party unable to comply with the Project schedule as a direct result of an event of Force Majeure. As used in this section, the term “Force Majeure” shall mean that the party is prevented or delayed in performing in compliance with the Project schedule, in whole or in part, to such an extent that the party would not be able to meet a required date of completion therein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party’s control and not attributable to its malfeasance, neglect or nonfeasance. The party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating (a) how and why their performance was so prevented, (b) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (iii) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this MOU as soon as reasonably practicable.

3.3. Due Diligence Period. The Due Diligence Period will commence on the Effective Date and expire on the earlier of (i) June 30, 2023, or (ii) the date upon which the parties have mutually executed all Definitive Agreements required for the Project. The parties will conduct all due diligence with respect to the Project as the parties may deem necessary or appropriate, and the parties shall fully cooperate with each other in this regard. Each party shall be solely responsible for its own costs in connection with the due diligence required for the Project, except as otherwise mutually agreed by the parties. The Due Diligence Period may be extended by mutual written agreement of the parties.

3.4. Exclusivity. During the Due Diligence Period, City will negotiate exclusively with Co-Developers in good faith to execute the Definitive Agreements for the Project, and will not engage any party other than Co-Developers to act as a developer (or co-developer) of the Project; however, notwithstanding the foregoing, during the Due Diligence Period, City shall have the right to solicit proposals from, and discuss the terms for, other parties to act as a developer (or co-developer) of the Project or a portion thereof. Further, from and after the expiration of the Due Diligence Period, if the Definitive Agreements have not been finalized and executed, City shall have the right to terminate this MOU as to one or both Co-Developers and thereafter engage (or seek to engage) one or more other parties to act as a developer (or co-developer) of the Project or a portion thereof.

3.5. Project Feasibility Assessments. Co-Developers agree that each will promptly, and without undue delay, conduct the feasibility assessments described below during the Due Diligence Period:

- (a) *Property Inspections.* All property due diligence (title examination, surveys, environmental site assessments, soil conditions tests and other physical inspections and similar items) relating to the feasibility of the development of the Project;
- (b) *Zoning and Entitlements.* All required zoning and real property entitlements necessary to develop the Project in conformance with the terms of this MOU and the Definitive Agreements; and
- (c) *Financial Due Diligence.* All financial due diligence reasonably necessary to ensure Co-Developers will be able to secure firm commitments from all lenders, investors, and/or other financing sources related to the design, development, construction, and administration of the Project as contemplated by the parties.

Co-Developers acknowledge that each has already engaged all consultants and/or other third-parties necessary to complete the above-referenced feasibility assessments.

4. MISCELLANEOUS

4.1. Mutual Cooperation; Site Access. The parties agree to work together at all times in good faith, meet regularly, and keep each other informed as to activities of the other, and maintain at all times a formal representative who shall serve as a point of contact for communications related to this MOU. City will furnish such rights-of-access to the Project site as reasonably necessary for the parties to conduct their respective due diligence obligations under this MOU.

4.2. Costs and Expenses. Each party shall be responsible for all costs and expenses associated with the preparation and adoption of this MOU, the preparation and adoption of the Definitive Agreements, and future actions related thereto.

4.3. Certification of No Conflicts. Co-Developers hereby warrant to City that each has made full disclosure in writing of any existing or potential conflicts of interest related to its participation in the Project as contemplated in this MOU. In the event that any conflicts of interest arise after the Effective Date of this MOU, Co-Developers hereby agree to immediately disclose the same to City.

4.4. Public Information Act. Co-Developers acknowledge that this MOU, and all documents provided to City in connection with the Project are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information received by City in connection with the same unless a party has previously notified City in writing that it considers the information to be confidential or proprietary trade secrets and has clearly marked all such information as “Confidential” and/or “Proprietary – Trade Secret” at the time it is delivered or made accessible to City (including City’s officers, officials, employees, consultants, attorneys and/or other authorized representatives). In the event City delivers to Co-Developers information that it has expressly marked “Confidential” or has notified Co-Developers is confidential or is the proprietary information of a third-party, Co-Developers agree neither shall disclose to anyone directly or indirectly during the term of this MOU or at any time thereafter, any such information, nor shall either

use any such information for any purpose other than in connection with the Project contemplated in this MOU.

4.5. Governing Law. This MOU shall be construed and governed by the laws of the State of Texas; and venue for any action concerning this MOU 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 court.

4.6. Exhibits. The exhibits to this MOU are incorporated herein.

4.7. Amendment. This MOU may only be amended by mutual written agreement executed by all parties.

4.8. Counterparts. This MOU may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY –
SIGNATURES ON FOLLOWING PAGE(S)]

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

For City:

TOWN OF ADDISON, TEXAS

By: _____
David Gaines, City Manager

Date: _____

NOTICE ADDRESS:

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

For Co-Developer AMLI:

AMLI RESIDENTIAL PARTNERS, LLC
a Delaware limited liability company

By: _____
Taylor Bowen, Authorized Signatory

Date: _____

NOTICE ADDRESS:

AMLI Residential Partners, LLC
5057 Keller Springs Road, Suite 250
Addison, TX 75001
Attn: Taylor Bowen and Joe Bruce
E: TBowen@amli.com and JBruce@amli.com

For Co-Developer Stream:

STREAM REALTY ACQUISITION, L.L.C.
a Texas limited liability company

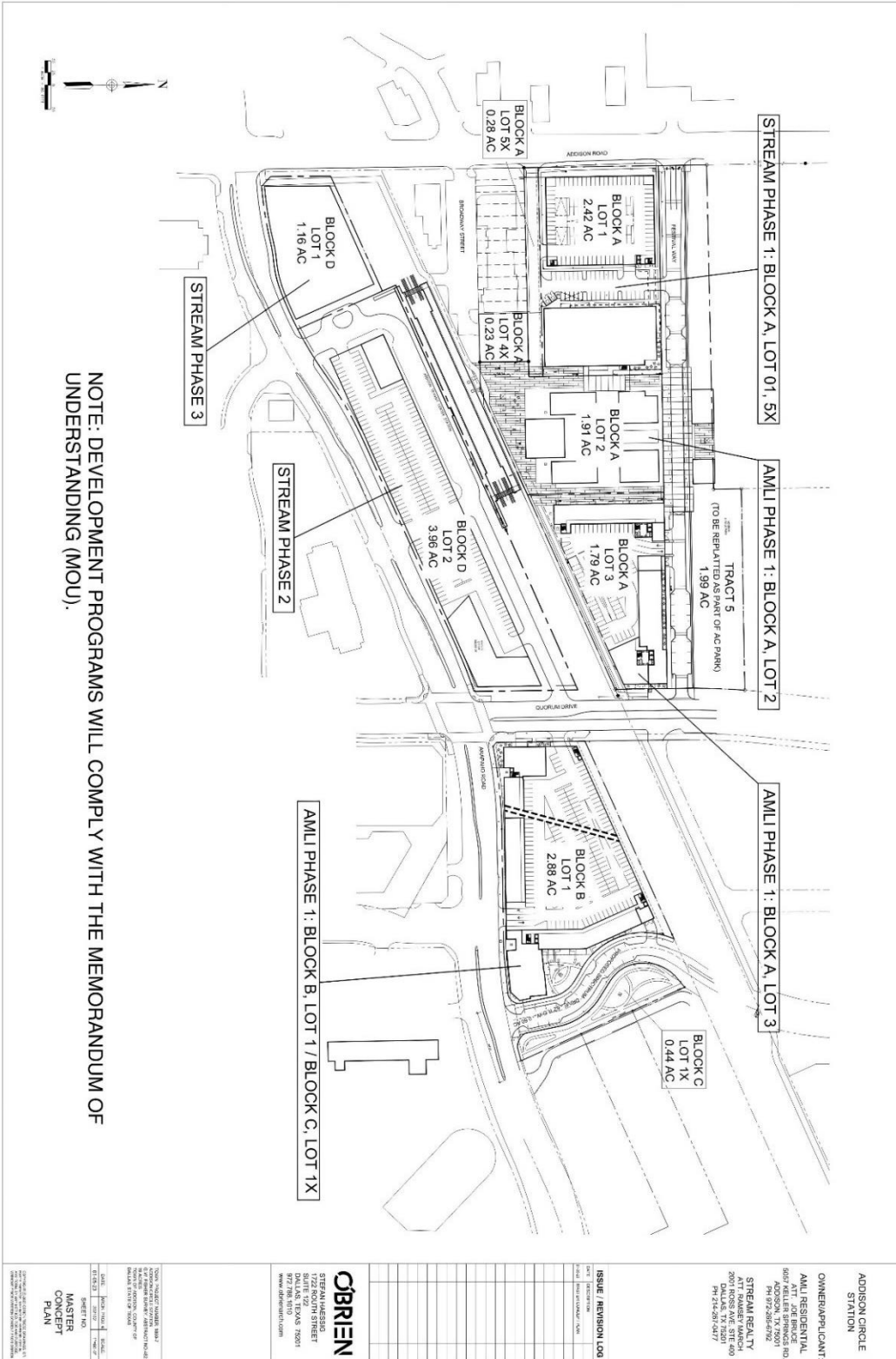
By: _____
Ramsey March, Managing Director

Date: _____

NOTICE ADDRESS:

Stream Realty Acquisition, L.L.C.
2001 Ross Avenue, Suite 400
Dallas, Texas 75201
Attn: Ramsey March
E: rmarch@streamrealty.com

Exhibit A Master Concept Plan



NOTE: DEVELOPMENT PROGRAMS WILL COMPLY WITH THE MEMORANDUM OF UNDERSTANDING (MOU).

ADDITION CIRCLE STATION
OWNER/APPLICANT:
AML RESIDENTIAL
ATT: JOE BRUCE
8600 ADDISON, SUITE 7000
DALLAS, TX 75201
PH 972-586-8792
STREAM REALTY
ATT: RAHEEM WANCH
2800 DALLAS, TX 75201
PH 214-528-1247

DATE	REVISION	BY

CBRIEN
STEVEN HARRISS
REGISTERED ARCHITECT
1000 W. WILSON AVENUE, SUITE 102
DALLAS, TEXAS 75201
WWW.CBRIEN.COM

NO. 1000 W. WILSON AVENUE, SUITE 102
DALLAS, TEXAS 75201
TEL: 214-528-1247
WWW.CBRIEN.COM

~~SECOND~~THIRD AMENDED AND RESTATED MEMORANDUM OF
UNDERSTANDING
BETWEEN THE TOWN OF ADDISON, AMLI RESIDENTIAL, AND
STREAM REALTY FOR THE ADDISON CIRCLE AREA
TRANSIT ORIENTED DEVELOPMENT PROJECT

This ~~Second-Third~~ Amended and Restated Memorandum of Understanding (“MOU”) is effective as of ~~January 10, 2023~~April 25, 2023 (the “Effective Date”) between the Town of Addison, Texas (“City” or “Addison”), and AMLI Residential Partners, LLC (“AMLI”) and Stream Realty Acquisition, L.L.C. (“Stream”) as co-developers, collectively referred to herein as (“Co-Developers”) (each a “party” and collectively the “parties”), acting by and through their authorized representatives.

RECITALS

WHEREAS, the parties entered into this MOU to engage in negotiations related to a proposed mixed-use development within the City that will create a first-class regional destination by extending Addison Circle to the new DART Silver Line rail station (the “Project”); and

WHEREAS, the purpose of this MOU is to set forth the general understanding of the parties with regard to the Project and the terms and conditions of the Definitive Agreements that will ultimately govern the development of the Project: and

WHEREAS, the parties executed a First Amendment to the MOU approved by the City on November 8, 2022, and a Second Amendment to the MOU approved on January 10, 2023, and now find it necessary to make additional amendments to the MOU; and

NOW, THEREFORE, in consideration of the expressions of intent and representations set forth herein, the parties agree as follows:

1. PROJECT DESCRIPTION

1.1. Master Concept Plan. The Project will be a transit-oriented (herein “TOD”), mixed-use development consisting of three (3) phases that will be developed in general conformance with the formal proposal submitted by Co-Developers, including all agreed amendments thereto (the “Proposal”), and the revised Master Concept Plan attached as Exhibit A to this MOU (the “Master Concept Plan”), subject to the terms, covenants, and conditions contained in the Definitive Agreements (defined herein). It is acknowledged and agreed by City and Co-Developers that the Master Concept Plan is subject to additional modification upon mutual agreement of the parties prior to execution of the Definitive Agreements.

1.2. Project Improvements. The completed Phase 1 of the Project will, at a minimum, include the following improvements: (i) Class A office building, (ii) Class A residential high-rise facilities, (iii) high-quality retail/restaurant/entertainment facilities designed to encourage activation of Project site, (iv) outdoor park and open space activation features, (vii) upgraded hardscapes, landscapes and pedestrian areas, (viii) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to City staff review and the Definitive Agreements), as further described in Section 2 of this MOU. The completed Phases 2 & 3 of the Project will, at a minimum include the following improvements: (i) Class A office building, (ii) a DART transit station and associated parking, (iii) a boutique hotel, (iv) upgraded hardscapes, landscapes and pedestrian areas, (v) and other features customarily found in a first-class urban mixed-use development in general conformance with the Proposal in design and quality (subject to negotiation of deal terms between the

Parties, City staff review and the Definitive Agreements), as further described in Section 2 of this MOU. The minimum required improvements described in this section are collectively referred to herein as the “Improvements”.

1.3. Project Administration. Co-Developers will be generally responsible for Project administration and agrees that it will finance, design, develop, construct and market the Project in conformance with this MOU and the Definitive Agreements. Co-Developers will be required to consult with City regarding the administration of the Project in conformance with the terms of the Definitive Agreements.

1.4. Minimum Developer Investment; Incentives. The parties anticipate that the Project will be developed in three (3) phases with a total development cost of not less than \$~~472,000,000~~469,540,000, including a minimum investment of \$~~344,000,000~~371,273,000 by Co-Developers in phase 1 of the Project (inclusive of incentives), as more particularly described in Section 2 of this MOU. For all purposes of this MOU, the minimum investment amount includes hard construction costs as well as soft costs attributable to the Project (including design costs, development fees, feasibility studies, legal costs, permitting, contributions, incentives, operating deficit reserves, internal financing and fees). The parties acknowledge that maintaining the agreed minimum investment in the Project is essential to the successful development of the Project and shall be a condition precedent to City’s obligation to provide the various public incentives set forth in this MOU. Co-Developers will therefore be required to certify the development costs for each component and phase of the Project. In the event Co-Developers’ minimum investment is below the agreed minimum investment for any component of the Project, the City’s incentives related to that component of the Project will be offset by an amount equal to the difference between the agreed minimum investment and the actual investment (e.g., the cap on permit fees and/or infrastructure costs may be increased in an equivalent amount).

1.5. Definitive Agreements. Promptly following the Effective Date of this MOU, the parties will negotiate in good faith mutually satisfactory Definitive Agreements and related documents with respect to the Project (the “Definitive Agreements”), which shall provide for construction of the Improvements and be phased in conformance with Section 2, below. The parties anticipate that the Definitive Agreements will include the following:

- (a) AMLI Tower Ground Lease
- (b) AMLI Podium Ground Lease
- (c) AMLI Retail Ground Lease
- ~~(d) AMLI Multifamily Incentive Agreement with Addison~~
- ~~(e)(d)~~ Stream Purchase and Sale Agreement
- ~~(f)(e)~~ Stream Master Office Lease with Addison
- ~~(g)(f)~~ Stream Parking Agreement(s) Lease with Addison
- ~~(h)(g)~~ Master Incentive Agreement between AMLI, Stream and Addison
- ~~(i)(h)~~ AMLI and Stream Form of Guarantee
- ~~(j)(i)~~ POA and CCR for Phase 1
- ~~(k)(j)~~ Addison Blanket License Agreement (for activation of Festival Way, Quorum Drive and park/open space area)
- ~~(l)(k)~~ Approved Phase 1 Concept Plans (SD level of drawings and exhibits)
- ~~(m)~~ Addison PD Ordinance Number O-23-8 (including any subsequent amendments thereto) Rezoning Approval, Final Replat and other Entitlements

2. PROJECT PHASES; SCOPE AND ECONOMICS

2.1 Phase 1 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$~~344,000,000~~371,273,000 in connection with the Improvements for phase 1 of the Project. The parties anticipate that Stream will invest a minimum of \$78,500,000 and AMLI will invest a minimum development cost of \$292,773,000 for phase 1 of the project.
- (b) *Platting; Governing Property Agreements.* The parties anticipate that each component of the development will be platted as a separate lot to accommodate future disposition of the various components. The parties (together with DART) will agree to amenable CC&Rs allowing for a cohesive class-A TOD mixed-use development that provides superior connectivity, security, and maintenance obligations commensurate to other high-quality, similar TOD developments in DFW. The parties will also create a property owner’s association (POA) to maintain the open/shared space in the development, which the parties anticipate will outline Addison’s obligations for the maintenance, security, public events (festivals), and daily programming of Addison Circle Park.
- (c) *City License Agreement.* ~~City will provide a blanket~~ The parties anticipate entering into a license agreement for in the park/open space area and along Festival Way and Quorum to ~~activate~~ support activation of the retail connection and programming in Addison Circle Park.
- (d) *Office.* Stream will construct an office building with ground level retail and ~~6235~~ stall public parking garage (“Stream Phase 1”), further described as follows:

Land Area: Approximately 2.4 acres (subject to mutual agreement of Addison and Stream).

Minimum Area: 160,000 sf of office floor area, inclusive of approximately ~~150,000~~157,000 net rentable square feet of office space. The exact square footage is to be adjusted based on BOMA calculations by the architect and again at construction completion. Tolerance to be within one percent (1%); there will be approximately 3,8500 sf of retail at the ground level of the office building.

Parking Garage: ~~6235~~ stall parking garage to be initially financed and owned by Addison ~~owned by Stream~~ and subject to one or more a parking agreements with Stream~~City~~, which shall include such terms as necessary to comply with the City’s public financing requirements and restrictions and satisfy the requirements of Stream’s tenants as described in Section 2.2(a)(3) below. The final number of spaces ~~shall will~~ be subject to the parking study described in Section 2.2(a)(2), below ~~; and City and Stream will share proportionately in any savings that result from a reduction in the final number of parking stalls.~~

Other:

The project shall be built substantially as shown in PD-O-23-8 ~~the Proposal~~ in design and quality, subject to City staff review and the Definitive Agreements; Stream may utilize a condominium structure to allow for the parceling of specific units within a platted lot (i.e., office, shared parking, retail components, etc.). Stream and City agree that amendment of this MOU shall not be required for minor modifications to the square footage or number of parking spaces provided for in this MOU (not to exceed 10%), provided that such modifications are agreed upon by both parties and memorialized in a written ‘side letter’ to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in building height, net rentable office area, or retail floor area without written amendment of this MOU approved by the City Council.

- (e) *Multifamily/Retail/Entertainment*. AMLI will construct multifamily buildings with ground level retail and a stand-alone retail/restaurant/entertainment parcel (“AMLI Phase 1”), further described as follows:

AMLI Phase 1 Land Details:

The AMLI Phase 1 will be constructed upon the three parcels of real property generally described below and depicted on the Master Concept Plan attached hereto as Exhibit A (to be more particularly defined in the Definitive Agreements). AMLI will be responsible for all required survey and platting required for the below properties.

<u>Parcel</u>	<u>Description</u>	<u>Anticipated Use</u>
Lot 3, Block A:	Approximately 1.79 acres	13-story residential tower with 10,000 sf of ground level retail
Lot 1, Block B and Lot 1X, Block C:	Approximately 3.32 acres	7-story residential podium project with 5,000 sf of ground level retail on approximately 2.88 acres; with realignment of Spectrum Drive and approximately 0.44 acres of public open space
Lot 2, Block A:	Approximately 1.9 acres	Stand-alone retail/restaurant/entertainment operation as shown on the revised latest <u>Master Concept Plan with a minimum twenty percent (20%) of the total lot area to serve as public open space.</u>

AMLI Phase 1 Multifamily Building Details:

Number of Buildings: 2 residential structures consisting of:

- 13-story tower (the “Tower”) with:
 - Units: ~~240~~—270

- NRSF: 250,000 – 300,000 sf
- Ground level retail: 10,000 sf
- Parking spaces: 380 – 420, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking garage in accordance with the requirements specified below

- 7-story podium (the “Podium”) building with:
 - Units: approximately 412 410—440
 - NRSF: 330,000 – 375,000 sf
 - Ground level retail: 5,000 sf
 - Parking spaces: 590 - 630, where compliance with the UC zoning district residential parking standards is achieved, and where public parking is provided in the parking garage in accordance with the requirements specified below

Multifamily Building
Development Parameters:

Minimum
Units: ~~68250~~ residential units
NRSF: 580,000 sf
Parking spaces: 970 parking spaces in two structures;

Maximum
Units: 700 residential units
NRSF: 675,000 sf
Parking spaces: 1,050 parking spaces in two structures.

Net Rentable Area:

15,000 sf of retail below residential; 25,000 sf retail/restaurant/entertainment component and associated outdoor space exclusively dedicated to programming for entertainment and other authorized activation.

Parking Garage:

2-separate parking garages for each residential building for residences, to include +/- 60 public parking spaces to support the ground level retail and guest parking

Other:

The project shall be built substantially as shown in the Master Concept Plan and in general conformance with Proposal in design and quality, subject to City staff review and the Definitive Agreements. AMLI and City agree

that amendment of this MOU shall not be required for minor modifications that do not exceed a ten percent (10%) total reduction to the square footage or number of parking spaces provided for in this MOU, a reduction in the number of residential units to not less than 650 leasable units, or an increase in the number of residential units to not more than 700 leasable units. Any such modifications shall be agreed upon by both parties and memorialized in a written 'side letter' to this MOU, which shall become an addendum hereto. Notwithstanding the foregoing, there shall be no reduction in multifamily building height or net rentable floor area for the ground floor retail integrated within the multifamily buildings, nor any increase in the number of residential units beyond the maximum number of units currently identified herein without written amendment of this MOU approved by the City Council.

2.2 Phase 1 Economics

- (a) *Stream Phase 1 Economics (Office)*. The parties agree to the following general economic terms for the Stream Phase 1, which shall be defined in further detail in the Definitive Agreements:

(1) City will initially (A) convey to Stream for nominal consideration contribute approximately 2.41.24 acres of land for the office building (the market value of which land the Town estimates is \$1,024,793 (\$18.97 per square foot))and (B) retain the land for the and parking garage, at market value, estimated at \$2,000,000 (\$19.96 per sq. ft.). The final acreage shall be as mutually agreed and set forth in the definitive purchase and sale agreement between Addison and Stream.

(2) Stream has will-commissioned a parking study at its sole cost and expense to ensure the proper amount of parking for the Stream Phase 1 development. The result of that parking study shows that 623 parking spaces is adequate. The parking study has been submitted to the city for its review and approval. (not to exceed \$25,000.00).

(3) City and Stream will execute one or more enter into a perpetual parking agreements whereby public parking (including reserved parking spaces for Stream's office tenants [not to exceed 10% of the total parking spaces in the garage] is available- is available in the parking garage per Section 2.2(a)(6) below. The use of available parking spaces within the parking garage by office tenants and the installation of signage in the parking garage designating such parking spaces as "Office Building Parking" to facilitate the leasing of the office building at market rates will be subject an agreed-upon parking management plan and all necessary requirements and restrictions under the City's public financing for the parking garage. for the retail tenants during the day and the entire Addison Circle development on nights and weekends and for special events. This anticipates that retail parking access may require validation and that the terms of the public parking agreement

~~will be further defined in the Definitive Agreements, which shall be in conformance with the City's public financing requirements.~~

~~(4) City will commit to a 35-year master lease (the "Master Lease") for 60,000 square feet of space (40% of the building) at \$57.5034.50 per sq. ft square foot gross (\$2,070,0003,450,000 per year). The Master Lease shall commence upon final certificate of occupancy of the office building and shall not provide the City with the right to physically occupy any space in the office building, except for City's rights with respect to the Optional Permanent Lease (as defined below). During the term of the Master Lease, the City will have an option to lease all or a portion of City's leased space at market rate, \$34 per sq. ft. plus triple net and will include a tenant allowance in the amount of \$65 per sq. ft square foot ("Optional Permanent Lease"). The term of the Optional Permanent Lease shall be for a minimum of seven (7) years. If City elects to enter into the Optional Permanent Lease, all payments made by the City under such Optional Permanent Lease City will be entitled to a credited against the City's obligation to pay rent under the Master Lease. for all lease payments paid by City under the original 5 year lease for the portion of the leased space to be occupied by City.~~

~~(5) City's lease obligations will be reduced on a 50/50 basis until City's lease obligation is removed entirely. Reduction of City's lease obligation will take place three (3) months after lease commencement date for leases less than 50,000 RSF and six (6) months after lease commencement date for leases greater than 50,000 RSF. For purposes exampleexample purposes only, if Stream leases 20,000 square feet to a 3rd party tenant, City's lease obligation will be reduced by 10,000 square feet and will continue to have a lease obligation of 50,000 square feet. Once Stream has executed leases for 120,000 square feet, City's lease obligations will be removed entirely. As a material inducement for the City's lease obligation incentive, Stream, as developer, agrees that it will use its best efforts to market and lease (including pre-leasing during construction) the Stream Phase 1 office to prospective tenants. Stream further acknowledges that it is the intent of the parties to limit competing projects in the area and agrees that it will not build a competitive project within a 1.5 mile radius of the Project until such time as the City's lease obligation has been removed entirely, by way of lease up or terminated by mutual agreement between both parties. The parties do not intend to limit Stream's third-party service business from leasing or managing speculative new-build office buildings nor exclude Stream from developments where Stream has no financial investment (i.e., fee developments). The foregoing will be fully documented in the Definitive Agreements.~~

~~(6) The cost of the parking garage is estimated at \$15,600,000 (\$25,000 per stall) and will provide substantial architectural screening elements on all four sides of the garage.~~

~~(6) The City will finance, build, and initially own the parking garage, until such time as it is conveyed to Stream under the terms of a definitive agreement between City and Stream. City will contribute \$6,000,000 toward the parking garage to be paid following completion of construction of the office building and parking garage (to be further defined in the Definitive Agreements). The City will engage Stream to manage construction of the parking garage under a construction management agreement in consideration of an agreed-upon market rate construction management fee to be included as part of the overall construction budget for the parking garage and not as a separate fee that is paid by City. The parties acknowledge that City intends to issue tax exempt debt to fund the parking garage and, a portion of this commitment and, to legally qualify as city-issued tax exempt debt, the funds are required to be used for~~

public infrastructure; meaning the parking garage will need to be available for public use in the manner required by the terms of such financing. City will finance the cost of the garage through a 20-year amortizing loan at the City's borrowing costs (the "Financing Period"). City will pay one hundred percent (100%) of the debt service payments on \$6,000,000 of such debt and Stream will pay one hundred percent (100%) of the debt service payments on the amount of such debt above \$6,000,000 (with the characterization of such payment obligations to be agreed upon by City and Stream). By way of example and not limitation, if the total debt for the garage is \$15,000,000, City will pay 100% of the debt service payments allocable to \$6,000,000 of the total \$15,000,000 debt and Stream will pay 100% of the debt service payments allocable to \$9,000,000 of the total \$15,000,000 debt. During the Financing Period, City and Stream will enter into one or more parking agreements whereby Stream will have certain management authority for, and be responsible for, operations and maintenance of the parking garage, including, without limitation, the parking rights of the general public and rights with respect to reserved and unreserved spaces for tenants of the office building described in Section 2.2(a)(2) above. Upon completion of the Financing Period (i) City will convey fee simple ownership of the garage and land to Stream (or its authorized successor in interest) for nominal consideration in conformance with the definitive agreement between City and Stream, and (ii) contemporaneous with closing, City and Stream will terminate the parking agreements and enter into a perpetual parking license or other agreement whereby all parking spaces in the garage (other than the 10% reserved spaces for office tenants) will be made available for retail tenants and customers during the day and all patrons and public users of the Addison Circle development during nights, weekends and for special events.

(7) In lieu of providing retail space at the ground floor of the parking garage at the Festival Way frontage, Stream will provide increased office area in accordance with Section 2.1(d), as well as alternative forms of street activation and screening as depicted in the final approved development plans.

(8) Stream will activate the 0.23 acre Lot 4X, Block A by constructing and installing fitness-oriented improvements (e.g., such as an outdoor fitness court(s), pavilion, or pickle ball court(s), etc.), and associated site furnishings and landscape, as determined by City in its reasonable discretion and subject to an agreed-upon cap on Stream's obligation to fund such construction costs. City will retain fee title ownership to the foregoing parcel. Maintenance of the fitness and site furnishings and site landscape improvements constructed on this parcel will be the responsibility of the Town following final inspection and acceptance.

(9) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to the Stream Phase 1 office and parking facilities.

(10) City agrees that its permit fees will be capped at \$150,000 and Stream's will not have an obligation for offsite infrastructure costs for the office component of the Project. will not exceed \$500,000, subject to Stream's compliance with this MOU and the Definitive Agreements.

(11) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will

be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

(b) AMLI Phase 1 Economics for Multifamily with Ground Level Retail. The parties agree to the following general economic terms for the multifamily and retail components of the AMLI Phase 1, which shall be defined in further detail in the Definitive Agreements:

- (1) Ground Lease: AMLI will enter into a 99-year ground lease with City for approximately 7 acres of land that includes the general terms and conditions set forth in this Section 2.2(b).

Deposit and Pre-Paid Ground Rent: AMLI will pay to City \$2,000,000 as pre-paid ground rent for the three (3) AMLI Phase 1 properties (subject to the provisions of this Section 2.2(e)(2), below) in the form of a single, one-time lump-sum payment made pursuant to the negotiated terms of the Definitive Agreements (the “Pre-Paid Ground Rent”). The Pre-Paid Ground Rent will initially be held in escrow and applied to rent in conformance with the respective ground leases. The Pre-Paid Ground Rent will be non-refundable, provided, upon AMLI’s timely submittal (and City’s acceptance) of both a completed infrastructure plan reasonably acceptable to City and AMLI on or before December 15, 2023 and application for a building permit for the Tower on or before June 30, 2024, AMLI will be entitled to a refund of the Pre-Paid Ground Rent during the period of time commencing upon AMLI’s submittal of its application for a building permit for the Tower and ending ninety (90) days following submittal, but in no event later than September 30, 2024.

- (2) Ground Rent: The initial ground rent will be \$500,000 which will be adjusted annually by CPI, with a maximum annual increase of no greater than 3.0% on a non-cumulative basis. The ground rent will be reset 10 years after the rent commencement date, with subsequent resets every 15th year thereafter. The ground rent at each reset shall be calculated as 4.0% of the land value. The fair market value (FMV) of the improvements and land will be determined at that time pursuant to an agreed upon appraisal method to be further defined in the Definitive Agreements. The land value will not exceed 6.0% of the total FMV of the improvements and land. For example, if the FMV of the land and improvements is \$300MM x 6.0% = \$18MM land value x 4.0% = \$720,000.

- (3) Rent Commencement Date: The earlier of (i) 48-84 months from commencement of construction of AMLI Phase 1 or (ii) December 30, 2032 30 days after the final certificate of occupancy is issued for the last apartment unit for AMLI Phase 1 (as used herein, the “Rent Commencement Date”). Addison will receive the first ground rent payment no later than January 30, 2035, after the Pre-Paid Ground Rent is depleted.

- (4) Economic Development Incentive Grant: Beginning the first full year following stabilization of the AMLI Tower (defined as 94.25% occupancy), City will provide to AMLI five (5) consecutive annual economic development grants from the City’s ad valorem taxes actually collected by the City for the applicable grant year, subject to the payment terms set forth herein and in the Master Incentive Agreement. Each year of the grant period AMLI will provide their Net Operating Income per GAAP before ground lease payments, capital expenditures, tenant improvement allowances and leasing commissions, certified by their Chief Financial Officer (the “Certified NOI”). The Certified NOI (numerator) will be divided by AMLI’s Actual Certified Construction Costs (denominator) to calculate an Annual Return on Cost (ROC) for the Project. If the Annual Return on Cost

is below the ROC thresholds outlined in the schedule below, AMLI will be entitled to receive a grant not to exceed \$1.6 million each year there is a gap between the computed Actual ROC and the Required ROC threshold. The ROC thresholds for each grant year shall be:

<u>Grant Year</u>	<u>Threshold (%)</u>
<u>Year 1</u>	<u>6.91</u>
<u>Year 2</u>	<u>6.98</u>
<u>Year 3</u>	<u>7.20</u>
<u>Year 4</u>	<u>7.42</u>
<u>Year 5</u>	<u>7.45</u>

AMLI will be entitled to roll over any amount greater than \$1.6 million each year to the following grant year, but in no event shall the reimbursement amount exceed \$1.6 million annually and \$6,500,000 cumulatively for the entire grant period. AMLI will provide annual audited financial statements for each grant year.

(5) Other AMLI Phase 1 Terms:

- (i) In order to consistently maintain a Class A mixed-use TOD project to City's standards throughout the term of the ground lease, AMLI (or future tenant) may be required to make capital improvements from time to time. Ten years ~~After the Rent Commencement Date~~first ground rent reset, AMLI will have the right, with City's approval, not to be unreasonably withheld, to offset the cost of certain capital improvements in excess of \$1 million (as adjusted for inflation) against the annual ground lease rent once every 10 years. The amount of offset shall not exceed the ground rent in the year the capital improvement project is undertaken. The offset assumes AMLI (or future tenant) has spent the first \$1 million and will be paid on any amounts above the first \$1 million. A detailed description of allowable capital improvement projects will be further defined in the ground lease.
- (ii) If City elects to offer its fee interest in the residential or retail/restaurant/entertainment parcel for sale, then AMLI will have the right of first refusal (ROFR) to purchase the fee simple interest in such parcels at the determined fair market value (FMV) to be further defined in the Definitive Agreements.
- (iii) AMLI will be prohibited from transferring its interest in the ground lease for a period of 10 years after the ~~ground lease~~Rent Commencement Date without City's approval unless to a qualified owner, such as an institutional owner having similar experience managing over 1 million square feet of similar "Class A" TOD, mixed-use developments or ownership of over \$500 million of "Class A" multifamily properties (to be further defined in the ground lease).
- (iv) The timelines and deadlines in the ground leases and other Definitive Agreements shall be subject to change based on events of force majeure and other unforeseen circumstances outside of AMLI's reasonable control which affect construction progress (to be defined in the Definitive Agreements).

- (v) AMLI has completed (and Town has approved) will be responsible for having a Master Streetscape Development Plan (“Streetscape Plan”) prepared for the office, retail, park, and streetscape plan in the surrounding areas from the North Dallas Tollway to Addison Road and from Addison Circle to Beltline Road. The purpose goal of this Streetscape Plan would be to enhance and promote the retail and transit experience to “Complete the Circle.” This will include but is not limited to tree relocation along Festival Way, burying power lines along +/- 150’ of Quorum Drive, and the realignment of Spectrum Road. Other potential improvements ~~to be~~ addressed in the Streetscape Plan are enhanced paving, planting, improved lighting, signage, and wayfinding to attract more patrons to the circle. The Streetscape Plan will include all offsite infrastructure improvements for the office component of the Project, including the parking garage. All infrastructure improvements shall be as reasonably agreed by City and AMLI and the characterization of items as infrastructure improvements shall not conflict with other components of this MOU.
- (vi) The respective obligations of Addison and AMLI will be documented in the Definitive Agreements based on the Streetscape Plan. AMLI’s contribution to infrastructure costs contemplated by the Streetscape Plan will not exceed \$1.5 million (plus up to but not to exceed, \$250,000 in multifamily permit fees for phase 1) with Addison incurring all infrastructure and multifamily permit costs in excess thereof, subject to the final terms of the Definitive Agreements. If Spectrum Road is unable to be re-aligned, the parties agree to discuss alternative design options that will maintain the quality and overall vision for the affected components of the Project. The parties may further agree to equitably share in the additional costs or savings associated with the alternative design.
- (vii) AMLI will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of AMLI’s obligations under the Definitive Agreements and will apply to AMLI phase 1 facilities.
- (viii) There will be no construction or permanent debt placed on the residential property of any kind through final certificate of occupancy. All residential construction and development costs will be financed using equity provided by AMLI on the residential development.
- (ix) Within twelve (12) months after issuance of the initial multifamily building permit, AMLI will donate \$200,000 to the Addison Arbor Foundation to fund public art in the right of way and public spaces within the development (to be further defined in the Definitive Agreements).
- (x) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the

Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

(b) *AMLI Phase 1 Economics for Other Retail, Restaurants, and Entertainment*

- (1) Lot 2, Block A of AMLI Phase I (approximately 1.9 acres) will be subject to a ground lease on substantially the same terms as the ground leases for Lot 3, Block A, Lot 1, Block B, and Lot 1X, Block C of AMLI Phase 1; provided, that subject to mutual agreement of the parties, the retail/restaurant/entertainment area may be sub-leased (not assigned) to a third-party developer and/or operator. Notwithstanding, AMLI will be required to obtain the written consent of Addison (which shall not be unreasonably withheld) prior to entering into a sub-lease for the foregoing property and/or its operation by a third party.
- (2) The City and AMLI will work in good faith to select the operator/developer, and to establish deadlines for AMLI to apply for and obtain permits and commence construction of the improvements on Lot 2 following selection of the operator/developer. The City and AMLI will define said deadlines and establish penalties for noncompliance within the Definitive Agreements.
- (3) The following incentives ~~is~~ ~~are~~ intended to support the recruitment of a high quality retail/restaurant/entertainment operator to implement a concept that meets the intent of this first class urban mixed use development. Application of ~~thi~~~~ese~~ incentives is subject to evaluation of and consideration of the merits of the proposed retail/restaurant/entertainment operation, and final approval of the same by the City:

(i) City will reimburse up to \$~~1.53~~ million for public infrastructure costs associated with phase 1 of the Project (on terms to be further defined in the Definitive Agreements).

~~(ii) As authorized under Chapter 380 of the Texas Local Government Code, the City will provide a sales tax rebate structured as a sales tax sharing agreement that will be subject to a maximum rebate of \$1.5 million and a maximum term of 10 years (whichever happens first) (the "Sales Tax Incentive"). The sales taxes generated by the development above an agreed baseline will be shared at 75% for AMLI and 25% for the Town and paid out based on actual tax receipts, per the Definitive Agreements. The Sales Tax Incentive shall be conditioned upon (i) completion of construction of all Phase 1 Improvements, and (ii) achieving 90% occupancy for all AMLI Phase 1 retail and entertainment areas.~~

- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.3 Phase 2 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$104,200,000 in connection with the Improvements for phase 2 of the Project.

- (b) *Stream Phase 2 (Office)*. Stream will construct an office building with ground level retail and a public parking garage (“Stream Phase 2”), further described as follows:

Land Area:	3.966 acres
Net Rentable Area:	150,000 sf of office; 4,000 sf of DART Station Improvements
Parking Garage:	850 stall public parking garage
Other:	The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.4 Phase 2 Economics:

- (a) *Phase 2 Economics*. The parties agree that the following general economic terms shall apply to phase 2 of the Project, which shall be defined in further detail in the Definitive Agreements:

- (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
- (2) All ground lease rent will be abated until one year after substantial completion of the Stream Phase 2 office tower.
- (3) City incentives (if any) for Stream Phase 2 will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
- (4) The costs of the additional 300 parking spaces required in the garage for Phase 2 and any other DART specific requirements will be addressed in the Definitive Agreements.
- (5) The parties anticipate construction of a ground enclosed DART Station (not just a platform) that will be in conformance with the quality and vision of the other Project elements. Stream commits to funding a portion of the development costs consistent with its submitted proposal, which provides for Stream committing \$160,000 based upon a construction cost of \$1,600,000 (to be further defined in the Definitive Agreements). The station will replace the existing DART platform and provide service for all DART riders (subject to DART’s approval).
- (6) DART, City and Stream will enter into a perpetual parking agreement whereby public parking is available for DART and retail patrons during the day and the entire Addison Circle development on nights and weekends and for special events, subject to the final interlocal agreement with DART and as subject to the terms of the Definitive Agreements.
- (7) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or

equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to Stream's phase 2 office and parking facilities.

- (8) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

2.5 Phase 3 Scope:

- (a) *Minimum Investment.* Co-Developers will invest a minimum of \$23,500,000 in connection with the Improvements for phase 3 of the Project.
- (b) *Scope.* The Definitive Agreements shall include the following general terms and conditions with regard to the scope for phase 3 of the Project:

Boutique Hotel:

Land Area: 1.156 acres

Number of Rooms: 120

Other: The project shall be built substantially as shown in the Proposal in design and quality, subject to City staff review and the Definitive Agreements.

2.6 Phase 3 Economics:

- (a) *Phase 3 Economics.* The parties agree that the following general economic terms shall apply to phase 3 of the Project, which shall be defined in further detail in the Definitive Agreements:
 - (1) Stream will sub-lease from City as defined in the DART Interlocal Agreement.
 - (2) City incentives (if any) for this phase will be negotiated based on current market dynamics and required timeframe to develop the asset. In addition, the projects will be heavily coordinated with City and DART to ensure the proper level of service and amenities are provided.
 - (3) Stream will provide payment and completion guarantees from a reputable entity (ies) approved by City, which may be in the form of an irrevocable letter of credit, or equivalent guarantee (to be further defined in the Definitive Agreements), with such guarantees to be released when final certificate of occupancy is issued. The guarantees will be a material provision of Stream's obligations under the Definitive Agreements and will apply to phase 3 hotel and related development.

- (4) A transfer tax of 25 basis points will be assessed on all subsequent sales of the property, excluding transfers to affiliated entities (to be defined in the Definitive Agreements). This will be recorded in the deed and run with the land in perpetuity. This tax will need to be accounted for each time the property sells and will be a seller expense.

3. PROJECT SCHEDULE; DUE DILIGENCE PERIOD

3.1. Project Schedule. The parties acknowledge that time is of the essence with regard to the Project and agree that each will use its best efforts to proceed in conformance with the proposed Project schedule set forth below:

PHASE 1	Date of Completion
Zoning entitlements approved by City Council	March 14, 2023
Execution of all Definitive Agreements	April <u>June</u> 30, 2023
Site Development Permit Issued <u>AMLI submittal of infrastructure plan</u>	July—September 2023 <u>December 2023</u>
Stream construction start on office/parking	October 2023 <u>May 2024</u>
<u>AMLI submittal of Tower building permit application</u>	<u>June 2024</u>
AMLI construction start on <u>T</u> tower	January—October 2024
AMLI construction start on <u>P</u> podium	September 2024 <u>January 2026</u>
Office/parking final CO issued	October 2025 <u>May 2026</u>
AMLI tower final CO issued	December 2026
Retail/entertainment/restaurant construction start	October 2025
AMLI podium final CO issued	December 2026
PHASES 2 & 3	Date of Completion
Stream construction start on office/parking	TBD*
Stream construction start on hotel	TBD
Office/parking final CO issued	TBD
Hotel final CO issued	TBD

**The parties acknowledge that a required date of completion will be established for Phase 2 as soon as practicable and will be subject, in part, to the interlocal agreement between DART and Addison.*

3.2. Modification of Project Schedule. The dates for completion identified in the Project schedule set forth in Section 3.1, above, may not be modified or extended, except by mutual written agreement of the parties. Notwithstanding the foregoing, a party shall be entitled to an extension when the party is unable to comply with the Project schedule as a direct result of an event of Force Majeure. As used in this section, the term “Force Majeure” shall mean that the party is prevented or delayed in performing in compliance with the Project schedule, in whole or in part, to such an extent that the party would not be able to meet a required date of completion therein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party’s control and not attributable to its malfeasance, neglect or nonfeasance. The party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating (a) how and why their performance was so prevented, (b) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (iii) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this MOU as soon as reasonably practicable.

3.3. Due Diligence Period. The Due Diligence Period will commence on the Effective Date and expire on the earlier of (i) ~~June-April~~ 30, 2023, or (ii) the date upon which the parties have mutually executed all Definitive Agreements required for the Project. The parties will conduct all due diligence with respect to the Project as the parties may deem necessary or appropriate, and the parties shall fully cooperate with each other in this regard. Each party shall be solely responsible for its own costs in connection with the due diligence required for the Project, except as otherwise mutually agreed by the parties. The Due Diligence Period may be extended by mutual written agreement of the parties.

3.4. Exclusivity. During the Due Diligence Period City will negotiate exclusively with Co-Developers in good faith to execute the Definitive Agreements for the Project, and will not engage, ~~negotiate with, solicit or accept proposals from~~ any party other than Co-Developers to act as a developer (or co-developer) of for the Project; however, notwithstanding the foregoing, during the Due Diligence Period, City shall have the right to solicit proposals from, and discuss the terms for, other parties to act as a developer (or co-developer) of the Project or a portion thereof. Further, from and after expiration of the Due Diligence Period, if the Definitive Agreements have not been finalized and executed, City shall have the right to terminate this MOU as to one or both Co-Developers and thereafter engage (or seek to engage) one or more other parties to act as a developer (or co-developer) of the Project or a portion thereof. -

3.5. Project Feasibility Assessments. Co-Developers agree that each will promptly, and without undue delay, conduct the feasibility assessments described below during the Due Diligence Period:

- (a) *Property Inspections.* All property due diligence (title examination, surveys, environmental site assessments, soil conditions tests and other physical inspections and similar items) relating to the feasibility of the development of the Project;
- (b) *Zoning and Entitlements.* All required zoning and real property entitlements necessary to develop the Project in conformance with the terms of this MOU and the Definitive Agreements; and

- (c) *Financial Due Diligence.* All financial due diligence reasonably necessary to ensure Co-Developers will be able to secure firm commitments from all lenders, investors, and/or other financing sources related to the design, development, construction, and administration of the Project as contemplated by the parties.

Co-Developers acknowledge that each has already engaged all consultants and/or other third-parties necessary to complete the above-referenced feasibility assessments.

4. MISCELLANEOUS

4.1. Mutual Cooperation; Site Access. The parties agree to work together at all times in good faith, meet regularly, and keep each other informed as to activities of the other, and maintain at all times a formal representative who shall serve as a point of contact for communications related to this MOU. City will furnish such rights-of-access to the Project site as reasonably necessary for the parties to conduct their respective due diligence obligations under this MOU.

4.2. Costs and Expenses. Each party shall be responsible for all costs and expenses associated with the preparation and adoption of this MOU, the preparation and adoption of the Definitive Agreements, and future actions related thereto.

4.3. Certification of No Conflicts. Co-Developers hereby warrant to City that each has made full disclosure in writing of any existing or potential conflicts of interest related to its participation in the Project as contemplated in this MOU. In the event that any conflicts of interest arise after the Effective Date of this MOU, Co-Developers hereby agree to immediately disclose the same to City.

4.4. Public Information Act. Co-Developers acknowledge that this MOU, and all documents provided to City in connection with the Project are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information received by City in connection with the same unless a party has previously notified City in writing that it considers the information to be confidential or proprietary trade secrets and has clearly marked all such information as “Confidential” and/or “Proprietary – Trade Secret” at the time it is delivered or made accessible to City (including City’s officers, officials, employees, consultants, attorneys and/or other authorized representatives). In the event City delivers to Co-Developers information that it has expressly marked “Confidential” or has notified Co-Developers is confidential or is the proprietary information of a third-party, Co-Developers agree neither shall disclose to anyone directly or indirectly during the term of this MOU or at any time thereafter, any such information, nor shall either use any such information for any purpose other than in connection with the Project contemplated in this MOU.

4.5. Governing Law. This MOU shall be construed and governed by the laws of the State of Texas; and venue for any action concerning this MOU 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 court.

4.6. Exhibits. The exhibits to this MOU are incorporated herein.

4.7. Amendment. This MOU may only be amended by mutual written agreement executed by all parties.

4.8. Counterparts. This MOU may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY –
SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the parties have executed and delivered this ~~Second~~Third Amended MOU as of the Effective Date.

For City:

TOWN OF ADDISON, TEXAS

By: _____
David Gaines, City Manager

Date: _____

NOTICE ADDRESS:

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

For Co-Developer AMLI:

AML RESIDENTIAL PARTNERS, LLC
a Delaware limited liability company

By: _____
Taylor Bowen, Authorized Signatory

Date: _____

NOTICE ADDRESS:

AML Residential Partners, LLC
5057 Keller Springs Road, Suite 250
Addison, TX 75001
Attn: Taylor Bowen and Joe Bruce
E: TBowen@amli.com and JBruce@amli.com

For Co-Developer Stream:

STREAM REALTY ACQUISITION, L.L.C.
a Texas limited liability company

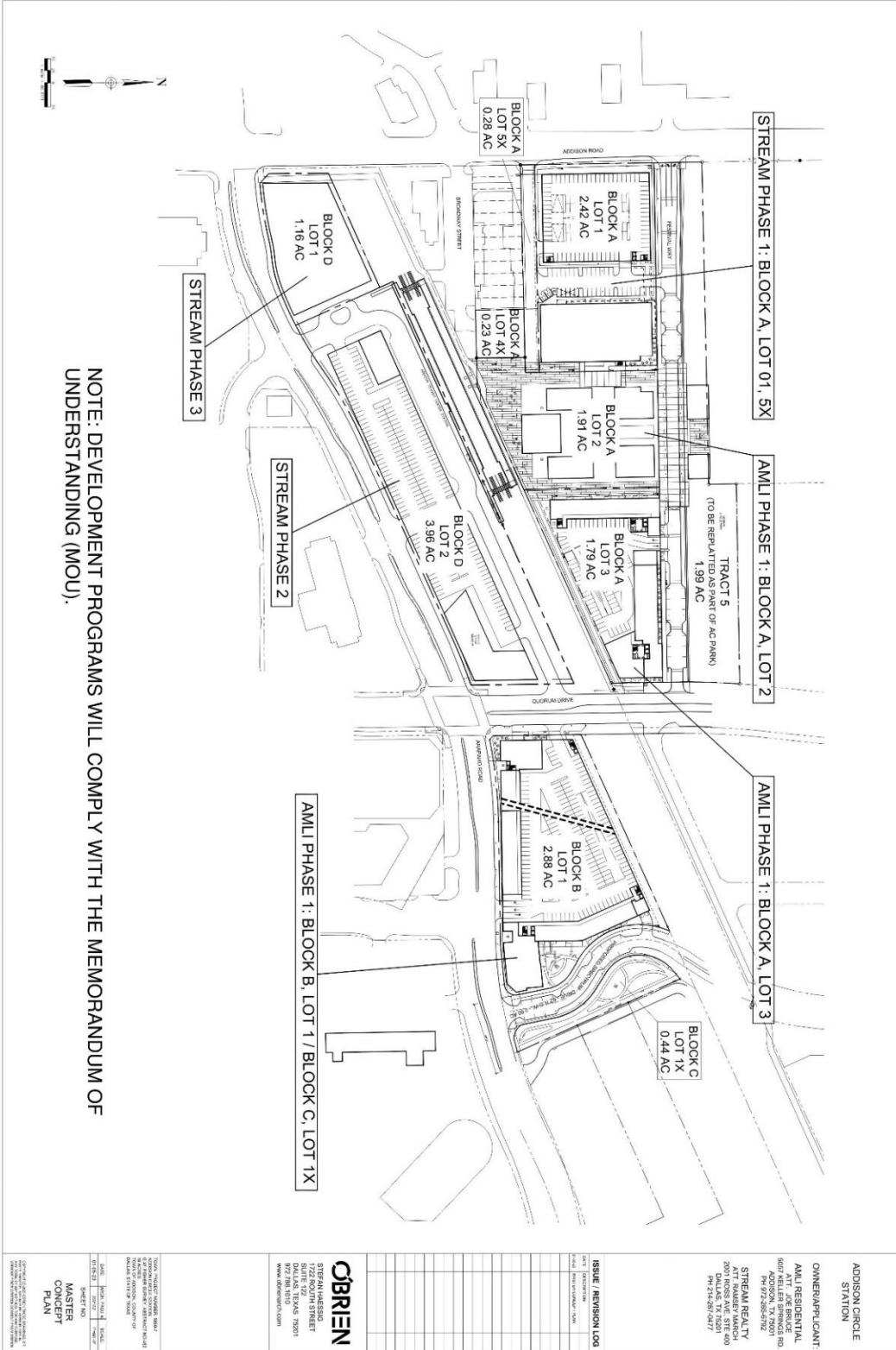
By: _____
Ramsey March, Managing Director

Date: _____

NOTICE ADDRESS:

Stream Realty Acquisition, L.L.C.
2001 Ross Avenue, Suite 400
Dallas, Texas 75201
Attn: Ramsey March
E: rmarch@streamrealty.com

Exhibit A Master Concept Plan



ADDITION CIRCLE
STATION

OWNER/ARCHITECT:
AMLI RESIDENTIAL,
ATTY: JOE BRUCE
8609 ADDISON, SUITE 7000
DALLAS, TX 75203
PH: 972-388-8792

STREAM REALTY
ATTY: RAFAEL MARCH
2000 DALLAS, TX 75201
PH: 214-261-5477

ISSUE / REVISION LOG

DATE	DESCRIPTION

CBRIEN
STEVEN HARRISS
DALLAS, TEXAS 75201
www.cbrien.com

NO. OF SHEETS: 12
NO. OF PAGES: 12
SHEET NO.: 12

PROJECT NO.:
MASTER
CONCEPT
PLAN

DATE: 11/15/17

SCALE: 1" = 100'

PROJECT: ADDISON CIRCLE STATION

DATE: 11/15/17

SCALE: 1" = 100'

PROJECT: ADDISON CIRCLE STATION

DATE: 11/15/17

SCALE: 1" = 100'

PROJECT: ADDISON CIRCLE STATION

DATE: 11/15/17

Council Meeting 2023

13.

Meeting Date: 04/25/2023

Department: Public Works

Pillars: Excellence in Asset Management
Excellence in Transportation Systems

Milestones: Improve all modes of transportation with infrastructure in an acceptable condition and well maintained

AGENDA CAPTION:

Present, Discuss, and Consider Action on a Resolution Approving an Agreement for Professional Engineering Services Between the Town of Addison and Kimley-Horn and Associates, Inc. for the Design of the Montfort Drive Reconstruction Project and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$792,700.

BACKGROUND:

The purpose of this item is to approve a professional services agreement for the design of the reconstruction of Montfort Drive from Belt Line Road to the Town's southern limit, which is located adjacent to the southern property line of the Village on the Parkway development.

This project's scope is the complete replacement of the existing pavement, all Town-owned water and sanitary sewer lines, upgrades to the storm sewer system, and the installation of sidewalks and landscaping.

A complete scope of services can be found in exhibit "A" of the agreement, but it generally includes:

- Survey of the project area
- Subsurface utility exploration
- Geotechnical investigation
- ROW and easement acquisition services
- Traffic signal warrant study
- Project design
- Design support during construction

Addison voters approved this project as part of Proposition B in the 2019 bond election, and has an overall budget of \$7.3M. The design is anticipated to take approximately 12 months to complete.

Kimley-Horn Associates, Inc. (Kimley-Horn) was qualified through a Request for Qualifications process in 2017 to perform design, project management, and construction management-related services for the Town. Kimley-Horn was

selected to perform the design work for the Montfort Drive Reconstruction Project due to their experience with previous Town projects and familiarity with the Town's standards and specifications.

RECOMMENDATION:

Administration recommends approval.

Attachments

Presentation - Montfort Design

Resolution - Kimley Horn Montfort Drive Reconstruction

Project Limits Graphic

Montfort Reconstruction Design Agreement

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

Background

- The reconstruction of Montfort Drive was approved by voters as part of Proposition B in the 2019 bond election.
- Overall budget of \$7.3M.
- Project limits are from Belt Line to southern City limits.
- Originally scheduled to begin after Quorum Drive Completion in mid 2027.
- Construction now anticipated to begin in 2024 and take approximately 12 months.
- Minimal traffic impacts due to the adjacency of the DNT.



- This professional services agreement with Kimley-Horn covers all necessary design work and design support during construction for the project.
- Kimley-Horn has performed numerous design projects for the Town.
- Design is estimated to take approximately 12months.



Questions?

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE DESIGN OF THE MONTFORT DRIVE RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED \$792,700.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Kimley-Horn and Associates, Inc. for the Montfort Drive Reconstruction Project design in conformance with the City’s requirements.

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

SECTION 1. The City Council hereby approves the agreement between the Town of Addison and Kimley-Horn and Associates, Inc. for the Montfort Drive Reconstruction Project design in conformance with the City’s requirements and in an amount not-to-exceed of \$792,700.00, 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 **25th** day of **APRIL**, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

Exhibit A

PROFESSIONAL SERVICES AGREEMENT DESIGN OF MONTFORT DRIVE RECONSTRUCTION PROJECT

This Professional Services Agreement (“Agreement”) is made by and between the **Town of Addison, Texas** (“City”), and **Kimley-Horn and Associates, Inc.** (“Professional”) (each a “party” and collectively the “parties”), acting by and through their respective authorized representatives.

RECITALS

WHEREAS, City desires Professional to perform certain work and professional services, hereinafter referred to only as “services”, as further specified in the Scope of Services defined in Section 1 of this Agreement; and

WHEREAS, Professional has expressed a willingness to perform said services in conformance with this Agreement.

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

Section 1. Scope of Services

Upon written notice to proceed by City, Professional agrees to provide to City professional consulting services related to the Montfort Drive from Belt Line Road South to Town Limits project (“Project”), as set forth in the Scope of Services attached hereto as **Exhibit “A”** and incorporated herein by reference (the “Scope of Services”). Professional shall not be entitled to any claim for extra services, additional services or changes in the services without a written agreement with City prior to the performance of such services.

Section 2. Term of Agreement

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

Section 3. Professional’s Obligations

(a) Performance of Services. Professional shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform the services. To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional may engage the services of any agents, assistants, or other persons that Professional may deem proper to assist in the performance of the services under this Agreement; provided, that Professional shall be responsible for all costs related thereto, except as expressly authorized in writing in advance by City.

(b) Site Access. City will endeavor to provide such rights of access on any project site as may be reasonably necessary for Professional to perform any necessary studies, surveys, tests or other required investigations in relation to the Scope of Services; provided, that City shall have no obligation to (i) provide off-site access, (ii) provide access to private property for which City does not have an existing right to access, nor (ii) incur any costs associated with the access to be provided under this Agreement.

Exhibit A

(c) Standard of Care. Professional shall perform the services with the skill and care ordinarily provided by competent professionals practicing in the same or similar locality and under the same or similar circumstances and professional licenses. Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all services, including all Project Documents, designs, drawings, specifications, plans, and all other services furnished by Professional under this Agreement. Professional shall, without additional compensation, correct or revise any negligent errors, omissions, or inconsistencies in the design, drawings, specifications, plans and other services. Professional shall further make, without expense to City, such revisions to the Project Documents as may be required to meet the needs of City and which are within the Professional's Scope of Services.

(d) Additional Services. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services in accordance with the fee schedule set forth in **Exhibit B**, and within the time schedule prescribed by City; and without decreasing the effectiveness of the performance of services required under this Agreement.

(e) No Waiver of City's Rights. Neither City's review, approval, acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this Agreement.

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

(g) Inspection of Records. Professional grants City and its designees the right to audit, examine or inspect, at City's election, all of Professional's Records (defined below) 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 Professional's Records may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Professional agrees to retain Professional's Records for a minimum of one (1) year 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. "Professional's Records" shall include any and all information, materials and data of every kind and character generated in connection with the services under this Agreement. City agrees that it will exercise its right to audit, examine or inspect Professional's Records during regular business hours unless City has provided advance written notice of an alternate time. Professional agrees to allow City and its designees access to all of Professional's Records, Professional's facilities, and the current or former employees of Professional, to the extent deemed reasonably necessary by City or its designee(s), to perform such audit, inspection or examination.

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

Exhibit A

(i) Hazardous Materials. Professional shall report the presence and location of any hazardous materials it notices or which an professional of similar skill and experience should have noticed to the City.

Section 4. Performance Schedule

(a) Time for Performance. Professional shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with City's requirements. In the event Professional's performance of this Agreement is delayed or interfered with by acts of the City or others, Professional may request an extension of time in conformance with this Section 4 for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever, shall be claimed or made to Professional, unless Professional shall have made written request upon City for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless City and Professional have agreed in writing upon the allowance of additional time to be made.

Section 5. Documents

(a) Project Documents. All proposals, reports, studies, surveys, applications, drawings, plans, specifications, and other documents (including any electronic format) prepared by Professional and its employees, consultants, subcontractors, agents, or representatives (collectively referred to in this section as "Professional") for the use and/or benefit of City in connection with this Agreement ("Project Documents"). Professional shall be deemed the authors of their respective component of the Project Documents. Notwithstanding, upon payment by City as required by this Agreement, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement. City shall have full authority to authorize any contractor(s), subcontractors, consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the services or for any other purpose. Acceptance and approval of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional for the accuracy or competency of its designs, working drawings, specifications, or other documents; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings and specifications, or any other documents prepared by Professional. Any modifications made by the City to any of the Project Documents, or any use, partial use or reuse of the Project Documents (in a manner not contemplated by this Agreement) without written authorization or adaptation by Professional will be at City's sole risk and without liability to Professional.

(b) Professional's Documents. All previously owned intellectual property of Professional, including but not limited to any computer software (object code and source code), tools, systems, equipment or other information used by Professional or its suppliers in the course of delivering the Services hereunder, and any know-how, methodologies or processes used by Professional to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto ("Professional's Documents"), shall remain the sole and exclusive property of Professional. Notwithstanding, Professional agrees that City shall have the right to access to all such information and City is granted the right to make and retain copies of Professional's Documents. City acknowledges that any reuse of Professional's Documents without specific

Exhibit A

written verification or adaptation by Professional will be at City's sole risk and without liability or legal exposure to Professional.

(c) Confidential Information. Professional agrees it will notify City in writing if it considers specific information to be confidential or proprietary trade secrets and will use its best efforts to clearly mark all such information as “Confidential” and/or “Proprietary – Trade Secret” at the time it is delivered or made accessible to City. City acknowledges that all such designated information is considered by Professional to be confidential and the exclusive property of Professional. Notwithstanding the foregoing, Professional acknowledges that this Agreement, and all services performed hereunder, are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information if Professional has not notified City of such designation in conformance with this section. Professional agrees and covenants to protect any and all proprietary rights of City (or other persons) in any materials provided to Professional by City. Additionally, any materials provided to Professional by City shall not be released to any third party without the consent of City and shall be returned intact to City upon termination or completion of this Agreement if instructed to do so by City. In the event City delivers to Professional any information that has been expressly marked “Confidential” or has notified Professional is confidential or is the proprietary information of a third-party, Professional agrees it shall not disclose to anyone directly or indirectly during the term of this Agreement or at any time thereafter, any such information, nor shall it use any such information for any purpose other than as reasonably necessary in connection with Professional’s performance of the services under this Agreement. Professional shall further, at its own expense, defend all suits or proceedings instituted against City and pay any award of damages or loss resulting from an injunction, against City, insofar as the same are based on any claim that materials or services provided under this Agreement constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights. Notwithstanding, the foregoing confidentiality obligations shall not extend to and nothing herein shall limit either party’s right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving party or its personnel; (ii) was or becomes available to the receiving party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving party without the use of any confidential information of the disclosing party; or (iv) is required to be disclosed by applicable law or a court order.

Section 6. Payment

(a) Compensation. Professional’s total compensation under this Agreement shall not exceed \$465,400.00 for the ‘Basic Services’, and \$327,300.00 for the ‘Special Services’, as specified in the fee schedule set forth in **Exhibit B**.

(b) Payment Terms. City agrees to pay Professional for all services authorized in writing and properly performed by Professional in general conformance with this Agreement, subject to changes in the Scope of Services or additional services agreed upon in writing. Unless otherwise agreed in writing, all payments to Professional by City shall be based on detailed monthly invoices submitted by Professional for work performed and accepted by City, less any previous payments. Payment will be due within thirty (30) days of the City’s receipt of an approved invoice. Notwithstanding the foregoing, City reserves the right to delay, without penalty, any payment to Professional when, in the opinion of City, Professional has not made satisfactory progress on the Project as described in the Scope of Services.

(c) Deductions. City may deduct from any amounts due or to become due to Professional any sum or sums owing by Professional to City. In the event of any breach by Professional of any provision or

Exhibit A

obligation of this Agreement, or in the event of the assertion by other parties of any claim for payment or liens for payment against City, or City's premises, arising out of Professional's performance of this Agreement, City shall have the right to retain out of any payments due or to become due to Professional an amount sufficient to completely protect City from any and all reasonably anticipated loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by Professional.

Section 7. Default; Force Majeure

(a) Default; Notice to Cure. A party shall be deemed in default under this Agreement if the party is in breach of a material provision of this Agreement and said breach is not cured within fifteen (15) days written notice of default by the other party. In the event the breaching party has notified the other party in writing that it is diligently working to cure the breach and has provided reasonable written evidence in support of the same, the breaching party shall not be deemed in default until the thirtieth (30th) day following the non-breaching party's notice of default.

(b) Default by Professional. In addition to default under Section 7(a) above, Professional shall be in default under this Agreement if Professional fails to comply or becomes disabled and unable to comply with the provisions of this Agreement related to Professional's performance of the services, including the quality or character of the services or time of performance, for any material component of the services. If such default is not corrected within ten (10) days from the date of City's written notice to Professional regarding the same, City may, at its sole discretion without prejudice to any other right or remedy:

- (i) Terminate this Agreement and be relieved of the payment of any further consideration to Professional except for all services determined by City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Professional to and from meetings called by City at which Professional is required to attend, but shall not include any loss of profit of Professional. In the event of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by re-subletting to others; or
- (ii) City may, without terminating this Agreement or taking over the services, furnish the necessary labor, materials, equipment, supplies and/or assistance necessary to remedy the situation, at the expense of Professional.

(c) Force Majeure. To the extent either party of this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, or a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance (each an event of "Force Majeure"), the time for performance of such obligation (other than a payment obligation) may be extended for a period equal to the time lost by reason such event, provided, that the party complies with the provisions of this section. Specifically, the party asserting Force Majeure (i) shall give timely notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating: (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (3) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Agreement as soon as reasonably practicable.

Exhibit A

Section 8. Termination; Suspension

(a) Termination Upon Default. Either party may terminate this Agreement upon written notice if the other party is in default of this Agreement, subject to the defaulting party's right to cure in conformance with the terms of this Agreement.

(b) Termination by City. City shall be entitled to terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to Professional.

(c) Termination Following Request for Modification. Should City require a modification of this Agreement with Professional, and in the event City and Professional fail to agree upon a modification to this Agreement, City shall have the option of terminating this Agreement and Professional's services hereunder at no additional cost other than the payment to Professional, in accordance with the terms of this Agreement, for the services reasonably determined by City to be properly performed by Professional prior to such termination date.

(d) Suspension. City reserves the right to suspend this Agreement for the convenience of City by issuing a written notice of suspension which shall describe City's reason(s) for the suspension and the expected duration of the suspension. Such expected duration shall, in no way, guarantee what the total number of days of suspension shall occur. Such suspension shall take effect immediately upon Professional's receipt of said notice. Should such suspension extend past the expected duration identified by City in its latest notice of suspension, Professional shall have the right to terminate this Agreement if (i) Professional provides not less than thirty (30) days prior written notice to City requesting to recommence the services, and (ii) City does not recommence the services within the time requested.

Section 9. Insurance

Professional shall during the term hereof maintain in full force and effect all policies of insurance reasonably required by City. Professional's obligation to provide acceptable certificates of insurance is a material condition precedent to 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 for the specific services under this Agreement are maintained by and accessible through the City's purchasing department.

Section 10. Indemnification; Notice.

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 PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. SUBJECT TO THE LIMITATIONS IN THE TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY INDEMNITEES 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 THE

Exhibit A

NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT, OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, CONTRACTORS, SERVANTS, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEES TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

Notices of Claim. Professional shall promptly advise City in writing of any claim or demand against the City, related to or arising out of Professional's acts or omissions under this Agreement and shall see to the investigation and defense of such claims or demand at Professional's sole cost and expense; provided, that City, at its option and at its own expense, may participate in such defense without relieving Professional of any of its obligations hereunder. Professional's obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained under this Agreement.

THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR A PERIOD OF FOUR (4) YEARS.

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. Verifications by Professional

Professional's execution of this Agreement shall serve as its formal acknowledgement and written verification that:

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

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

Exhibit A

(c) pursuant to Texas Government Code Chapter 2251, that Professional'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 13. Miscellaneous

(a) Professional shall not assign or sublet this Agreement, in whole or in part, without the prior written consent of City. (b) Professional shall comply with all federal, state, county, and municipal laws, ordinances, resolutions, regulations, rules, and orders 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]

Exhibit A

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

For City:

For Professional:

TOWN OF ADDISON, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____

David Gaines
City Manager

By:  _____

Bradley J. Hill
Regional Contract Lead

Date: _____

Date: April 13, 2023

Notice Address:

Notice Address:

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

Kimley-Horn and Associates, Inc.
Attn: Bradley J. Hill, Regional Contract Lead
801 Cherry Street, Unit 11,
Suite 1300,
Fort Worth, TX 76102
E: bradley.hill@kimley-horn.com

Addison Contract ID:
PSA_WW_April 11, 2023_v1.20220427

Exhibit A

**Exhibit “A”
Scope of Services
Agreement by and between the Town of Addison, Texas (Town)
and Kimley-Horn and Associates, Inc. (Consultant)
to perform Professional Engineering Services for
Montfort Drive from Belt Line Road South to Town Limits**

This scope of services identifies the design and engineering services that will be provided for the reconstruction of Montfort Drive from Belt Line Road south to the Town Limits (approximately 1,500 linear feet). General tasks under this scope will include roadway, permanent and temporary traffic signal, sidewalk, drainage, water line, sanitary sewer, landscaping, irrigation, and illumination design. Additionally, Consultant will provide topographic and boundary survey, subsurface utility engineering, geotechnical, and property acquisition services. Based on direction received from the Town the plans will be progressed through Conceptual, Preliminary, Pre-Final, and Final Design milestones. Consultant will provide bidding and construction phase support to the Town.

This scope of services only covers the general project area described herein and does not provide for additional survey, alignment changes, extensions, or expansions. The Consultant will provide services as specifically outlined below:

Project Assumptions

- A. Limits of paving improvements are from the south side of the Montfort Drive and Belt Line Road intersection south approximately 1,500 linear feet to the Town / City of Dallas limits.
- B. To minimize impacts to adjacent properties, the geometry of the proposed roadway will generally match existing conditions. Consultant will submit a design exception request for any pavement adjustments/movements greater than 6” vertical and 12” horizontal.
- C. The Consultant understands there are recently constructed sidewalk and retaining wall improvements along the corridor, as well as improvements in design by adjacent developers. These improvements will be taken into consideration during design of the project and called out to be protected in construction plans.
- D. Where grading from proposed sidewalk would adversely impact adjacent properties short retaining walls with veneer, and wall cap (if needed), will be utilized.
- E. Temporary traffic signal design at the Montfort Drive / Belt Line Road intersection will be provided. Level A SUE will be utilized to check for potential conflicts.
- F. Permanent traffic signal design will be provided at one intersection south of Belt Line Road, the location of which will be based on a traffic signal warrant analysis prepared as part of this scope.
- G. Landscaping and irrigation will be provided within Town right-of-way along the reconstruction limits. Contractor will be required to identify existing private irrigation systems during construction and if damaged by Contractor, return to existing conditions.
- H. Illumination will be provided along the median. Oncor standard light poles will be utilized.
- I. Consultant will assist the Town will preparation of two professional organization award applications, as well as a 2–3-minute project informational video, after construction is complete.

Task 1 – Topographic and Boundary Survey

Topographic and Boundary survey will be performed within the limits show in Figure 1.

- A. Data Collection and Property Research

Exhibit A

1. Gather existing right-of-way, and easement information and identify easements available through typical research methodologies (i.e. plats, courthouse filings, etc.). Undocumented easements may not be identified. Title research may be performed as an Additional Service only upon written Town authorization.
 2. Coordinate Right-of-Entry (ROE) with the Town's assistance to contact any non-responsive property owners. The Town will assist Consultant by sending out a project introduction letter prepared by the Consultant as soon as the project begins.
 3. Town to provide available record drawing information for Town infrastructure and development record drawings along the project limits.
 4. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing Town of Addison control network.
 5. Establish horizontal and vertical project control monumentation. Portions of monumentation will be set outside the anticipated limits of demolition.
- B. Perform a field survey to identify and locate existing topographic elements within the roadway corridor, which may include the following:
1. Property corner monumentation;
 2. Existing pavement, curbs, sidewalks, barrier free ramps, etc.;
 3. Driveways (survey limits are set approximately 30' outside of Montfort Drive outside curb lines in an effort to capture tie-in locations and adjacent drainage patterns);
 4. Existing storm sewer inlets, manholes, junction boxes (including sizes and invert elevations);
 5. Outfalls and erosion control;
 6. Existing driveway culverts and swales;
 7. Guardrail;
 8. Utility manholes, sanitary sewer manholes (and invert elevations), vaults, water valves, water meters, telephone poles, power poles, utility markers, other public utilities, and franchise utilities;
 9. Traffic signal poles, cabinets, handholes, and other signal equipment;
 10. Signs (excluding temporary signs);
 11. Trees 4" caliper and up;
 12. Buildings and permanent structures;
 13. Retaining walls and material types;
 14. Fence limits and material types (excluding temporary fences);
 15. Other applicable physical features that could impact design.
- C. Review topographic survey and available records from the Town
- D. When underground utilities are exposed, tie to project control baselines.
- E. Identify the street address of all adjacent properties to the proposed construction and show on drawings.
- F. Compile above information into a base file to be used for design.
- G. Base file will be in AutoCAD Civil 3D.
- H. Provide base files to other consultants, utility companies, and contractors who may be performing work for the Town or adjacent to the Project, upon Town request.

Exhibit A

**FIGURE 1
MONTFORT DRIVE
TOPOGRAPHIC/BOUNDARY SURVEY AND LEVEL B SUE LIMITS**

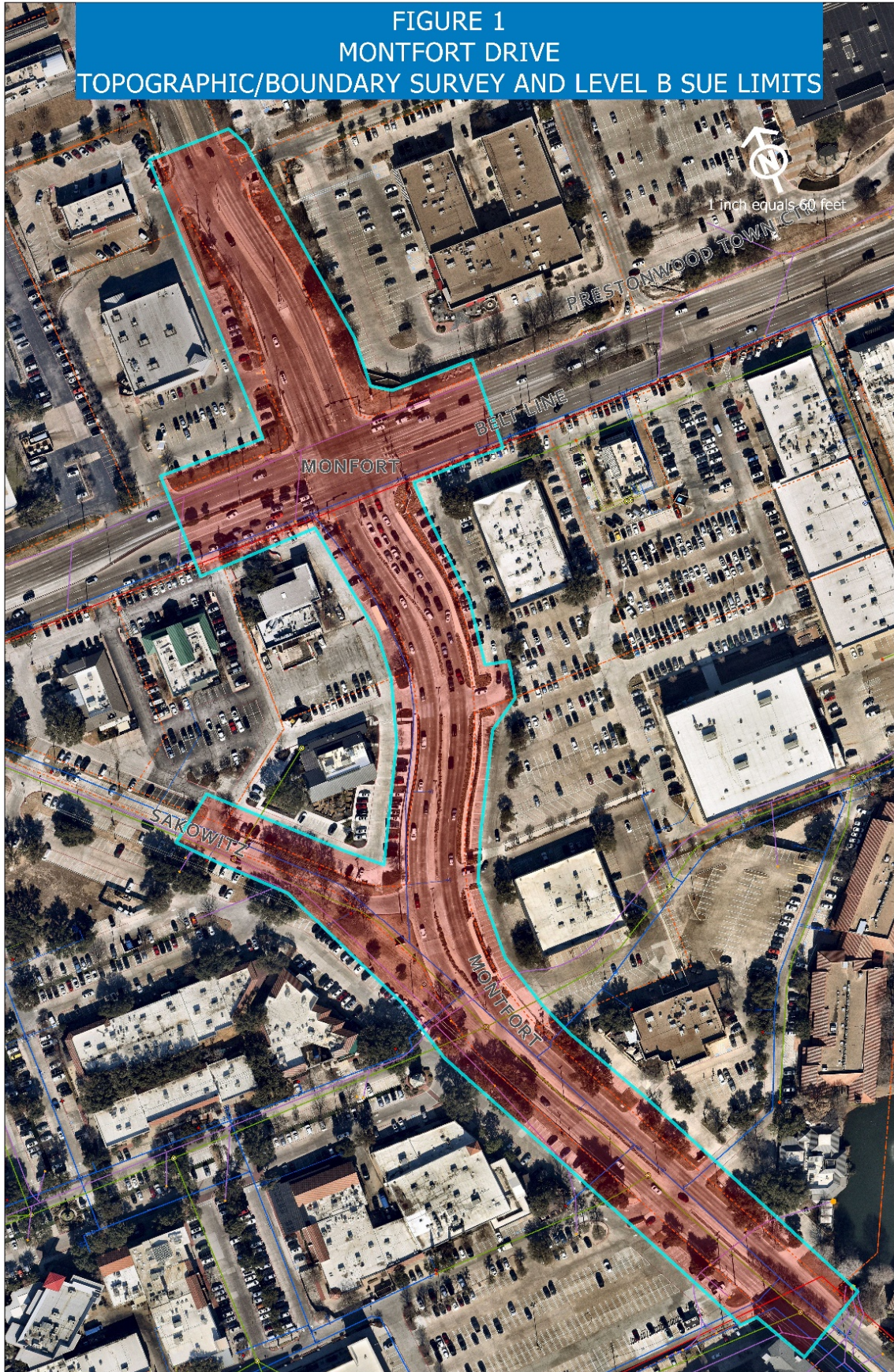


Exhibit A

Task 2 – Subsurface Utility Engineering (SUE)

A. Level B SUE

Consultant will provide Level B SUE within the same limits as the topographic survey (Figure 1), including an overhead inventory of aerial lines.

B. Level A SUE

Consultant will provide Level A SUE locates on a per location basis. For budgeting purposes, the following quantities have been assumed:

1. (2) 0'-4' potholes at \$1,100/pothole (\$2,200)
2. (6) 4'-8' potholes at \$1,450/pothole (\$8,700)
3. (2) 8'-12' potholes at \$1,800/pothole (\$3,600)
4. (0) 12'-18' potholes at \$2,100/pothole (\$0)
5. (10) pavement corings at \$230/coring (\$2,300)
6. (3) days of traffic control at \$2,200/day (\$6,600)

Task 3 – CCTV Storm Drain

- A. Consultant will video the existing conditions of the storm drain within the roadway reconstruction limits. Video will be provided to the Town.

Task 4 – Coordination with Texas Historical Commission

- A. It is our understanding that the proposed project is located on land owned by a political subdivision of the State. Therefore, the proposed project would be subject to review by the Texas Historical Commission under the Antiquities Code of Texas (ACT). The ACT requires state agencies and political subdivisions of the state to notify the Commission of ground-disturbing activity on public land. To comply with the ACT, Consultant will prepare a consultation letter that will provide an overview of the proposed project, including location and anticipated construction details. Consultant will upload the consultation letter and supporting exhibits/maps/plans to the Texas Historical Commission website and request a review of the project under the ACT. The result of the review may be a response from the Commission requiring additional information, requiring a cultural resources survey, or clearing the project from further cultural resources considerations. It should be known that the Commission takes up to 30 days to respond to review requests.
- B. If it is determined a Cultural Resources Study is required, it can be provided as an Additional Service.

Exhibit A

Task 5 – Geotechnical Investigation

- A. Consultant will perform geotechnical investigation for pavement sections and miscellaneous structures along Montfort Drive.
- B. Consultant will provide the following deliverable to the Town and use the information provided in the deliverable to assist in the design tasks listed elsewhere in this scope of services:
 - 1. Engineering Analysis and Report including:
 - a) Plan of borings illustrating the approximate location of each boring. Eight borings are planned for the project. Pavement boring locations will be coordinated with proposed water and sanitary sewer locations to provide existing soil conditions for design and construction of the utilities.
 - b) A log of each boring indicating the boring number, depth of each stratum, soil classification and description, and groundwater information.
 - c) Description of the field exploration and laboratory testing.
 - d) Summary of laboratory test results.
 - e) Discussion of subsurface soil and groundwater conditions.
 - f) General discussion of the site geology.
 - g) Discussion of potential soil movements, including swell testing and calculated potential vertical rise (PVR)
 - h) Pavement section recommendations.
 - i) Recommendations for foundation types for miscellaneous structures. Recommendations will include suitable bearing stratum and depth, allowable bearing pressure, allowable frictional resistance, estimated settlement of the shaft, and construction considerations.
 - j) Miscellaneous structures may include the following elements:
 - k) Traffic signal foundations
 - l) Streetlight foundations
 - m) Low-height retaining structures (less than 6 feet – no global stability analysis)
 - n) Bus stop pad and shelter foundations
 - o) Recommendations for drilled shaft resistance to lateral loads (LPILE design parameters).
 - p) Earthwork recommendations, including backfill requirements.

The report will be based on the following field exploration and laboratory testing services:

- 1. Field Exploration
 - a) Coordinate field activities with the Town
 - b) Perform site reconnaissance and stake proposed boring locations based upon location of proposed structures and ease of access.
 - c) Contact Texas One Call and appropriate local agencies to meet on site and locate buried utilities within existing easements and rights-of-way.
 - d) Provide a two-man crew to provide traffic control services during drilling operations along the project limits. Traffic control will be
 - e) Mobilize a Geoprobe drilling rig to drill and sample borings to depths ranging between 20 and 30 feet below existing grade or rig refusal, whichever is less.

Exhibit A

- f) Sample the subsurface soil continuously to a depth of 10 feet, and intermittently every 5 feet below 10 feet. Sample will be collected using either a seamless tube sampler or a split spoon sampler in conjunction with the standard penetration test (SPT).
 - g) Observe for groundwater seepage during drilling and at completion.
 - h) Backfill remaining boreholes with grout/flowable fill upon completion and patch asphalt or concrete surfaces (if any) with similar materials. Replace core if not damaged.
3. Laboratory Testing (through a Subconsultant)
- a) Select laboratory testing will be conducted on representative samples obtained during the field exploration. The tests will be used to evaluate and classify the soils, identify subsurface site characteristics, and provide data for analysis. These tests may include:
 - b) Atterberg limits (liquid and plastic limits)
 - c) Percent passing No. 200 sieve
 - d) Dry unit weight and moisture content
 - e) Unconfined compressive strength
 - f) Swell
 - g) Soluble sulfate

Task 6 – Appraisal, Title, and Right-of-Way Acquisition Services

The Consultant (through a Subconsultant) will provide Appraisal, Title, and Right-of-Way Acquisition services as described below. Consultant is retaining Subconsultant to provide the services described in this task solely for the administrative convenience of the Town. Town acknowledges that Consultant will not be reviewing the work product of Subconsultant and agrees that Consultant shall not be liable for it in any way. If the Town has any future claim related to these services, Town will pursue the claim against Subconsultant directly and hold harmless Consultant from any such claim.

A. Appraisal Services

Provide appraisals for up to six properties.

B. Title Services

Research and provide Abstractor Certificates for up to six properties, which will be utilized for easement and/or right-of-way acquisitions.

C. Acquisition Services

1. Attendance at one (1) Town Hall or similar meeting to be introduced to the affected Property Owners.
2. Review of the title commitments provided for possible title encumbrances.
3. Send to each affected property owner a registered receipt Letter of Introduction, while waiting for receipt of the appraisal reports.
4. Send each property owner an initial offer letter packet complete with a copy of the appraisal report.
5. Follow-up with a contact phone call offering to meet and discuss the offer.
6. If no response is offered after a determined number of days send a final offer letter.
7. Follow-up with a contact phone call offering to meet and discuss.
8. Prepare condemnation packets for up to two properties.

Exhibit A

9. Provide a complete documented file complete with copies of all correspondence and phone records for each property.

Task 7 – Right-of-Way and Easement Instruments of Conveyance

- A. Prepare up to six right-of-way and/or easement instruments (narrative and graphic exhibits)
- B. Individual parcel exhibits shall be on 8 ½" x 11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor and shall contain the following:
 1. Parcel number
 2. Area required
 3. Area remaining
 4. Legal description
 5. Current owner
 6. Any existing platted easement or easements filed by separate instrument including easements provided by utility companies
 7. Metes and bounds description of parcel to be acquired. The description shall be provided on a separate sheet from the exhibit. Each type of easement shall be described separately
- C. Additional exhibits (if needed) can be provided for \$2,500/exhibit for right-of-way and \$2,000/exhibit easements. Right-of-way exhibits include setting pins in the field.

Task 8 – Project Management

- A. Coordination and Communication
 1. Consultant will coordinate and communicate as required with the Town.
- B. Progress and Project Milestone Meetings
 1. Consultant will attend up to two progress meetings per milestone phase with the Town during design.
 2. Consultant will attend one comment review meeting per milestone with the Town.
- C. Milestone Deliverables
 1. For the milestone submittals, provide two sets of 11"x17" plans (larger for Conceptual Roll Plot) and two sets of general notes / technical specifications / project manual in letter size format (contents commensurate with applicable milestone). A download link with electronic .pdf files will be provided to the Town.
 2. Plans will be developed to allow for clear and readable sheets when printed at half size (11"x17").

Task 9 – Conceptual Design Schematic (30%)

- A. Consultant will prepare a conceptual-level design schematic.

The Conceptual Design Schematic will be prepared in plan and profile view to establish the roadway location, typical sections, preliminary cross sections, and preliminary property impacts. The schematic will utilize existing aerial photography and topographic survey gathered by Consultant as a base.

 1. Horizontal and Vertical Alignment

Exhibit A

The roadway geometry for the project will be developed based on Town design standards and criteria. Sidewalk and DART bus stop geometry will also be provided.

2. Typical Sections

Proposed typical sections will be developed for each roadway segment. The typical sections will illustrate lane assignments, dimensions, slopes, and pavement section.

3. Cross-Sections

Roadway cross-sections will be developed for the 30% schematic based on the horizontal and vertical geometry, as well as the typical sections to establish the approximate widths of right-of-way and easement acquisitions, if needed.

4. Storm Drain

Based on the recommendations presented in the Town of Addison Stormwater System Assessment and Capital Improvement Program report dated August of 2017, Consultant will place 4-10' curb inlets and associated laterals in the vicinity of the existing storm drain main that crosses Montfort Drive (approximately 200' south of the Sakowitz Parkway intersection).

5. Water Line

Consultant will establish the locations of 8"-12" water lines to replace the existing Town-owned water line infrastructure within the project limits. This includes replacement of the existing 8" ductile iron water main near the Prestonwood Place Shopping Center with 8" PVC (based on Town of Addison Water Master Plan CIP Option 18)

6. Sanitary Sewer

Consultant will establish the locations of sanitary sewer lines and manholes to replace the existing Town-owned sanitary infrastructure in Montfort Road.

7. Illumination

During this phase, the electrical source for roadway illumination and conceptual routing will be determined and coordinated with Oncor.

8. Traffic Signal

Permanent traffic signal location, if warranted, will be shown on the schematic. Design of traffic signal improvements is provided under a separate task.

9. Conceptual Opinion of Probable Construction Cost (OPCC)

An opinion of probable construction cost (OPCC) will be prepared commensurate with the level of design during this phase.

Task 10 – Preliminary Design (60%)

Preliminary design will be based on approval of the Conceptual Design Phase schematic. Additional elements of the preliminary design phase are as follows:

A. Project Control and Layout

A plan sheet will be developed that provides the location of the project control benchmarks, as well as an overall layout of the project limits.

B. Quantity Sheet

Quantities will be presented per sheet in a table format.

C. Traffic Control Plans and Sequence of Construction

Exhibit A

Preliminary traffic control plans will be developed. A sequence of construction narrative will also be developed as necessary describing the anticipated order of construction activities.

D. Removal Layouts

Preliminary removal layouts will be developed depicting the removal of pavement and sidewalk along the corridor. Other existing features to be removed including trees 6 inches in diameter or larger. It is assumed that trees smaller than this size do not need to be catalogued for mitigation and removal will be described with other removal items in the general notes and/or specifications. Development of a tree mitigation plan is not a part of this scope of services.

E. Paving Plan and Profile

The horizontal and vertical geometry developed for the Conceptual Schematic will be advanced to incorporate further detail and will be included on plan sheets.

F. Roadway Drainage Design

Existing and proposed drainage area maps will be developed. Storm drain plan and profile sheets will be created, and hydraulic calculations will be provided.

G. Water Line Plan and Profile

Plan and profile of the water line improvements will be developed.

H. Sanitary Sewer Plan and Profile

Plan and profile of the sanitary sewer improvements will be developed.

I. Signing and Pavement Marking Layout

Signing and pavement marking layouts will be prepared for all project roadways including any additional signing or pavement markings required for connections to existing roadways.

J. Erosion Control Plan

Erosion control plans will be developed depicting erosion control measures for the project. Developing a Stormwater Pollution Prevention Plan (SW3P) is not included in this scope. It is assumed that this will be provided by the Contractor.

K. Illumination

Street light poles will be placed in the median, generally in the same locations as existing. It is assumed that the electrical connection will come off an existing source along Montfort Drive, which will be coordination with Oncor.

L. Traffic Signal Design (provided under a separate task)

M. Landscape Plans (provided under a separate task)

N. General Notes, Standard Construction Details, List of Special Specifications, and Opinion of Probable Construction Cost (OPCC)

A first draft of the project General Notes and Specifications will be prepared and included for Town review as a part of the 60% submittal. The 30% OPCC will be updated and included with the 60% submittal. Standard construction details will be included.

Exhibit A

Task 11 – Pre-Final Design (95%)

The Preliminary Design (60%) will be carried forward into Pre-Final Design in preparation of submitting Final construction documents. The following final items will be developed in addition to advancing the items described in the Preliminary Design Phase.

- A. Irrigation Plans (provided under a separate task)
- B. Project Specific Details
- C. General Notes, Standard Details, Specifications, and Opinion of Probable Construction Cost (OPCC)

The project General Notes and Specifications will be updated and included for review as a part of the Pre-Final submittal. Contract documents will also be included for review.

- 1. Special Specifications – Items not covered in NCTCOG standard specifications and details as amended by the Town, Town specifications and details, or in TxDOT specifications will require written Special Specifications.
- 2. Contract Documents – The plans will be completed, all sheets indexed, required general notes furnished, and work items listed. The project manual will include bidding requirements, bid proposal, bid schedule, special conditions, technical specifications, and all documents provided by the Town such as bonds, general conditions, and instructions to bidders.
- 3. OPCC – The 60% OPCC will be updated and included with the 95% submittal. A take-off and tabulation of pay quantities will be made. Pay items will be in accordance with the NCTCOG standard specifications as amended by the Town and supplemented where necessary with special items.

Task 12 – Final Design

- A. Consultant will revise plans/documents based on any Pre-Final comments from the Town and develop a Final Submittal.
- B. Consultant will submit the final plans and project manual to the Town prior to stamping/sealing.
- C. Consultant will update the plan and project manual based on Town comments and stamp/seal the documents in preparation for bidding.

Task 13 – Traffic Signal Warrant Analysis

- D. Consultant will perform traffic signal warrant analyses at four study intersections using weekday and Saturday 24-hour TMCs obtained under a separate contract. At each study intersection, Consultant will combine an assumed percentage of left turns from the other study intersections to determine the warrant analysis volumes. Consultant will submit the left-turn percentages to the Town for review prior to analyzing the traffic signal warrants.
- E. Consultant will evaluate traffic signal warrants as defined in the Texas Manual on Uniform Traffic Control Devices (TMUTCD). The Town will provide relevant crash reports for Consultant's use in evaluating Warrant 7 (Crash Experience).
- F. Consultant will prepare brief technical memorandum documenting results of the warrant analyses.
- G. Draft and final memorandum summarizing traffic signal warrant analyses.

Task 14 – Permanent Traffic Signal Design

- A. This task will be performed on an as-needed basis, based on the results of the traffic signal warrant analysis, and at the direction of the Town.

Exhibit A

- B. The Town is considering signaling one of the four driveways along the corridor. Under a separate contract, turning movement counts (TMC) were collected at the project intersections below:
1. Montfort Drive & Driveway 1
 2. Montfort Drive & Driveway 2
 3. Montfort Drive & Driveway 3
 4. Montfort Drive & Driveway 4
- C. Consultant will analyze the four driveways to recommend a location for a new traffic signal. Consultant will design the new traffic signal, design a temporary signal for Belt Line Road & Montfort Drive, and coordinated traffic operations with the City of Dallas at Belt Line Road.
- D. Consultant will conduct a field investigation to verify existing signage and traffic control devices. This along with the topographic survey will form the basis for signal design.
- E. Consultant will prepare plans for the construction of the proposed traffic signal at the intersection determined during the traffic signal warrant analyses. Consultant will coordinate traffic signal design with other roadway improvements at the intersection.
- F. Consultant will design the following components as part of the permanent traffic signal plans:
1. Proposed signal poles and pedestrian poles
 2. Proposed push buttons
 3. Ground boxes
 4. Conduit runs
 5. Wiring tables
 6. Vehicle detection
 7. Signal head designations
 8. Mast arm signage and intersection traffic flow signage
- G. Consultant will use applicable Town design standards and specifications.
- The design will be prepared using base mapping from the survey and field investigation. The design will be based on and include information gathered during the initial kick-off meetings. Consultant will coordinate with the electric power company to identify a source for electrical service. The traffic design package will consist of the following plan sheets, which will be submitted as part of the overall project milestone submittals:
1. Traffic Signal Notes
 2. Existing Conditions Sheet (where applicable) showing existing intersection and roadway layout, signs, pavement markings, other notable above ground features, and the recorded utilities
 3. Traffic Signal Layout Sheets including overhead signs and pedestrian elements
 4. Traffic Signalization Detail Sheet with tabulation of quantities, electrical chart, timing table, Loop detectors, and general notes
 5. Standard Detail Sheets as may be applicable

Task 15 – Temporary Traffic Signal Design

- A. Consultant will design a temporary traffic signal at the existing signal of Belt Line Road & Montfort Drive, which is operated by the City of Dallas.

Exhibit A

- B. Consultant will conduct a field meeting with City of Dallas and Town staff during the preliminary design phase.
- C. Consultant will design temporary traffic signals for up to four traffic control phases.
- D. Consultant will design the following components as part of the temporary traffic signal plans:
 - 1. Timber pole locations (to be verified with Level A SUE performed under a separate task)
 - 2. Controller cabinet and power source location (coordinated with Oncor)
 - 3. Overhead span wire, signal head placement, and cabling requirements
 - 4. Pedestrian accommodations
 - 5. Summary charts

Task 16 – Belt Line Signal Coordination with City of Dallas

Consultant will coordinate timing changes and adjustments with the City of Dallas for the traffic signal of Belt Line Road & Montfort Drive during each construction phase. This task includes up to 60 hours of coordination with the Town and City of Dallas, consisting of on-site timing adjustments related to geometric constraints.

Task 17 – Meetings and Workshops

The Consultant will prepare for and attend meetings and workshops, prepare for and present at Council meetings, and coordinate the project with the Town and other involved entities requested by the Town, beyond the effort included elsewhere in this Agreement. The budgeted fee for this task is based upon approximately 100 hours of labor. We will not proceed with performance of services beyond the hours budgeted without written authorization by the Town.

Task 18 – Landscape and Irrigation

- A. Landscape design will mimic the proposed Keller Springs Road from DNT to Addison Road improvements. Town will provide Keller Springs plans and/or landscape requirements to the Consultant.
- B. Landscape plans will include information describing the species, size, specifications, and locations of plant material.
- C. Irrigation plans will be prepared following Town review of the 60% landscape plans. Water and power sources will be identified.
- D. Landscape and irrigation design plans will be submitted as part of the overall project milestone submittals.
- E. Standard Parks Department detail sheets will be included.
- F. Hardscape plans (beyond the design of traditional sidewalks) can be provided as an additional service.
- G. The Town Arborist will evaluate existing trees along the corridor.

Task 19 – Franchise Utility Coordination

This task includes up to 100 hours and may include the following tasks, as directed by the Town

- H. Assist the Town in the franchise utility coordination efforts during the design and bidding phases

Exhibit A

- I. Review utility relocation plans prepared by utility owners to verify conflict resolution.
- J. Request utility maps and records from franchisees located within the project limits
- K. Prepare and maintain a listing of potential franchise utility conflicts, including owners and contact personnel for each utility.
- L. Prepare for and attend franchise utility coordination meetings
- M. Monitor and update the utility companies of project schedule during design
- N. Monitor each utility company's relocation efforts and schedule during construction

Task 20 – TDLR Plan Review

This task shall be used on an as-needed basis, at the direction of the Town. Items covered under this task may include the following:

- A. Procurement of a third-party RAS to file project with TDLR, perform plan review, and inspect items subject to ADA requirements after construction.
- B. Consultant will coordinate with RAS.

Task 21 – Proposal Phase Services

The scope of services listed below and budgeted fees include one proposal phase for a single project (not multiple proposal packages)

- A. Final proposal documents submittal
 - 1. Print up to three 11"x17" sets and three Project Manuals for Town's use during bidding.
 - 2. Post contract documents (and pay hosting fee) for an online bidding service, if needed.
 - 3. Hardcopies will not be provided to proposers.
 - 4. Furnishing additional hardcopies of review documents and/or proposal documents in excess of the number of the same identified above will be considered Additional Services
- B. Prior to advertisement verify project controls are in place
- C. Prepare for and attend a pre-proposal meeting with prospective bidders.
- D. Issue addenda as appropriate to interpret, clarify, or expand the proposal documents.
- E. Attend the proposal opening.
- F. Tabulate proposals and provide to the Town.
- G. Assist Town with checking proposer references and provide summary to the Town.
- H. Assist Town with evaluating proposers based on established competitive sealed proposal criteria.
- I. Provide a schedule of submittals (shop drawings, etc.) required of the contractor.
- J. After selection of contractor, provide hard copies of the conformed construction plans and specifications, as follows:
 - 1. Two (2) 22"x34" plan sets, one (1) 11"x17" plan set, and three (3) project manuals to the Town
 - 2. One (1) plan set (22"x34") and one (1) project manual to the contractor
 - 3. Electronic plans and project manual in .pdf format
 - 4. Electronic CAD files in .dwg format

Exhibit A

Task 22 – Design Support During Construction

The scope of services listed below may or may not be performed as part of our design support during construction. Consultant's role during construction will be provided upon request of the Town and billed on a reimbursable basis as labor and direct expenses are incurred. The budgeted fee for this task is based upon approximately 400 hours of labor. We will not proceed with performance of services beyond the hours budgeted without written authorization by the Town.

- A. Pre-Construction Conference – Meet with the Town, the contractor, and other interested parties to discuss the construction of the Project, including Project requirements, communication procedures, Project scheduling, personnel, laboratory testing requirements, field inspection, construction staking, pay requests, and other matters that may impact the Project.
- B. Construction Observation – Consultant will be on site periodically to observe the progress of the Work. Observation will be in addition to Town inspection of the project. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Town informed of the general progress of the Work.
 - 1. The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Town a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- C. The Consultant will attend progress meetings monthly with the Town and the Contractor to review the status of the construction schedule, current submittal log, current RFI log, any ongoing project issues, and any known project impacts.
- D. Contractor Schedule Review – The Consultant will perform a review of contractor's construction schedule. An initial schedule will be reviewed for schedule health and for consistency with project phasing and contract time limits. Comments will be provided to the Contractor and the Town. Monthly progress schedule updates will be reviewed, and comments of observations provided for discussion with the contractor.
- E. Shop Drawings and Requests for Information – Review and comment on all shop drawings, change orders, and request for information (RFIs) for the Project. When requested, review laboratory testing reports, field change requests and change orders and provide comments to Town. Provide written responses to requests for information or clarification to Town or contractor. Provide and maintain an accurate Change Order Log, Submittal Log and Requests for Information Log throughout the duration of the Project and make such logs available to the Town upon request.
 - 1. If required, the Consultant will coordinate change order review to arrange for the appropriate parties to receive the submitted information from the Contractor, reviewers to respond in the required time, any questions are addressed, and all submitted items are properly documented.
- F. Consultant shall notify TDLR or the Contract Provider for a final inspection of pedestrian facilities including curbs and ramps. The Contractor will address any questions or issues arising from the

Exhibit A

inspection. Town will pay TDLR fees as direct reimbursable expenses (provided under a separate task).

- G. Substantial Completion – The Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, coordinate a substantial completion walkthrough. This activity will include the documentation of substantial completion observations and deficiencies. Deficiencies identified in the TDLR report performed by the RAS will be referenced in the punch list. This scope includes one substantial completion walk through and punch list.
- H. Final Completion – The Consultant will coordinate a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. This scope includes one final completion walk through.
- I. Record Drawings – Prepare record drawings utilizing Town and contractor as-built information, including one (1) set of half size paper record drawings for review, followed by one (1) set of full-size paper final record drawings, along with a USB containing a PDF of the plan set, TIFF images of each individual plan sheet, and a project base map in DWG format as required by Town GIS.

The Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.

Exhibit A

Schedule

Consultant shall perform its services in accordance with the schedule provided in this Exhibit A, subject to modifications based on circumstances beyond the Consultant's control.

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement:

- A. Cultural Resources Assessment.
- B. Environmental Services beyond coordination with the Texas Historical Commission
- C. Storm Water Pollution Prevention Plan
- D. Redesign to reflect Project scope changes requested by Town , changed conditions, change in direction previously approved, or mandated by changing governmental/regulatory laws or criteria.
- E. Construction staking.
- F. Additional meetings other than the amount specified.
- G. Permitting or regulatory coordination beyond that identified herein.
- H. Condemnation packets beyond those included in the scope.
- I. Attendance at hearing or prehearing before the Dallas County Commissioners Court.
- J. Identifying or correcting any deficiencies found in any data provided by others. Consultant will be entitled to rely upon any information provided by the Town .
- K. Expert witness or fact witness services related to any litigation or legal dispute.
- L. Additional design support during construction beyond what is specifically included in the Scope of Services above
- M. Providing professional services associated with the discovery and mitigation of any hazardous materials within the project limits.
- N. Appearing before any regulatory agencies or courts as an expert witness.

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates.

Information Provided by Town

Consultant shall be entitled to rely on the completeness and accuracy of all information provided by the Town or the Town's consultants or representatives. The Town shall provide all available information requested by Consultant during the project, including but not limited to the following:

- A. Any available record information including reports, .PDF and CADD drawings and surveys including survey, existing and proposed reference files (utility, roadway, bridge, storm), 3D object files (alignment, profile, and corridor).
- B. Crash reports at study intersections for the previous three years.
- C. Latest exhibits and studies.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
END OF EXHIBIT A]

Exhibit A

Exhibit "B" Fee Schedule

Agreement by and between the Town of Addison (Town)
and Kimley-Horn and Associates, Inc.
to perform Professional Engineering Services for
Montfort Drive from Belt Line Road South to Town Limits

I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.

I. Basic Services

Task 1 – Topographic and Boundary Survey.....	\$ 22,400
Task 4 – Coordination with Texas Historical Commission....	\$ 4,500
Task 5 – Geotechnical Investigation.....	\$ 40,300
Task 8 – Project Management.....	\$ 16,400
Task 9 – Conceptual Design Schematic (30%).....	\$ 60,800
Task 10 – Preliminary Design (60%).....	\$ 101,700
Task 11 – Pre-Final Design (95%).....	\$ 79,800
Task 12 – Final Design.....	\$ 52,500
Task 13 – Traffic Signal Warrant Analysis.....	\$ 14,400
Task 15 – Temporary Traffic Signal Design.....	\$ 26,100
Task 18 – Landscape and Irrigation.....	\$ 37,000
Task 21 – Proposal Phase Services.....	\$ 9,500
Total Basic Services	\$ 465,400

II. Special Services

Task 2 – Subsurface Utility Engineering (SUE).....	\$ 63,400
Task 3 – CCTV Storm Drain.....	\$ 2,300
Task 6 – Appraisal, Title, and ROW Acquisition Services....	\$ 63,500
Task 7 – ROW and Easement Instruments of Conveyance..	\$ 15,000
Task 14 – Permanent Traffic Signal Design.....	\$ 35,000
Task 16 – Belt Line Signal Coordination with City of Dallas..	\$ 17,000
Task 17 – Meetings and Workshops.....	\$ 18,900
Task 19 – Franchise Utility Coordination.....	\$ 18,900
Task 20 – TDLR Plan Review.....	\$ 3,600
Task 22 – Design Support During Construction.....	\$ 89,700
Total Special Services	\$ 327,300

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END OF EXHIBIT B]

5. Montfort Drive



Council Meeting 2023

14.

Meeting Date: 04/25/2023

Department: Finance

Pillars: Gold Standard in Financial Health

Milestones: Continue development and implementation of Long Term Financial Plan

AGENDA CAPTION:

Present, Discuss, and Consider Action on an **Ordinance Amending the Town's Annual Budget for the Fiscal Year Ending September 30, 2023 to Provide Funding for Tree Plantings, Comprehensive Plan Updates, Real Estate Consulting, Intersection Improvements, Prior Year Encumbrances, Staffing and Operation Study, Contractual Services for Ambulance Revenue Recovery, Cost of Service Study for the Transit Oriented Development, Compensation Market Study, 911 Grant, and Personnel Costs in the Development Services Department and Council Special Projects.**

BACKGROUND:

The Fiscal Year (FY) 2023 budget was adopted by Council on September 13, 2022. This is the first amendment of the FY 2023 Town of Addison annual budget.

Each year, Finance staff reviews the budget to determine which items should be recognized with formal budget amendments. When budget variances occur that are outside of the authority of the City Manager these adjustments are presented to the Council in the form of a budget amendment.

In the General Fund, the proposed budget amendment includes increased personnel costs of \$70,417, fully offset by an equal increase in sales taxes, for a Long-Range Planning position (\$55,417) in Development Services to assist with the comprehensive plan update and increased pay for the Mayor and Councilmembers (\$15,000).

An amendment is needed in the Self-Funded Projects Fund for prior year encumbrances for Metrocrest Services facility campaign (\$60,000), Police Department carpet replacement (\$40,150), and (\$50,000) for the DART engineering review. An amendment is also needed in the Self-Funded Projects Fund for consulting services in the amount of \$33,000 to acquire funding through Texas Ambulance Services Supplemental Payment Program that were received in September 2022, tree plantings in the amount of \$156,672 offset by tree mitigation funds in the same amount, \$400,000 for a comprehensive plan update,

\$75,000 for crosswalk beacons and intersection improvements, \$32,000 for a staffing and operations study of the General Services Department, \$25,000 for a cost of service study for the Transit Oriented Development, \$50,000 for a compensation market study, and real estate brokerage services from Cushman and Wakefield in the amount of \$120,000 (these services were approved by Council on September 22, 2020).

An amendment is needed in the Grant Fund to account for a 911 grant received by member cities of the North Texas Emergency Communications Center. The proposed amendment recognizes \$190,000 in federal grant revenue and \$190,000 in grant expenditures.

An amendment is needed in the Capital Equipment Replacement Fund in the amount of \$621,233 for prior year encumbrances of vehicles and equipment that were not replaced in the prior year due to supply chain issues.

The table below illustrates the net impact the proposed budget amendment has on each fund and in total:

Fund	Impact on Budgeted Expenditures	Impact on Budgeted Revenues	Impact on Fund Balance
General Fund	\$70,417	\$70,417	\$-
Self-Funded Projects Fund	\$1,041,822	\$156,672	(\$885,150)
Grants Fund	\$190,000	\$190,000	\$-
Capital Replacement Fund	\$621,233	\$-	(\$621,233)
Total	\$1,923,472	\$417,089	(\$1,506,383)

The attachments reflect the proposed budget changes by fund in the Ordinance and budget amendment summary.

RECOMMENDATION:

Administration recommends approval.

Attachments

Presentation - FY 2023 Mid Year Budget Amendment

Ordinance - FY 2023 Mid-Year Budget Amendment

Fiscal Year 2022 Mid-Year Budget Amendment

ADDISON

April 25, 2023

Budget Amendment Process

Regular amendments are an accepted practice:

- Represents active monitoring and management of fiscal affairs
- Mitigates impact of changes in circumstances
- Transparency

Town's budget amendment policy:

- Transfers between accounts in a department with approval of Chief Financial Officer (CFO)
- Transfers between departments of less than 5% change with approval of City Manager
- Transfers between funds or more than 5% change must be approved by City Council

Revenues

Sales Tax = \$70,417

Expenditures

Development Services Personnel = \$55,417
Council Special Projects Personnel = \$15,000
Total = \$70,417

FY2023 Amendment: Self-Funded Projects Fund

ADDISON

Revenues

Tree Mitigation =
\$156,672

Expenditures

Tree Plantings = \$156,672
Comp Plan Update = \$400,000
Real Estate Consulting = \$120,000
Intersection Improvements = \$75,000
Professional Services = \$140,000
Prior Year Encumbrances = \$150,150
Total = \$1,041,822

Revenues

Intergovernmental
Federal = \$190,000

Expenditures

Contractual Services = \$190,000

Revenues

None

Expenditures

Prior Year Encumbrances:

- General Services = \$52,000
- Police = \$150,000
- Development = \$47,000
- Streets = \$165,033
- Utilities = \$207,200

Total = \$621,233

FY2023 Amendment: Grand Totals

Fund	Impact on Budgeted Expenditures	Impact on Budgeted Revenues	Impact on Fund Balances
General Fund	\$70,417	\$70,417	\$-
Self-Funded Special Projects	\$1,041,822	\$156,672	(\$885,150)
Grants Fund	\$190,000	\$190,000	\$-
Capital Equipment Replacement Fund	\$621,233	\$-	(\$621,233)
Total	\$1,923,472	\$417,089	(\$1,506,383)

Questions?

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE ANNUAL BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023 TO PROVIDE FUNDING FOR TREE PLANTINGS; COMPREHENSIVE PLAN UPDATES; REAL ESTATE CONSULTING; INTERSECTION IMPROVEMENTS; PRIOR YEAR ENCUMBRANCES; STAFFING AND OPERATIONAL STUDY; CONTRACTUAL SERVICES FOR AMBULANCE REVENUE RECOVERY; COST OF SERVICE STUDY FOR THE TRANSIT ORIENTED DEVELOPMENT; COMPENSATION MARKET STUDY; 911 GRANT; PERSONNEL COSTS IN THE DEVELOPMENT SERVICES DEPARTMENT AND COUNCIL SPECIAL PROJECTS; PROVIDING THAT EXPENDITURES SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET AS AMENDED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 13, 2022, the City Council of the Town of Addison, Texas (the “City”) adopted a budget for the City for the fiscal year beginning October 1, 2022 and ending September 30, 2023 as set forth in City Ordinance No. 022-29; and

WHEREAS, Section 5.08 of the City Charter provides that the budget may be amended or changed, under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, to provide for any additional expense in which the general welfare of the citizenry is involved, that such amendments shall be by Ordinance, and that they shall become an attachment to the original budget; and

WHEREAS, Section 102.010 of the Texas Local Government Code authorizes the City Council to make changes in the adopted budget for municipal purposes, and the changes to the budget made herein are for municipal purposes; and

WHEREAS, the amendments to the City’s 2022-2023 budget made herein are as a result of conditions that have arisen and could not reasonably have been foreseen in the normal process of planning the budget, provide for additional expenses in which the general welfare of the citizenry is involved, and the City Council finds that the amendments provided for herein are of a serious public necessity and an urgent need for the City.

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

SECTION 1. The above and foregoing recitals are true and correct and are incorporated herein and made a part of this Ordinance.

SECTION 2. In accordance with Section 5.08 of the City Charter, City Ordinance No. 022-29 adopting the 2022-23 annual budget, is hereby amended as set forth in this Section 2 below and as detailed on **EXHIBIT A**, attached hereto and incorporated herein:

- (a) allocate \$70,417, offset by an equal increase in Sales Tax, from the General Fund for the following:

- i. \$55,417 in the Development Services Department for a Long-Range Planning position; and
 - ii. \$15,000 in the Council Special Projects for personnel costs.
- (b) allocate \$190,000, offset by an equal increase in Intergovernmental – Federal Revenue, to recognize revenue and expenditures related to a 911 grant received by North Texas Emergency Communications Center cities on their behalf; and
- (c) allocate \$1,041,822, partially offset by \$156,672 in Tree Mitigation Fees, from the Self-Funded Special Projects Fund for the following:
- i. Tree plantings utilizing Tree Mitigation funds (\$156,672); and
 - ii. Comprehensive Plan Update (\$400,000); and
 - iii. Real Estate consulting services for the transit-oriented development (\$120,000); and
 - iv. Crosswalk beacon and intersection improvements (\$75,000); and
 - v. Prior year-encumbrances for DART engineering review (\$50,000), Police Department carpet replacement (\$40,150), and Metrocrest Services Capital Campaign (\$60,000); and
 - vi. Staffing and operations study for the General Services department (\$32,000); and
 - vii. Professional services used to acquire funds from the Texas Ambulance Supplemental Payment program (\$33,000) utilizing those same funds; and
 - viii. Cost of service study for the Transit-Oriented Development (\$25,000); and
 - ix. Compensation market study (\$50,000).
- (d) allocate \$621,233 from the Capital Equipment Replacement Fund for prior year encumbrances of vehicles and equipment that were not received in the prior year due to supply chain issues.

SECTION 3. This Ordinance shall take effect upon its passage and approval.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas on this 25th 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

EXHIBIT A

TOWN OF ADDISON
GENERAL FUND BY CATEGORY
FY2022-23

	Adopted Budget 2022-23	Amendment 2022-23	Revised Budget 2022-23
BEGINNING BALANCES	\$ 20,452,933	\$ 62,448	\$ 20,515,381
REVENUES:			
Ad valorem Taxes	\$ 22,409,394	\$ -	\$ 22,409,394
Non-Property Taxes	15,625,000	70,417	15,695,417
Franchise Fees	2,155,000	-	2,155,000
Licenses and Permits	1,170,100	-	1,170,100
Service Fees	2,068,490	-	2,068,490
Fines and Penalties	245,000	-	245,000
Rental Income	8,000	-	8,000
Interest and Other Income	490,500	-	490,500
TOTAL OPERATIONAL REVENUE	\$ 44,171,484	\$ 70,417	\$ 44,241,901
TOTAL REVENUES	\$ 44,171,484	\$ 70,417	\$ 44,241,901
TOTAL AVAILABLE RESOURCES	\$ 64,624,417	\$ 70,417	\$ 64,757,282
EXPENDITURES:			
Personnel Services	\$ 28,783,676	\$ 70,417	\$ 28,854,093
Supplies	1,562,696	-	1,562,696
Maintenance	3,605,759	-	3,605,759
Contractual Services	8,439,006	-	8,439,006
Capital Replacement / Lease	1,597,511	-	1,597,511
Capital Outlay	178,000	-	178,000
TOTAL OPERATIONAL EXPENDITURES	\$ 44,166,648	\$ 70,417	\$ 44,237,065
TOTAL EXPENDITURES	\$ 44,166,648	\$ 70,417	\$ 44,237,065
ENDING FUND BALANCES	\$ 20,457,769	\$ -	\$ 20,520,217
Fund Balance Percentage	46.3%		46.4%

EXHIBIT A

TOWN OF ADDISON SELF-FUNDED PROJECT FUND FY2022-23

	Adopted Budget 2022-23	Amendment 2022-23	Revised Budget 2022-23
BEGINNING BALANCES	\$ 4,816,553	\$ 975,560	5,792,113
REVENUES:			
Licenses and Permits	\$ -	\$ 156,672	\$ 156,672
Interest and Other Income	\$ 25,000	\$ -	\$ 25,000
TOTAL OPERATIONAL REVENUE	\$ 25,000	\$ 156,672	\$ 181,672
TOTAL REVENUES	\$ 25,000	\$ 156,672	\$ 181,672
TOTAL AVAILABLE RESOURCES	\$ 4,841,553	\$ 1,132,232	\$ 5,973,785
EXPENDITURES:			
Supplies	\$ 30,000	\$ -	\$ 30,000
Maintenance	444,517	156,672	601,189
Contractual Services	619,900	885,150	1,505,050
Capital Outlay	1,144,239	-	1,144,239
TOTAL OPERATIONAL EXPENDITURES	\$ 2,238,656	\$ 1,041,822	\$ 3,280,478
TOTAL EXPENDITURES	\$ 2,238,656	\$ 1,041,822	\$ 3,280,478
ENDING FUND BALANCES	\$ 2,602,897	\$ 90,410	\$ 2,693,307

EXHIBIT A

TOWN OF ADDISON GRANT FUND FY2022-23

	Adopted Budget 2022-23	Amendment 2022-23	Revised Budget 2022-23
BEGINNING BALANCES	\$ 43,167	\$ 9,378	\$ 52,545
REVENUES:			
Non-Property Taxes	\$ -	\$ -	\$ -
Service Fees	-	-	-
Rental Income	-	-	-
Intergovernmental	\$ 8,100	\$ 190,000	\$ 198,100
Interest and Other Income	400	-	400
TOTAL OPERATIONAL REVENUE	<u>\$ 8,500</u>	<u>\$ 190,000</u>	<u>\$ 198,500</u>
Transfers from other funds	-	-	-
TOTAL REVENUES	<u>\$ 8,500</u>	<u>\$ 190,000</u>	<u>\$ 198,500</u>
TOTAL AVAILABLE RESOURCES	<u>\$ 51,667</u>	<u>\$ 199,378</u>	<u>\$ 251,045</u>
EXPENDITURES:			
Personnel Services	\$ -	\$ -	\$ -
Supplies	-	-	-
Maintenance	-	-	-
Contractual Services	13,700	190,000	203,700
Capital Replacement / Lease	-	-	-
Capital Outlay	-	-	-
TOTAL OPERATIONAL EXPENDITURES	<u>\$ 13,700</u>	<u>\$ 190,000</u>	<u>\$ 203,700</u>
TOTAL EXPENDITURES	<u>\$ 13,700</u>	<u>\$ 190,000</u>	<u>\$ 203,700</u>
ENDING FUND BALANCES	<u>\$ 37,967</u>	<u>\$ 9,378</u>	<u>\$ 47,345</u>
Fund Balance Percentage	277.1%		23.2%

EXHIBIT A

TOWN OF ADDISON CAPITAL EQUIPMENT REPLACEMENT FUND FY2022-23

	Adopted Budget 2022-23	Amendment 2022-23	Revised Budget 2022-23
BEGINNING BALANCES	\$ 4,464,067	\$ 229,709	\$ 4,693,776
REVENUES:			
Service Fees	\$ 1,215,000	\$ -	\$ 1,215,000
Interest and Other Income	50,000	-	50,000
TOTAL OPERATIONAL REVENUE	\$ 1,265,000	\$ -	\$ 1,265,000
TOTAL REVENUES	\$ 1,265,000	\$ -	\$ 1,265,000
EXPENDITURES:			
Capital Outlay	2,031,500	621,233	2,652,733
TOTAL OPERATIONAL EXPENDITURES	\$ 2,031,500	\$ 621,233	\$ 2,652,733
TOTAL EXPENDITURES	\$ 2,031,500	\$ 621,233	\$ 2,652,733
ENDING WORKING CAPITAL	\$ 3,697,567	\$ (391,524)	\$ 3,306,043
Working Capital Percentage	182.0%		124.6%

Council Meeting 2023

15.

Meeting Date: 04/25/2023

Department: Parks & Recreation

Pillars: Optimize the Addison Brand

Milestones: Define and promote Addison Identity

AGENDA CAPTION:

Present, Discuss, and Consider Action on a **Resolution Approving an Agreement with 110% Inc. for a Park Impact Fee Study and Authorizing the City Manager to Execute the Agreement in an Amount Not to Exceed \$132,895.**

BACKGROUND:

The Parks Recreation and Open Space (PROS) plan identifies future funding strategies to help address long-term sustainability for Addison Parks. The plan recommends the Town analyze the incorporation of park impact fees related to parkland dedication, fee-in-lieu of alternative land requirements and park development fees to address redevelopment and growth in Addison. To ensure Addison Parks are being invested in to meet future Park demands and needs while maintaining the Town's current level of service, funds in the amount of \$132,500 were included in the FY 2023 Budget. Allocated funds are intended to be used for consultant fees and reimbursable expenses to conduct a study and develop an ordinance to define the application and use of Park Impact Fees.

To identify a qualified consultant, staff issued a Request for Qualifications (RFQ) Bid No. 23-54 on Periscope on January 19, 2023. One firm, 110% Inc., submitted an RFQ packet by the deadline of February 23, 2023. Staff interviewed the firm and determined that 110% met the requirements of the submittal and scored high in all categories identified in the proposal. The development of a Park Impact Fee and an ordinance is highly specialized and a significant amount of responders was not anticipated.

A component of this study will include forming an advisory committee. Staff will solicit volunteers for this committee and bring a Council Agenda item forward at a later date to appoint the advisory committee.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution- Park Impact Fee Study

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH 110% INC. FOR PARK IMPACT FEE STUDY IN AN AMOUNT NOT TO EXCEED \$132,895; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with 110% Inc. for park impact fee study services in conformance with the City's requirements.

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

SECTION 1. The City Council hereby approves the agreement between the Town of Addison and 110% Inc. for park impact fee study services in an amount not-to-exceed of \$132,895.00, 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 **25th** day of **APRIL**, 2023.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

**PROFESSIONAL SERVICES AGREEMENT
PARK IMPACT FEE STUDY**

This Professional Services Agreement (“Agreement”) is made by and between the **Town of Addison, Texas** (“City”), and **110%, Inc.** (“Professional”) (each a “party” and collectively the “parties”), acting by and through their respective authorized representatives.

RECITALS

WHEREAS, City desires to engage Professional to perform certain work and services, hereinafter referred to only as “services”, as further specified in the Scope of Work defined in Section 1 of this Agreement; and

WHEREAS, Professional has expressed a willingness to perform said services in conformance with this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Scope of Work

Upon written notice to proceed by City, Professional agrees to provide to City Park Impact Fee Study (“Project”), as set forth in the Scope of Work attached hereto as **Exhibit “A”** and incorporated herein by reference (the “Scope of Work”). Professional shall not be entitled to any claim for extra services, additional services or changes in the services without a written agreement with City prior to the performance of such services.

Section 2. Term of Agreement

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

Section 3. Professional’s Obligations

(a) Performance of Services. Professional shall furnish and pay for all labor, tools, software, materials, equipment, supplies, transportation and management necessary to perform the services. To the extent reasonably necessary, Professional may engage the services of any agents, assistants, or other persons that Professional may deem proper to assist in the performance of the services under this Agreement; provided, that Professional shall be responsible for all costs related thereto, except as expressly authorized in writing in advance by City.

(b) Site Access. City will endeavor to provide such rights of access on any project site as may be reasonably necessary for Professional to perform any necessary studies, surveys, tests or other required investigations in relation to the services; provided, that City shall have no obligation to (i) provide off-site access, (ii) provide access to private property for which City does not have an existing right to access, nor (ii) incur any costs associated with the access to be provided under this Agreement.

(c) Standard of Care. Professional shall perform the services with the skill and care ordinarily provided by competent professionals practicing in the same or similar locality and under the same or similar

circumstances and professional licenses. Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all services, including all Project Documents, designs, drawings, specifications, plans, reports, presentations and all other services furnished by Professional under this Agreement. Professional shall, without additional compensation, correct or revise any errors or deficiencies in the services. Professional shall further make, without expense to City, such revisions to the Project Documents as may be required to meet the needs of City and which are within the Professional's Scope of Work.

(d) Additional Services. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services in accordance with the fee schedule set forth in **Exhibit A**, and within the time schedule prescribed by City; and without decreasing the effectiveness of the performance of services required under this Agreement.

(e) No Waiver of City's Rights. Neither City's review, approval, acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this Agreement.

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

(g) Inspection of Records. Professional grants City and its designees the right to audit, examine or inspect, at City's election, all of Professional's Records (defined below) 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 Professional's Records may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Professional agrees to retain Professional'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. "Professional's Records" shall include any and all information, materials and data of every kind and character generated in connection with the services under this Agreement. City agrees that it will exercise its right to audit, examine or inspect Professional's Records during regular business hours unless City has provided advance written notice of an alternate time. Professional agrees to allow City and its designees access to all of Professional's Records, Professional's facilities, and the current or former employees of Professional, to the extent deemed reasonably necessary by City or its designee(s), to perform such audit, inspection or examination.

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

Section 4. Performance Schedule

(a) Time for Performance. Professional shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with City's requirements.

In the event Professional's performance of this Agreement is delayed or interfered with by acts of the City or others, Professional may request an extension of time in conformance with this Section 4 for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever (including an event of Force Majeure as defined herein below), shall be claimed or made to Professional, unless Professional shall have made written request upon City for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless City and Professional have agreed in writing upon the allowance of additional time to be made.

Section 5. Documents

(a) Project Documents. All proposals, reports, studies, surveys, applications, drawings, plans, specifications, data, and other documents, whether in draft form or final form (including any electronic format) prepared by Professional and its employees, consultants, subcontractors, agents, or representatives (collectively referred to in this section as "Professional) for the use and/or benefit of City in connection with this Agreement ("Project Documents"). Professional shall be deemed the authors of their respective component of the Project Documents. Notwithstanding, upon payment by City as required by this Agreement, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement. City shall have full authority to authorize any contractor(s), subcontractors, consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the services or for any other purpose. Acceptance and approval of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional for the accuracy or competency of its designs, working drawings, specifications, or other documents; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings and specifications, or any other documents prepared by Professional.

(b) Professional's Documents. All previously owned intellectual property of Professional, including but not limited to any computer software (object code and source code), tools, systems, equipment or other information used by Professional or its suppliers in the course of delivering the Services hereunder, and any know-how, methodologies or processes used by Professional to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto ("Professional's Documents"), shall remain the sole and exclusive property of Professional. Notwithstanding, Professional agrees that City shall have the right to access to all such information and City is granted the right to make and retain copies of Professional's Documents. City acknowledges that any reuse of Professional's Documents without specific written verification or adaptation by Professional will be at City's sole risk and without liability or legal exposure to Professional.

(c) Confidential Information. Professional agrees it will notify City in writing if it considers specific information to be confidential or proprietary trade secrets and will use its best efforts to clearly mark all such information as "Confidential" and/or "Proprietary – Trade Secret" at the time it is delivered or made accessible to City. City acknowledges that all such designated information is considered by Professional to be confidential and the exclusive property of Professional. Notwithstanding the foregoing, Professional acknowledges that this Agreement, and all services performed hereunder, are subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information if Professional has not notified

City of such designation in conformance with this section. Professional agrees and covenants to protect any and all proprietary rights of City (or other persons) in any materials provided to Professional by City. Additionally, any materials provided to Professional by City shall not be released to any third party without the consent of City and shall be returned intact to City upon termination or completion of this Agreement if instructed to do so by City. In the event City delivers to Professional any information that has been expressly marked "Confidential" or has notified Professional is confidential or is the proprietary information of a third-party, Professional agrees it shall not disclose to anyone directly or indirectly during the term of this Agreement or at any time thereafter, any such information, nor shall it use any such information for any purpose other than as reasonably necessary in connection with Professional's performance of the services under this Agreement. Professional shall further, at its own expense, defend all suits or proceedings instituted against City and pay any award of damages or loss resulting from an injunction, against City, insofar as the same are based on any claim that materials or services provided under this Agreement constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights. Notwithstanding, the foregoing confidentiality obligations shall not extend to and nothing herein shall limit either party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving party or its personnel; (ii) was or becomes available to the receiving party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving party without the use of any confidential information of the disclosing party; or (iv) is required to be disclosed by applicable law or a court order.

Section 6. Payment

(a) Compensation. Professional's compensation shall be as specified in the payment schedule set forth in **Exhibit A**; provided, that the total compensation under this Agreement shall not exceed ONE HUNDRED THIRTY TWO AND EIGHT HUNDRED NINETY FIVE DOLLARS (\$132,895.00), excluding reimbursable expenses identified in **Exhibit A**.

(b) Payment Terms. City agrees to pay Professional for all services authorized in writing and properly performed by Professional in general conformance with the fee schedule set forth in **Exhibit A**, subject to changes in the Scope of Work or additional services agreed upon in writing. Unless otherwise agreed in writing, all payments to Professional by City shall be based on detailed monthly invoices submitted by Professional for work performed and accepted by City, less any previous payments. Payment will be due within thirty (30) days of the City's receipt and acceptance of an approved invoice. Notwithstanding the foregoing, City reserves the right to delay, without penalty, any payment to Professional when, in the opinion of City, Professional has not made satisfactory progress on the Project as described in the Scope of Work.

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

Section 7. Default; Force Majeure

(a) Default; Notice to Cure. A party shall be deemed in default under this Agreement if the party is in breach of a material provision of this Agreement and said breach is not cured within fifteen (15) days written notice of default by the other party. In the event the breaching party has notified the other

party in writing that it is diligently working to cure the breach and has provided reasonable written evidence in support of the same, the breaching party shall not be deemed in default until the thirtieth (30th) day following the non-breaching party's notice of default.

(b) Default by Professional. In addition to default under Section 7(a) above, Professional shall be in default under this Agreement if Professional fails to comply or becomes disabled and unable to comply with the provisions of this Agreement related to Professional's performance of the services, including the quality or character of the services or time of performance for any material component of the services. If such default is not corrected within ten (10) days from the date of City's written notice to Professional regarding the same, City may, at its sole discretion without prejudice to any other right or remedy:

- (i) Terminate this Agreement and be relieved of the payment of any further consideration to Professional except for all services determined by City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Professional to and from meetings called by City at which Professional is required to attend, but shall not include any loss of profit of Professional. In the event of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by re-subletting to others; or
- (ii) City may, without terminating this Agreement or taking over the services, furnish the necessary labor, materials, equipment, supplies and/or assistance necessary to remedy the situation, at the expense of Professional.

(c) Force Majeure. To the extent either party of this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, or a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance (each an event of "Force Majeure"), the time for performance of such obligation (other than a payment obligation) may be extended for a period equal to the time lost by reason such event, provided, that the party complies with the provisions of this section. Specifically, the party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating: (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (3) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Agreement as soon as reasonably practicable.

Section 8. Termination; Suspension

(a) Termination Upon Default. Either party may terminate this Agreement upon written notice if the other party is in default of this Agreement, subject to the defaulting party's right to cure in conformance with the terms of this Agreement.

(b) Termination by City. City shall be entitled to terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to Professional.

(c) Termination Following Request for Modification. Should City require a modification of this Agreement with Professional, and in the event City and Professional fail to agree upon a modification

to this Agreement, City shall have the option of terminating this Agreement and Professional's services hereunder at no additional cost other than the payment to Professional, in accordance with the terms of this Agreement, for the services reasonably determined by City to be properly performed by Professional prior to such termination date.

(d) Suspension. City reserves the right to suspend this Agreement for the convenience of City by issuing a written notice of suspension which shall describe City's reason(s) for the suspension and the expected duration of the suspension. Such expected duration shall, in no way, guarantee what the total number of days of suspension shall occur. Such suspension shall take effect immediately upon Professional's receipt of said notice. Should such suspension extend past the expected duration identified by City in its latest notice of suspension, Professional shall have the right to terminate this Agreement if (i) Professional provides not less than thirty (30) days prior written notice to City requesting to recommence the services, and (ii) City does not recommence the services within the time requested.

Section 9. Insurance

Professional shall during the term hereof maintain in full force and effect all policies of insurance reasonably required by City. Professional's obligation to provide acceptable certificates of insurance is a material condition precedent to 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 for the specific services under this Agreement are maintained by and accessible through the City's purchasing department.

Section 10. Indemnification; Notice

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 PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY, DEFEND, AND SAVE HARMLESS THE CITY INDEMNITEES 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 THE NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, CONTRACTORS, SERVANTS, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEES TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

Notices of Claim. Professional shall promptly advise City in writing of any claim or demand against the City, related to or arising out of Professional's acts or omissions under this Agreement and shall see to the investigation and defense of such claims or demand at Professional's sole cost and expense; provided, that

City, at its option and at its own expense, may participate in such defense without relieving Professional of any of its obligations hereunder. Professional's obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained under this Agreement.

THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR A PERIOD OF FOUR (4) YEARS.

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. Verifications by Professional

Professional's execution of this Agreement shall serve as its formal acknowledgement and written verification that:

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

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

(c) pursuant to Texas Government Code Chapter 2251, that Professional'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 13. Miscellaneous

(a) Professional shall not assign or sublet this Agreement, in whole or in part, without the prior written consent of City. (b) Professional shall comply with all federal, state, county, and municipal laws, ordinances, resolutions, regulations, rules, and orders 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.

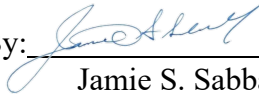
For City:

For Professional:

TOWN OF ADDISON, TEXAS

110%, INC.

By: _____
David Gaines
City Manager

By:  _____
Jamie S. Sabbach
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

110%, Inc.
Attn: Jamie S. Sabbach
PO Box 538
Salida, Colorado 81201
E: jsabbach@110percent.net

Addison Contract ID:
PSA_JT_April 5, 2023_v1.20220427

Exhibit A

PARK LAND DEVELOPMENT FEE STUDY

Scope of Work

110% Inc.



April 12, 2023

Town of Addison
Janna Tidwell, Director of Parks and Recreation
5300 Belt Line Road
Dallas, Texas 75254
jtidwell@addisontx.gov

Dear Janna,

We are pleased to submit the following scope of work for a Park Land Development Fee Study for the Town of Addison, Texas.

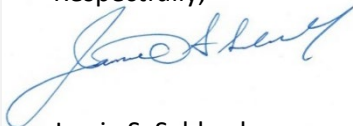
In partnership with Verdunity, 110% Inc. will provide project oversight and bring an unrivaled approach to this processes largely due to our substantial practical experiences in public sector management and a focus on adaptive leadership in today's dynamic social, economic, and environmental times. Over the next 6-12 months, we have the capacity to facilitate a process and deliver results that cannot be matched by other consulting firms.

Our experiences allow us to deeply understand the nuances of working with professional staff, community members, and elected bodies. Equipping public parks and recreation systems to secure a financially sustainable future is always our intention - this will be the case while working alongside the Town of Addison.

Lastly, not only does our team bring significant consulting experience to this project, we also bring practical experience having administered similar processes (i.e., adopting an updated park impact fee ordinance) from start to finish. We believe these experiences should prove to be invaluable to this process.

In the event you have any questions as you review this proposal, please email me at jsabbach@110percent.net or call 720.304.2167.

Respectfully,



Jamie S. Sabbach
President & Principal in Charge

Contact us:
www.110percent.net
info@110percent.net
720.304.2167



Influencing Ethical Decision-making
Strengthening Leadership Competencies
Helping Create a Financially Sustainable Future One Organization at a Time





Serving the park and recreation industry
Ethics • Leadership • Financial Sustainability

We are 110%. A parks and recreation consulting firm of former practitioners who advocate for inspiring ethical decision making, strengthening leadership competencies, and ensuring the financial sustainability of parks & recreation.

Our Services

Planning Initiatives

Our custom tailored Planning Initiatives blend visioning what an organization/community can become with the strategy of creating a responsible and sustainable future. We strive to leverage our experience and networks to provide your organization with an optimized and practical Master or Strategic Plan.

Financial Sustainability

The Financial Sustainability Strategy empowers organizations to use data and information to make informed decisions. Whether done as a standalone project or with a Planning Initiative, our unique process combines sound financial management principles with our one-of-a-kind cost of service tool to help organizations clearly understand how their taxpayer resources are being allocated.

Education, Presentations & Training

Our educational content, expert presentations, and training programs effectively address important industry issues around the three key areas of economics, ethics, and leadership. By delivering effective and engaging content which provide tangible and impactful results, our carefully crafted programs are certain to be an extraordinary experience.



Phone
720.304.2167

Email
info@110percent.net

Website
www.110percent.net

LinkedIn
@110-percent-inc



Our Team



Jamie Sabbach
Founder / Principal / Advocate / Educator

Jamie founded 110% Inc. in 2010 with the intention of helping organizations be more strategic and bold amid dynamic social, environmental, and economic change. Having decades of experience in the public park and recreation field and as a college instructor have fed her passion to help others enhance their own talents and improve performance. Jamie has testified in front of the United States Congress on the importance of public parks and recreation. She is a past President of the American Park and Recreation Society and was inducted as a Fellow into the American Academy for Park and Recreation Administrator in 2008. Jamie is a native of Illinois who lives in the mountains of Colorado. She's a former college jock who enjoys hiking, biking, golf, volunteering, and has a love affair with the Chicago Cubs!



Farrell Buller
Principal / Certified Executive Coach / Change Advocate

Farrell has more than 20 years in progressively responsible leadership roles. She has focused on achieving results for leaders and their teams, successfully leading organizations of 500+ employees, with budgets of up to \$80M, as well as smaller organizations and teams. As a graduate of the University of Northern Colorado in Therapeutic Recreation and as a former Parks and Recreation Director and City Manager, Farrell embraced her passion for serving others. She brings the ability to impact, influence, and inspire leaders at all levels. Farrell is the recipient of several awards, including Outstanding New Professional of the Year, Mid-West Region Professional of the Year, and the Pottsie Development Scholarship. You can often find Farrell and her family intentionally taking the "road less traveled" as they discover their next adventure!



Matt David
Operations & Marketing Manager / Utility Player

With a tip-of-the-cap for his love for baseball, Matt is our team's "Utility Player" and does a little bit of everything due to his wide range of experiences and skill set. He has municipal, non-profit, and private sector experience in marketing, operations, programming, budgeting, digital design, project management, and general administration. Matt has an eye for detail, mind for inquisition, and a big heart for community and servant leadership. Outside of work, he enjoys life with his wife and two dogs in Stillwater, MN by exploring the outdoors, spending time with friends and family, tackling home improvement projects, and cheering on their favorite sports teams.



Alexis Rankey
Project Consultant

Alexis is a seasoned parks and recreation professional with over 12 years of experience demonstrating a high level of business acumen and passion for high-quality service delivery. She started as a scorekeeper, progressed into programming and supervision, and currently serves as the Business Services Division Manager for the Town of Erie Parks & Recreation Department. Her thorough understanding of programming and operations, intricate knowledge of municipal finance and budgeting, and love for data and analytics drives her to help others "put it all together" to better serve the community and lay a strong foundation for the future. True to her rec rat roots, she spends her free time mountain and road biking, golfing, playing hockey, glamping, and spending time with her family and dogs.

Staff Resume



Jamie Sabbach
Founder / Principal / Advocate / Educator



Biography

Jamie founded 110% Inc. in 2010 with the intention of helping organizations be more strategic and bold amid dynamic social, environmental, and economic change.

Having decades of experience in the public park and recreation field and as a college instructor have fed her passion to help others enhance their own talents and improve performance. Her current work focuses on enhancing ethics, adaptive leadership, and financial sustainability efforts for organizations.

Jamie has testified in front of the United States Congress on the importance of public parks and recreation. She is a past President of the American Park and Recreation Society and was inducted as a Fellow into the American Academy for Park and Recreation Administrator in 2008. Jamie is a native of Illinois who lives in the mountains of Colorado.

Work History

110%, Inc.

President & Principal
Feb 2010 - present

Indiana University, Bloomington, IN

Adjunct Faculty
Sep 2021 - present

City of Boulder, CO

Superintendent of Recreation & Community Facilities
Mar 2023 - Feb 2008

Illinois State University, IL

Faculty in Dept. of Kinesiology and Recreation
Aug 2001 - March 2003

City of Bloomington, IN

Director of Recreation and Community Services
Jan 1997- Jul 2001

Education

Harvard University

Kennedy School of Government, TAPLD, 2014

Indiana University

Post-Graduate coursework, 1998-2000

Eastern Illinois University

Master of Science Degree in Public Administration/Sports Management, 1988

Eastern Illinois University

Bachelor of Science Degree in Physical Education/Coaching/Business Administration, 1986

Selected Client List

Crown Mountain Park & Recreation District, CO

Park & Recreation District Master Plan, 2022 - present

City of Corona, CA

Community Services Dept. Master Plan, 2022 - present

City Napa, CA

Parks & Recreation Services Management Plan, 2018 - 2019; 2021 - present

Channahon Park District, IL

Financial Sustainability Strategy, 2021

Bend Park and Recreation District, OR

Park & Recreation District Strategic Plan, 2018 - 2019

Staff Resume



Farrell Buller
Principal / Certified Executive Coach



Biography

Farrell has more than 20 years in progressively responsible leadership roles. She has focused on achieving results for leaders and their teams, successfully leading organizations of 500+ employees, with budgets of up to \$80M, as well as smaller organizations and teams. As a graduate of the University of Northern Colorado in Therapeutic Recreation and as a former Parks and Recreation Director and City Manager, Farrell embraced her passion for serving others.

She brings the ability to impact, influence, and inspire leaders at all levels. Farrell is the recipient of several awards, including Outstanding New Professional of the Year, Mid-West Region Professional of the Year, and the Pottsie Development Scholarship, and was awarded the opportunity to attend the Altruism Institute and Agents of Change symposiums.

Work History

110%, Inc.

Principal Consultant & Certified Executive Coach, Jan 2021 - present

Town of Erie, CO

Deputy Town Administrator, Feb 2019 - Jan 2021
Acting Town Administrator, May 2018 - Jan 2019
Assistant to the Town Administrator, Sep 2017 - Apr 2018
Director of Parks and Recreation, Mar 2014 - Sep 2017

City of Lakewood, CO

Recreation Division Manager, Apr 2011 - Mar 2014

City of Commerce City, CO

Recreation Division Manager, Oct 2004 - Jan 2011

City of Boulder, CO

Recreation Coordinator, Jan 2000 - Oct 2004

Education

Clemson University

Think Tank: Invitation-only Symposium, 2019

Altruism Institute

Invitation-only Symposium, 2016

Agents of Change

Invitation-only Symposium, 2015-2018

National Recreation & Park Association

Directors School Graduate, 2015

University of Northern Colorado

Bachelor of Science Degree in Recreation/Therapeutic, 1997

Selected Client List

City of Olympia, WA

Operations Strategy & Business Plan, 2022 - present

City of West University Place, TX

Operational Analysis & Financial Sustainability Strategy, 2022 - present

City of Bellingham, WA

Financial Sustainability Strategy, 2022 - present

City of Greeley, CO

Leadership and Organizational Development, 2022

Oquirrh Recreation & Park District, UT

Financial Sustainability Strategy, 2021

Project References

Serving a variety of municipal park and recreation departments as well as special districts and county systems, 110% has worked alongside hundreds of organizations of all sizes leading and facilitating master plan, strategic plan, and financial sustainability efforts as well as professional development programs.

Below we have included a diverse blend of project types we have led and systems for which we have worked over the past few years. Feel free to contact any or all of the contacts included to discuss the quality and integrity of our work.



Crown Mountain (CO) Park & Recreation District Master Plan

The Crown Mountain Park & Recreation District has experienced significant change over the last decade including growth and expansion. Fully aware of the challenges development presents, the District engaged in a thoughtful review and analysis of its current conditions and realities as well as those of the community it serve. They understand this is a necessary baseline in order to ensure that the master plan is built upon fiscally responsible recommendations that address community need and interest and can be afforded.

Contact	Rebecca Wagner, Director	Address	501 Eagle Count Dr.
Email	crownmtdirector@sopris.net		El Jebel, CO 81623
Phone	970.963.6030	Dates	May 2022 - present



Corona (CA) Community Services Department Master Plan

With a strong interest in developing a model master plan and influencing positive change in their community, Corona's Community Service Department chose to begin a 2022-2023 master planning process. We see ourselves as an ally in assisting them transform their parks and recreation system by way of a new and innovative planning process that is building coalitions and strengthening a commitment to fiscal responsibility for sustainable outcomes.

Contact	Dr. Anne Turner, Director	Address	400 S. Vicentia Ave., Ste. 225
Email	anne.turner@CoronaCA.gov		Corona, CA 92503
Phone	951.739.4985	Dates	March 2022 - present



Napa (CA) Parks & Recreation Services Management Plan

The Napa Parks and Recreation Services Department wanted to design and develop an effective and transformative strategic management plan. The plan intended to set the Department up to be adaptable in response to dynamic change and ongoing concerns and expected impacts of deteriorating infrastructure, increased tourism, climate change, and increasing operational expenses. A subsequent financial sustainability process followed as a way to open the door for necessary conversations to address how the Department would re-set and begin to invest more in community need and infrastructure. This includes the development of financial sustainability, social equity, and capital investment policies to guide investment decisions moving forward.

Contact	Katrina Gregory, Recreation Director	Address	1850 Soscol Ave., Ste. 201
Email	kgregory@Cityofnapa.org		Napa, CA 94559
Phone	707.257.9529	Dates	July 2018 - May 2019, July 2021 - present



Bend (OR) Park & Recreation District Strategic Plan

The Bend Park and Recreation District initiated a strategic planning effort with an interest in establishing a road map for the District's internal operations. Complementing the comprehensive plan, the strategic plan serves as a road map for parks, trails, and facility projects. The actionable framework resulting from the process further guides the District to be agile, responsive, and innovative in its management of resources moving forward.

Contact	Michelle Healey, Deputy Director	Address	799 SW Columbia St.
Email	michelleh@bendparksandrec.org		Bend, OR 97702
Phone	541.389.7275	Dates	November 2018 - June 2019



Channahon (IL) Park District Financial Sustainability Process

The Channahon Park District engaged in a financial sustainability process with the intention of conducting a thoughtful review and analysis of their financial condition and realities. Channahon, Illinois has faced significant change over the past decade including stagnant property tax revenues which elevated their interests in being fiscally responsible in order to address increasing community needs and take care of existing assets.

Contact	Mike Leonard, Executive Director	Address	24856 W Eames St.
Email	mleonard@channahonpark.org		Channahon, IL 60410
Phone	815.467.7275	Dates	July - December 2021

Firm Overview



Prosperity for your city doesn't come from endless new growth. *It's cultivated.*
Here's how we help you do that:



We *crunch the numbers* to understand the true costs of a city's business model and establish a common fiscal language in your community.



We *help you align* your people and resources to build consent, train change agents, and make meaningful progress right now.



We *cultivate fiscal health* by prioritizing people and place-based development and building incrementally with locals and local wealth.

Why We Do This Work

Most cities say they want to be fiscally responsible, environmentally resilient, and socially inclusive. Unfortunately, policies and investments rarely align with these desired outcomes. Daily decisions often cater to a vocal minority and prioritize growth and expansion without fully considering long-term costs and impacts. We're left with generic, unhealthy places that residents and businesses struggle to connect and invest in, aging neighborhoods and infrastructure, and expensive liabilities which future generations will have to find a way to pay for. Helping communities to solve these problems is what drives us.

Company Highlights

Verdunity, Inc. is a Texas-based S-Corp established in 2011. Our founder and President Kevin Shepherd, PE has over 27 years of experience in community development, served as National Director of HDR's Community Planning Practice and member of their Sustainable Solutions Leadership Team prior to founding Verdunity, and has worked with close to 200 cities across North America (100+ in Texas).

Our primary office is in Rockwall, part of the DFW Metroplex. Our staff of seven is dispersed in five locations across three states (Dallas, Lubbock, and Austin, TX, Shreveport, LA, and Carlton Landing, OK) Collectively, we have over 60 years of experience working to improve cities around the country.

We have produced multiple award-winning projects, including Texas APA's 2017 Comprehensive Plan of the Year (Royse City 2030 Plan), 2017 Long Range Plan of the Year (Farmers Branch East Side Comprehensive Plan), and two 2022 Vernon Deines Merit Awards for Comprehensive Plan (Envision Taylor, and Parsons Comprehensive Plan)

What Our Clients Say About Us

"Kevin and his team are leaders in the field. These guys checked out of the big consulting world and are working to carve out a spot for themselves doing principled, Strong Towns-like work. It is tough to be such a pioneer, but we need small firms of innovators like Verdunity if the Strong Towns approach is going to become the default approach for local governments."
Chuck Marohn, PE, AICP Founder & President, Strong Towns

"Verdunity is the planning and engineering connection we've been looking for as city managers. They have a fiscal and environmental sustainability approach that minimizes infrastructure costs as opposed to maximizing them... Verdunity offers a fresh approach that is fantastic for mediating issues that often arise between developers & the City, and between cities."
Michael Kovaacs City Manager, Fate, TX

"Politicians and decision makers are not easily-swayed by creative thinking and tend to be risk-adverse when it comes to heretofore unheard of re/development strategies and tactics. So, how do we easily translate our tactics and well-informed best practices into a language the everyone can hear and understand; The language of money? Enter Verdunity- a team that speaks the native tongue of the engineer, have the hearts of planners, and the minds of financial officers. Those skills combine to produce an easily understood set of scenarios, maps and accompanying data that communicate the positive/negative effects of any given land use decision on a City's tax base. When decision makers can see and easily conclude where and how money is lost or gained- all of us win; especially the tax payers."
Sheena Salvino, Pasadena Economic Development Corporation



Kevin Shepherd PE

Founder + CEO

kevin@verdunity.com | 214.425.6720 | @k_shepherd

Kevin has over 27 years of experience in civil engineering, planning, municipal finance, site development, and community engagement. Considered to be a thought leader and pioneer in the planning/engineering field, Kevin leverages his unique background and passion for initiator change to educate, challenge traditional silos, and bring perspectives together to encourage communities to build in a manner that is more fiscally responsible, healthy and sustainable.

Kevin spent the first 17 years of his career working for large engineering firms in various roles related to the planning, design, and construction of infrastructure and site development projects. In 2009, his career changed course when he was offered the opportunity to serve as National Director of HDR's Community Planning & Urban Design practice and member of the firm's Sustainable Solutions Leadership Team. It was during this period that Kevin realized that many communities across the country were headed down a path that was depleting our natural resources and that would lead many cities to fiscal insolvency. He left HDR in 2011 to start Verdunity and focus on helping Texas communities address these challenges. Most recently, he started the Go Cultivate! podcast and workshop programs to expand educational efforts and implementation of Strong Towns principles in cities across the country.

The fiscally-based planning approach Kevin has advocated for and implemented on recent projects is receiving attention from city managers, planners and finance directors across the country, including large metros like Fort Worth, mid-size cities like Shreveport, LA, fast-growth suburbs and rural towns. Kevin is a vocal advocate for Strong Towns and Congress for the New Urbanism, and speaks and writes regularly on the concepts of fiscally-based planning, place-based design and economic gardening.

EDUCATION

B.S. Civil Engineering
Texas A&M University

REGISTRATIONS & CERTIFICATIONS

Professional Engineer TX 88642

PROFESSIONAL AFFILIATIONS

American Planning Association, CNU-NTX Board Member, ISI Envision, STAR Technical Advisor, Strong Towns Fellow, Urban Land Institute

INDUSTRY EXPERIENCE

Verdunity	2011-Present
HDR	1996-2011
LAN	1994-1996

STRENGTHSFINDER TOP 5

Achiever, Individualization, Competition, Maximizer, Strategic

VERDUNITY PROJECT EXPERIENCE

Park Development Fee and Annual Updates - Fate, TX
WTC MUD 1 Parks Master Plan | Williamson & Travis Counties, TX
Land Use Fiscal Analysis & Comprehensive Plan | Kyle, TX
Land Use Fiscal Analysis & Comprehensive Plan | Liberty Hill, TX
Land Use Fiscal Analysis & Comprehensive Plan | Sweetwater, TX
Land Use Fiscal Analysis & Comprehensive Plan | Waxahachie, TX
Land Use Fiscal Analysis & Comprehensive Plan | Killeen, TX
Dallas LUFA and Housing Affordability Study | Southern Dallas Progress CDC
Strategic Plan & Land Use Fiscal Analysis | Pasadena, TX
Land Use Fiscal Analysis & Comprehensive Plan | Parsons, KS
2022 Vernon Deines Merit Award
Land Use Fiscal Analysis & Comprehensive Plan | Taylor, TX
2022 Vernon Deines Merit Award
Comprehensive Plan | Crowley, TX
Comprehensive Plan | Royse City, TX
2017 TX APA Comp Plan of the Year
Economic Development Strategic Plan | Texoma COG
Downtown Master Plan | Burkburnett, TX



Town of Addison, TX

PARK LAND DEVELOPMENT FEE STUDY & POLICY PLAN DETAILED WORK PLAN

The proposed process included in the pages that follow has been specifically designed for the Town of Addison. Having facilitated successful planning projects with many agencies in North America, **we manage each individual process with a commitment to detail and a focus on heightening the probability of effective implementation and action**, and always have the long-term impacts of the plan top of mind throughout the process.

Designed in two phases, the Data Collection and Analysis will begin first followed by the preparation of the Ordinance and Final Report. The process will include substantial staff, stakeholder, and City Council engagement as well as a series of analyses all leading to rational and justifiable recommendations and high-quality deliverables. The process is detailed in the pages that follow and is expected to take approximately 9 months to complete (anticipated completion February 2024).



Celestial Park, Town of Addison

PROJECT MANAGEMENT TASKS

PROJECT KICK-OFF

A thorough review of the process will take place during this initial virtual meeting to include: a review of the proposed scope of work and tasks; anticipated number and types of meetings; discussion of information and data requested; project timeline; and expected quality and format of all deliverables. Additionally, the Project Team will help begin to discuss, deliberate, and define the “Addison Way” that will ultimately guide the project approach and overall process.

CHECK INS, UPDATES, AND REVIEW MEETINGS

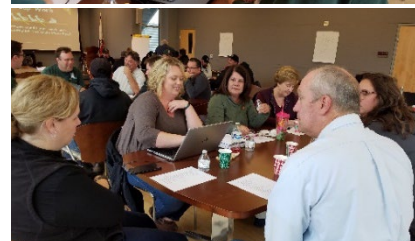
Regularly scheduled meetings (biweekly or monthly is suggested) with the Town’s project lead/team for the duration of the project will provide updates and insights that can help inform the process. Touch points will also include special sessions for the Project Steering Committee and City Council (at the discretion of the project lead). Throughout check ins, updates, and review meetings, the “Addison Way” will continue to reveal itself and influence the development of the project.

PHASE 1: DATA & INFORMATION COLLECTION AND ANALYSIS

1.1 ENGAGEMENT

Staff Focus Groups

Staff focus groups provide important interaction and can be key to a project's success. Minimally, these small group interviews with identified Town of Addison staff will allow for a general understanding of challenges and opportunities as viewed by those who know the organization best, all offer professional staff the opportunity to share their individual opinions and perspectives about the Town's current and future development interests and needs. Additionally, focus groups give staff from various departments (e.g., Development Services, Economic Development, Finance, Parks, and Recreation, etc.) an opportunity to be involved collectively in the process in a deeper way, thereby increasing their investment, interest, and "buy-in."



Workshops in Mesa, AZ; Bend, OR; Mansfield, TX

Staff Interviews

Staff interviews allow for more focused interactions with select individuals or small groups (2-3 people) including administrators and senior level employees. These conversations can provide insights that help crystalize key issues and opportunities and affirm or challenge what is heard in work sessions and/or staff focus group meetings.

City Council Work/Study Sessions

Engagement with the Town of Addison City Council will provide an important opportunity for these community representatives to be actively involved in the process. A minimum of two City Council work sessions are recommended to increase and enhance a collective understanding of key concepts and considerations of a park land dedication and impact fees process including but not limited to the following.

- ✓ Costs associated with development and return on investment (ROI).
- ✓ Human habitat impacts which result from development.
- ✓ The intersection of "developer-friendly" and ensuring that infrastructure can be paid for into perpetuity.
- ✓ Creating a fiscally balanced approach in response to growth interests.

Project Steering Committee

A pre-determined Project Steering Committee will be chosen to represent community interests throughout the process and serve in an advisory capacity to the Project and Consulting Teams. Selection criteria for potential committee members will be developed, reviewed, and approved by the Town's Project Team. Criteria will be developed with an interest in soliciting broad and fair representation of various stakeholders (e.g., developers, community members, local business owners, civic leaders, etc.).

Project Steering Committee applicants will be vetted and reviewed by the Project Team with recommended Committee member names submitted for approval to the Town's City Council.

Stakeholder Engagement – Community Focus Groups

Meaningful stakeholder engagement done well, is a broad and inclusive process between the Town and those impacted by the decisions of the organization. It is important to build relationships that create advocates and a collective project vision for the Town with an eye responsible use of resources.

Community focus groups will be coordinated and conducted to offer small and comfortable platforms for people to share their perspectives and opinions as they relate to the project's intended outcomes. These meetings will strengthen and affirm, or potentially counter what may be assumed.

Various community members will be identified and invited to participate who can represent various community interests and contribute valuable perspectives and insights. Logistical considerations such as best practices to ensure solid attendee turnout will be discussed with the Town's project team. Representation will include but not be relegated to the following individuals and organizations.

- ✓ Local government/civic leaders
- ✓ Parks and recreation users and participants as well as non-users
- ✓ Partner organization representatives
- ✓ Local business owners and representatives
- ✓ Town advisory board/committee representatives
- ✓ Town Council representatives (with consideration of quorum)

1.2 REVIEW AND ANALYSIS

Review of Current Plans

Reviewing current and relevant Town plans will help create a greater understanding of past planning efforts and help build a solid system wide foundation and approach for this process. With advisement from the Project Team, key areas of interest will be identified as they relate to a variety of Town plans and studies such as the Parks, Recreation and Open Space (PROS) Master Plan, City-Wide Trails Master Plan, Comprehensive Plan, Master Transportation Plan and Addison Circle Special Area Study.



Addison Circle Park, Town of Addison



Additionally, in order to attain a comprehensive view of the Town’s current policies and practices, a review and analysis of current policies and practices as they relate to fee charges and ordinances will be conducted and incorporated as part of the process.

Level of Service (LOS) Analysis

Level of Service (LOS) standards identified in the most recent Parks, Recreation, and Open Space Master Plan will be reviewed and taken into considered as part of this process so that recommendations best align with community needs, quality service delivery including quality of assets, and financial realities.

GIS data provided by the City will be collected, reviewed, and utilized to support LOS analysis, service area mapping (existing and proposed), and fee calculations.

Analyze Parks Related Capital Improvement Needs

Insights from the Project Team as well as a review of the Town of Addison’s Capital Improvement and Asset Management plans will provide the basis for the analysis of Addison’s parks related capital improvement needs including location recommendations.

If requested, a complete review and analysis of Town-owned and managed park and recreation sites can be conducted. Elements of this additional analysis would include:

- ✓ *Design & Materials:* Includes observations of the quality of design, materials, use of standards, and durability of a space.
- ✓ *Use & Effectiveness:* Includes the observation of users or evidence of users of a space, range of offerings, balance of activities and contextual consistency.
- ✓ *Maintenance:* Includes observations of the quality of upkeep of a space, evidence of pride of users and maintenance, and presence of deferred improvements.
- ✓ *Comfort:* Includes observation of a space or facility's first impression, comfort of users, visual attractiveness, and perception of safety.
- ✓ *Access & Connectivity:* Includes observation of universal accessibility barriers, multi-modal connectivity, dominance of the space by a transportation uses other than pedestrian and bicycles and ease of access from surrounding areas.
- ✓ *Sustainability:* Observations focus on social interactions and connections to surrounding neighborhoods, and environmental considerations that result in net positive contributions.

The additional analysis uses observational-based information to rate the performance of each site ultimately leading to determining gaps, needs, opportunities for acquisition, and management, programming, and accessibility improvements such as:

- ✓ maintaining parks to meet the needs of the community in a fiscally responsible way
- ✓ the development of park-specific management plans
- ✓ the development of monitoring and enforcement strategies for conservation easements
- ✓ balancing the needs of various user groups and active and passive use
- ✓ connecting key neighborhood, trail, and habitat corridors
- ✓ creating wayfinding, destination, and interpretive signage

Existing conditions will be identified and combined with observations to outline recommended capital and operational improvements. *[NOTE: This analysis is not intended to be an engineering review of the viability, integrity, or structural condition of existing facilities.]*

PHASE 2: ORDINANCE AND FINAL REPORT

2.1 METHODOLOGY RECOMMENDATION

The first task of Phase 2 will result in methodology recommendations to include park land dedication requirements, fee in lieu, and park development/impact fees. These recommendations will include and consider variables such as maximum social, environmental, and economic benefit, flexibility in and for development, and consideration of Addison's unique character as it continues to evolve and change. The intention will be to present thoughtful, intelligent, and defensible methodologies for the Project Team's review prior to taking them forward for approval.



Parkview Park, Addison, TX

Recommended methodologies will include:

- ✓ Park land dedication requirements for single-family, multi-family, mixed-use, and commercial developments for both fee simple and rental occupation
- ✓ Fee in lieu of park land dedication, based on fair market value of land that otherwise would be dedicated by developers.
- ✓ Park development and impact fee.

Agency Comparison

A review of comparative cities and the methodologies they use to determine park land dedication requirements, fee in lieu, and park development and impact fees will be completed. This benchmarking exercise will include review filters such as the reasonableness, feasibility, and consistency of the methodologies.

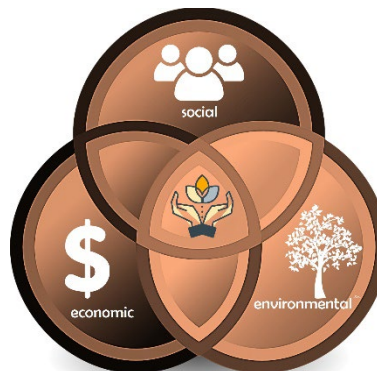
The following two comparison categories will be used to determine agencies for consideration as part of the analysis. Prospective agencies will be reviewed by the Project Lead prior to selection.

1. Aspirational
 - a. Agencies with community profiles similar to that of Addison, Texas and/or agencies taking progressive, thorough, and/or strategic approaches.
2. Local Market Comparisons
 - a. Agencies in close proximity to Addison, Texas that need to stay competitive relative to development.

2.2 LAND DEDICATION AND FEES RECOMMENDATION

Recommendations will be vetted and filtered through the triple bottom line philosophy of economic, social, and environmental impacts. This should allow for a balanced approach between short-term satisfaction and the long-term consequences of decisions.

Although there is always optimism that developer negotiations will be mutually beneficial, having a planned, consistent, and community-centric framework that is adopted by the Addison Town Council should ultimately lead to greater benefit for all stakeholders.



Understanding that “not all land is created equal” will be essential to the determinants that will allow for decision making regarding land acquisition and dedication. Land accepted by the Town of Addison, will require a long-term commitment to maintain these properties, therefore, these assumed parcels should align with community needs and desires as identified in the Parks, Recreation, and Open Space Master Plan. In addition, fee in lieu recommendations will need to be in accordance with the Texas Local Government Code (fair market value of land multiplied by number of acres divided by number of dwelling units in the development).

Anticipated impacts of all recommendations will be evaluated alongside the Project Team (and others as requested).

Ordinance Adoption

The ordinance adoption process will include the necessary steps for ordinance adoption including required public notices, public hearings, and Council approval.

2.3 DELIVERABLES AND PRESENTATION OF RESULTS

Final presentations of recommendations will be provided to the Project Team and Steering Committee, and Town Council (at the discretion of the Project Lead and Team).

Deliverables resulting from Phase 1: Data Collection and Analysis include the following:

- Summaries of **Engagement Feedback** including focus groups, interviews, sessions, and meetings will be synthesized and used as a foundation for next steps in the project.
- Recommended updates to the **Level of Service Analysis** that best align with current and future park inventory, population, and intended stakeholder impacts.
- Parks Related Capital Improvement** needs and location recommendations.

Deliverables resulting from Phase 2: Final Report and Draft Ordinance include the following:

- A comprehensive **Final Report** which includes:
 - Summaries of methodologies** that identify park land dedication requirements, fee in lieu, and park development/impact fee.
 - City comparisons** including methodologies used by each municipality.
 - Recommendations of land dedication and fees.**
- Ordinance adoption process** through approval by Town Council.

PROPOSED TIMELINE

The proposed timeline below provides anticipated dates for each task area. These projections include all work associated with each task including research, evaluation, and reporting. Date ranges are what is anticipated but may vary dependent upon a variety of factors including Town staff/stakeholder/City Council availability, etc.

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9
Project Kickoff	→								
Phase 1: Data Collection and Analysis									
1.1 Engagement	→								
1.2 Review and Analysis	→								
Phase 2: Ordinance & Final Report									
2.1 Methodology Recommendation						→			
2.2 Land Dedication and Fees Recommendation						→			
2.3 Deliverables and Presentation of Results								→	



AML Addison Apartments, Addison, TX

BUDGET

The budget below includes all proposed tasks detailed in the work plan. We believe the approach suggested will yield a complete and viable financial sustainability strategy for the Town of Addison. We are willing to modify or further customize any of the proposed work plan as presented to best suit the interests of the Department so that the intended outcomes of this process can be realized.

Project Tasks	Price
Project Management	\$11,350
PM.1 Kickoff	\$1,950
PM.2 Check ins and updates	\$9,400
Phase 1: Data Collection & Analysis	\$54,685
1.1 Engagement	\$36,040
1.2 Review and Analysis	\$18,645
Phase 2: Final Report and Draft Ordinance	\$66,860
2.1 Methodology Recommendation	\$25,960
2.2 Land Dedication and Fees Recommendation	\$25,900
2.3 Presentation of Results	\$16,000
Project total not to exceed (excl: *reimbursable expenses detailed below):	\$132,895

**Reimbursable expenses (i.e., graphic design work), per client request.*

Total = \$1,000 (Verdunity)

Consultant rates used to calculate the project fee above include:

- *110% – Principal: \$235/hour; Project Consultant: \$175/hour*
- *Verdunity – Senior Staff: \$225/hour; Support: \$125/hour*

NOTE: All pricing above includes three project visits. Additional in-person facilitation is available upon request. Pricing per trip is based upon market and staff time and priced at an additional \$3990 per trip per consultant.