



Addison City Council Meeting

January 9, 2024

Addison Conference Centre

15650 Addison Road

Addison, Texas 75001

Email comments may be submitted using the Public Comment Form located on Addison's website by 3:00 PM on the meeting day. The meeting will be live-streamed at www.addisontexas.net.

WORK SESSION

The Addison City Council will convene in the Council Chambers beginning at 6:30 PM.

1. **Call Meeting to Order and Announce that a Quorum is Present.**
2. **Citizen Comments on the Consent Agenda Items.** This item allows citizens to speak on any item listed on the Consent Agenda prior to its consideration. 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 beginning of this item.
3. **Council Member Clarification Requests Regarding Consent Agenda Items.**
4. **Council Questions and Answers**
5. **Work Session Reports**
 - a. Present and discuss Public Works and Engineering Department operations and project updates.

COUNCIL MEETING

The Addison City Council will convene for a Council Meeting beginning at 7:30 PM in the Council Chambers.

1. **Pledge of Allegiance.** United States and Texas Flags

2. **Proclamations / Presentations**
Presentation in recognition to retiring members of an Addison Commission or Board:
 - Planning & Zoning Commission:
 - Robert "Bob" Catalani
 - Julie Branson
 - Board of Zoning Adjustment
 - Gary Krupin
 - Jeanne Dunlap
 - Ed Copeland

- a. City Manager's Announcements.

- b. Employee Recognition.

3. **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.

4. **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.

- a. Consider action on the Minutes from the November 14, 2023 City Council Meeting.
- b. Consider action on the Minutes from the December 12, 2023 City Council Meeting.
- c. Consider action on a Resolution approving a First Amended City Manager Employment Agreement providing for amendments to Articles III and VI of the Agreement; authorizing the Mayor to execute the Agreement; and providing for an effective date.
- d. Consider action on a Resolution authorizing Valencia Garcia to serve as the Interim City Secretary.
- e. Consider action on a Resolution approving the exercise of the first one-year renewal option of the agreement for professional services with Garver, LLC executed in FY23 for on-call professional consulting services for airport capital projects and authorizing the City Manager to execute the renewal for FY24 in an amount not to exceed \$150,000 and optionally to execute renewals in subsequent fiscal years (FY25, FY26, and FY27) in amounts not to exceed that which is included in the airport operating budget approved by City Council for those respective fiscal years.
- f. Consider action on a Resolution approving a professional services agreement between the Town of Addison and RLC Controls, Inc. for SCADA (Supervisory Control and Data Acquisition) system upgrades and authorizing the City Manager to execute the agreement in an amount not to exceed \$198,750.
- g. Consider action on a Resolution approving a Professional Services Agreement (PSA) between the Town of Addison and Stantec for Water and Wastewater Master Plan Updates and authorizing the City Manager to execute the agreement in an amount not to exceed \$208,461.
- h. Consider action on a Resolution approving a contract agreement between the Town of Addison and Machine Valve and Automation LLC for construction services for the Kellway Lift Station Control Panel Upgrades Project and authorizing the City Manager to execute the agreement in an amount not to exceed \$64,515.

- i. Consider action on a Resolution approving a Professional Services Agreement between the Town of Addison and RJN Group for sanitary flow monitoring and authorizing the City Manager to execute the agreement in an amount not to exceed \$63,340.
- j. Consider action on a Resolution approving an agreement between the Town of Addison and Fuquay Inc. for Manhole Rehabilitation Services and authorizing the City Manager to execute the agreement in an amount not to exceed \$60,000.
- k. Consider action on Change Order #1 for the Fiscal Year 2024 (FY24) to the contract with Jim Bowman Construction Company LP (Bowman) for concrete and asphalt repairs and authorize the City Manager to execute the Change Order in an amount not to exceed \$300,000.
- l. Consider action on a Resolution for an Advanced Funding Agreement for Highway Safety Improvement Off System (AFA CSJ 0918-47-441) between the Texas Department of Transportation and the Town of Addison regarding traffic signal improvements at Belt Line Road and Business Avenue and authorize the City Manager to execute the agreement.

5. Items for Individual Consideration.

- a. Consider action on an Ordinance calling and ordering the May 4, 2024 General Election.
- b. Consider action on a Resolution casting Addison's vote for Michael Hurtt to serve as the fourth member of the Board of Directors of the Dallas Central Appraisal District.
- c. Consider action on a Resolution regarding a proposal from Matrix Consulting Agreement for a Police and Fire Department staffing study.
- d. Consider action on a Resolution approving an agreement with Kimley-Horn Associates, Inc. for professional engineering services to perform a feasibility study to review options for providing a pedestrian and bicycle crossing along Belt Line Road over Dallas North Tollway and authorizing the City Manager to execute the agreement for an amount not to exceed \$156,000.

6. **Items of Community Interest.** The City Council will have this opportunity to address items of community interest, including: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition; a reminder about an upcoming event organized or sponsored by the Town of Addison; information regarding a social, ceremonial, or community event that was or will be attended by an Addison City Council member or an official; and, announcements involving an eminent threat to public health and safety in Addison that has arisen since posting this agenda.

7. **Adjourn Meeting.**

NOTE: The City Council reserves the right to meet in a Closed Meeting at any time during this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551. Any decision held on such matters will be conducted in an Open Meeting following the conclusion of the Closed Meeting.

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: _____

Date posted: 01/04/2024 Time posted: 5:00 PM

Date removed from bulletin board: _____

Removed by: _____

City Council (FY24)

4.

Meeting Date: 01/09/2024

Department: City Manager

AGENDA CAPTION:

Council Questions and Answers

BACKGROUND:

The Council Questions and Answer document, along with any handout(s) provided during the meeting, will be attached below. Due to the requirement to post the agenda prior to these attachments being created, the Council Questions and Answers document will be uploaded just prior to the meeting. Any handouts presented during the meeting will be added on the next business day.

RECOMMENDATION:

Information only. No action required.

City Council (FY24)

5. a.

Meeting Date: 01/09/2024

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
Improve all modes of transportation with infrastructure in an acceptable condition and well maintained

AGENDA CAPTION:

Present and discuss Public Works and Engineering Department operations and project updates.

BACKGROUND:

The purpose of this item is to provide an update on key Public Works and Engineering Department operations, capital improvement projects, and bond projects for the Fiscal Year 2024.

RECOMMENDATION:

Information only. No action required.

Attachments

Presentation: Public Works and Engineering Update

Public Works and Engineering Update

City Council
January 9, 2024

The logo for the City of Addison, featuring a white circle with the word "ADDISON" in blue capital letters, set against a blue background with a white diagonal line.

ADDISON

Operational and Maintenance

Streets Division Operational Projects

ADDISON

Redding Trail RRFB crossings at Beltway and Proton

- Completed and operating.

Fugro pavement and sign assessment updates

- Being accomplished in conjunction with the Town's Comprehensive Plan.
- Data collection occurred in December 2024 and is being compiled to add to asset management software.

Vitruvian Brick Paver Repairs

- Approved as a decision package for FY24 with a budget of \$105,000.
- Contract will be brought forth to City Council

Arapaho Brick Paver Replacements

- This project is on the Agenda for approval on the January 23rd City Council meeting.
- Approved as a decision package for FY24 with a budget of \$300,000.



Streets Division Operational Projects

ADDISON

Belt Line Road at Business Avenue TxDOT HSIP Grant Project

- Advanced Funding Agreement (AFA) is on the Agenda for approval on the January 9th City Council meeting.
- This grant allows the Town to have access to \$591,757 in funds for construction.
- The Town is required to incur all design costs and an estimated \$55,270 for direct state expenses totaling approximately \$104,770 in addition to any betterments (powder coating etc.) and construction cost overruns.
- Anticipate bidding for construction in August of 2024 and will be overseen by TxDOT alongside similar HSIP signal improvement initiatives in the region.



Utilities Division Operational Projects

ADDISON

Annual Tank Inspections and Cleaning

- Completed in December of 2024.
- Inspected all water tanks and cleaned Surveyor Water Tower and Surveyor Ground Storage Tank.

Lead and Copper Rule Revisions

- Requires to prepare and maintain an inventory of service line materials.
- Blue Conduit has compiled the data into their AI database and is being reviewed by Town Staff.
- 150 service lines will be field verified by staff.
- Follow-up field verifications will be done as needed after the initial run.

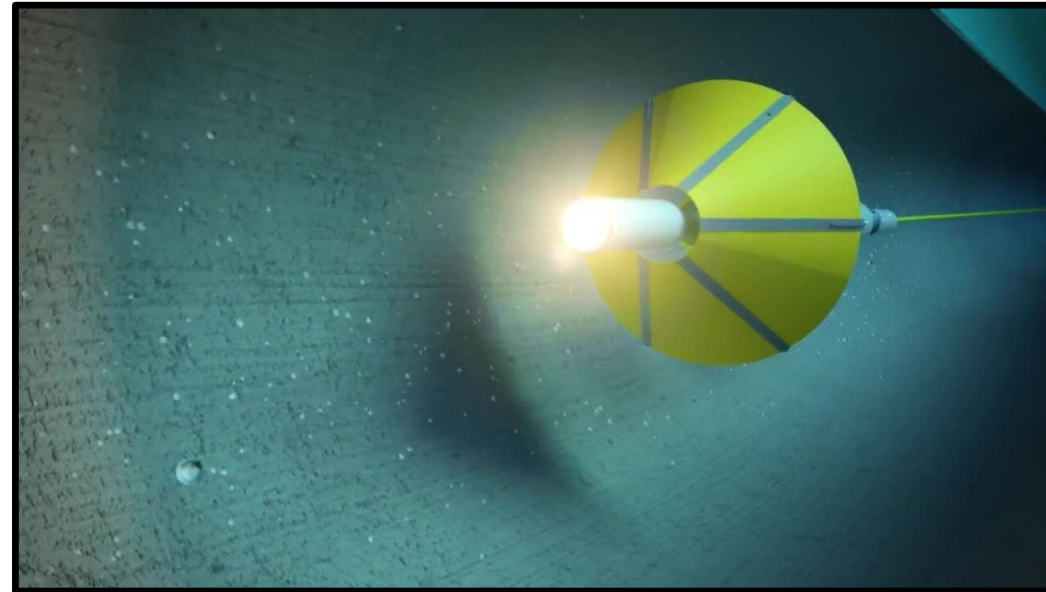
Sanitary Sewer Manhole Rehabilitation

- This project is on the Agenda for approval on the January 9th City Council meeting.
- Staff conducts annual inspections and finds manholes in need of rehabilitation.



Redding Trail Water Main Non-Destructive Testing

- The current Water Master Plan showed that the water main from Belt Line Road to George Bush Elementary along the Redding Trail was at the end of its useful life
- Testing was successful and showed that the water main has roughly forty years of useful life left.
- Periodic non-destructive testing may be required in the future.
- The cost to conduct this assessment with RJN Group was \$79,660.
- This was a \$2.2M CIP project that was programmed to begin in FY2024.

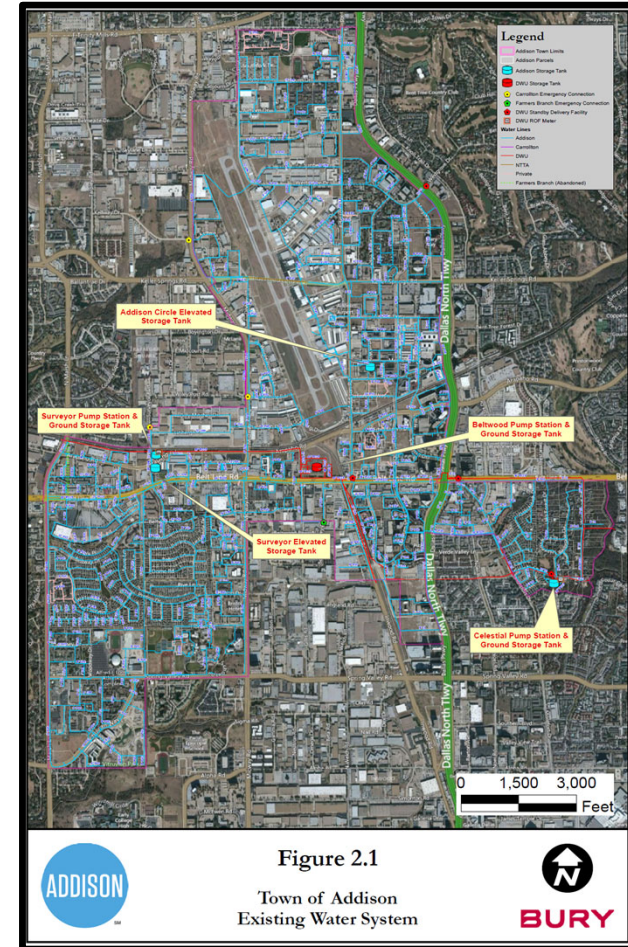


Utilities Division Operational Projects

ADDISON

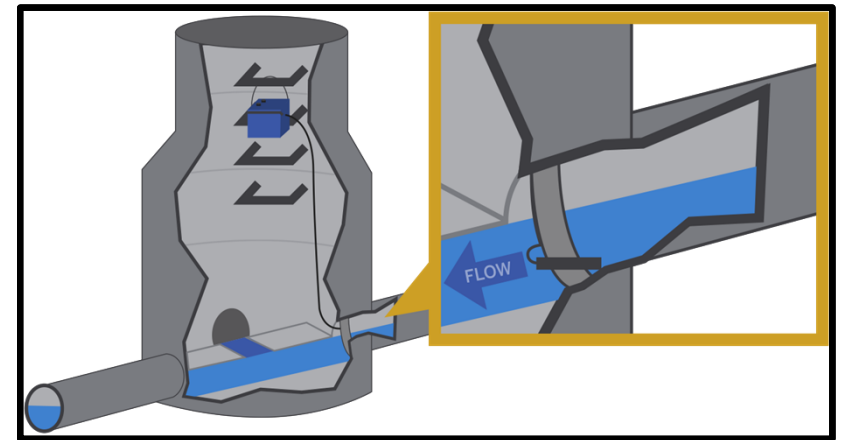
Water and Wastewater Master Plan Updates

- This project is on the Agenda for approval on the January 9th City Council meeting.
- Current Water and Sanitary Sewer Master Plans were completed in 2016 and 2017.
- This update will utilize updated hydraulic models to update the Town's CIP projects.
- This plan will be revised alongside the Town's Comprehensive Plan.
- Includes an optional service for a Town used flow capacity tool to utilize.
- Anticipate completion by August of 2024.



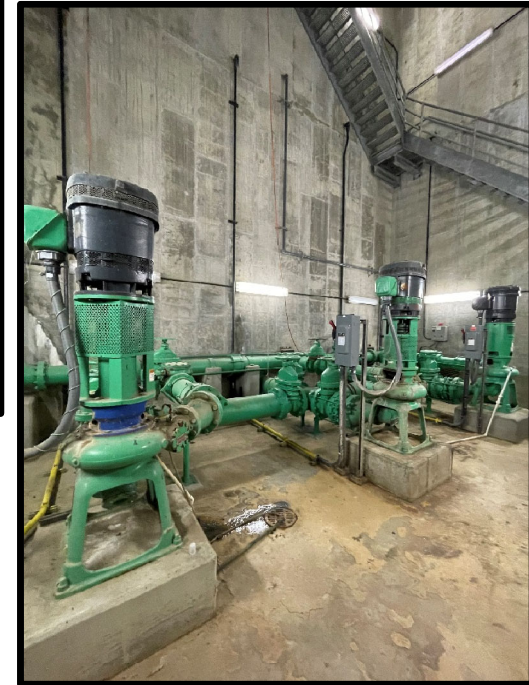
Wastewater Flow Monitoring

- Is on the Agenda for approval on the January 9th City Council meeting.
- Recommending award to RJN in an amount not to exceed \$63,340.
- Funding for these services will come out of the FY24 utilities operating budget.
- This wastewater data collected from the flow monitoring will serve as an important guide for future infrastructure needs and will help steer the course of the Water and Wastewater Master Plan Updates.



Kellway Electrical Control Panel Upgrades

- Was approved as a FY24 budget decision package and has a budget of \$80,000.
- Existing components in the control panel are outdated and the scarcity of replacement parts necessitates this upgrade.
- Project will provide safety enhancements for personnel performing maintenance
- Includes the installation of variable frequency drives to optimize pump performance.
- Is on the Agenda for approval on the January 9th City Council meeting.
- Recommending award to MVA in an amount not to exceed \$64,515.
- Being procured through a cooperative purchasing agreement with the City of Fort Worth.



Kellway Wet Well Inspection

- The recently completed Kellway Lift station By-Pass Project allowed for this type of maintenance to occur.
- This project was approved as a decision package during the FY24 budget process with a budget of \$55,000.
- Utilizing proactive approach to conduct regular inspections of infrastructure to catch issues early and avoid emergencies.
- Total project cost is currently estimated to be \$59,036.

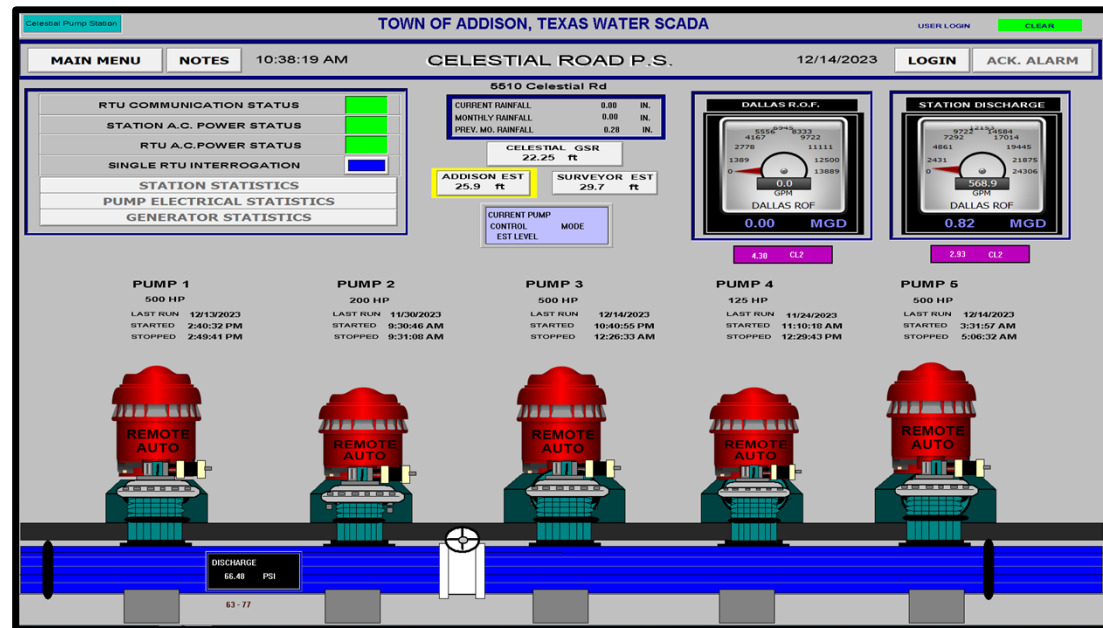


Utilities Division Operational Projects

ADDISON

SCADA Upgrades

- Is on the Agenda for approval on the January 9th City Council meeting.
- Current SCADA system was installed in the 1990s.
- Many components are no longer supported or challenging to procure.
- This project will improve the monitoring system utilized by Town staff.
- Project was approved as a part of the Fiscal Year 2024 budget process with a budget of \$350,000.
- RLC Controls was chosen for its industry expertise, excellent reputation, and proven track record in providing exceptional customer service to other municipalities.



Major CIP and Bond Projects

Under Construction Projects

ADDISON

Surveyor Pump Station Electrical Upgrades

- Construction awarded by City Council in March 2023.
- Completed installing new pump and motor.
- Construction of the Motor Control Center (MCC) is anticipated to begin in the summer of 2024 when the electrical components arrive.
- Project Budget \$1.2M



Under Construction Projects

Traffic Signal and ADA Improvements

- Long lead times on traffic signal poles delayed the start of construction.
- Sojourn Drive intersection is substantially complete.
- Addison Road and Beltway Drive intersections on Belt Line Road is anticipated to begin in January.
- Project Budget \$1.5M

Lake Forest Drive Water and Sewer Improvements

- City Council approved additional funding and construction utilizing the Town's utility IDIQ contract in June 2023.
- Substantially complete in January 2024.
- Contractor was able to work with homeowners to get their private roadway paved.
- Updated Project Budget of \$1.5M.



Under Construction Projects

ADDISON

Keller Springs Road Reconstruction

- ROW and easement acquisitions nearly complete.
- RFP was reissued and proposals were opened June 29th 2023.
- Tiseo Paving awarded the construction contract on September 12th, 2023.
- Franchise utilities are currently being relocated.
- Construction is set to begin in January 2023.
- Anticipated construction time is 750 days.
- Project Budget \$19.72M.



Under Construction Projects

ADDISON

Midway Road Reconstruction

- Northbound lanes from Belt Line Road to Keller Springs are under construction.
- Progress being made with irrigation, trail, retaining walls, and traffic signals on the south side of the project.
- Franchise utility conflicts with some traffic signal poles.
- Oncor Street light installation to begin in the next month.
- Anticipate substantial completion of the entire project in Spring of 2024.
- Current Estimated Costs \$41.1M.



Recently Completed Projects

ADDISON

Rawhide Creek ADA and Drainage Improvements

- Completed in December of 2024.
- Project Budget \$3.3M

Vitruvian Phase 9, Block 701 Streetscape and Trail Improvements

- Completed in January of 2024



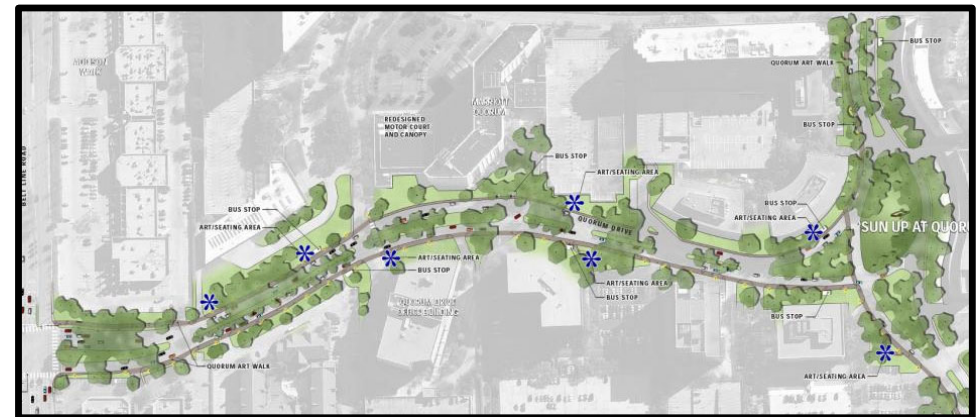
Upcoming Projects

Quorum Drive Reconstruction

- Council awarded Teague Nall and Perkins as the design engineer in June 2023.
- Non-destructive testing of the 36" to 24" water main was approved by City Council as a part of a FY2024 decision package.
- Design is underway.
- Anticipate design to take around 18 months.

Airport Parkway Reconstruction

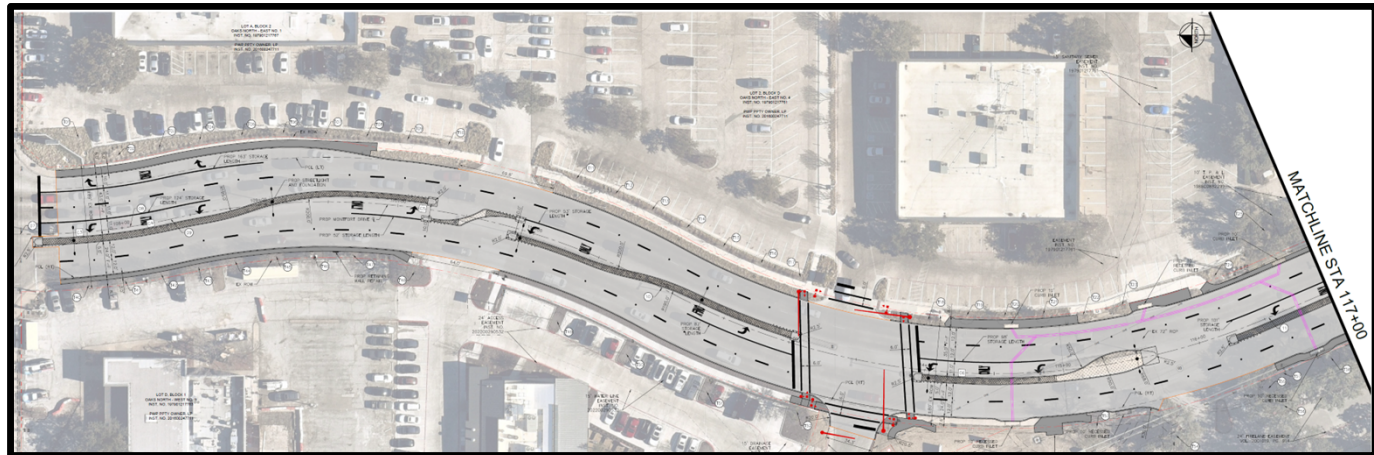
- Currently at 95% design, design completion will conclude once Keller Springs is close to ending construction.
- Working on ROW and easement acquisitions.
- Project Budget \$9.4M.



Upcoming Projects

Montfort Drive Reconstruction

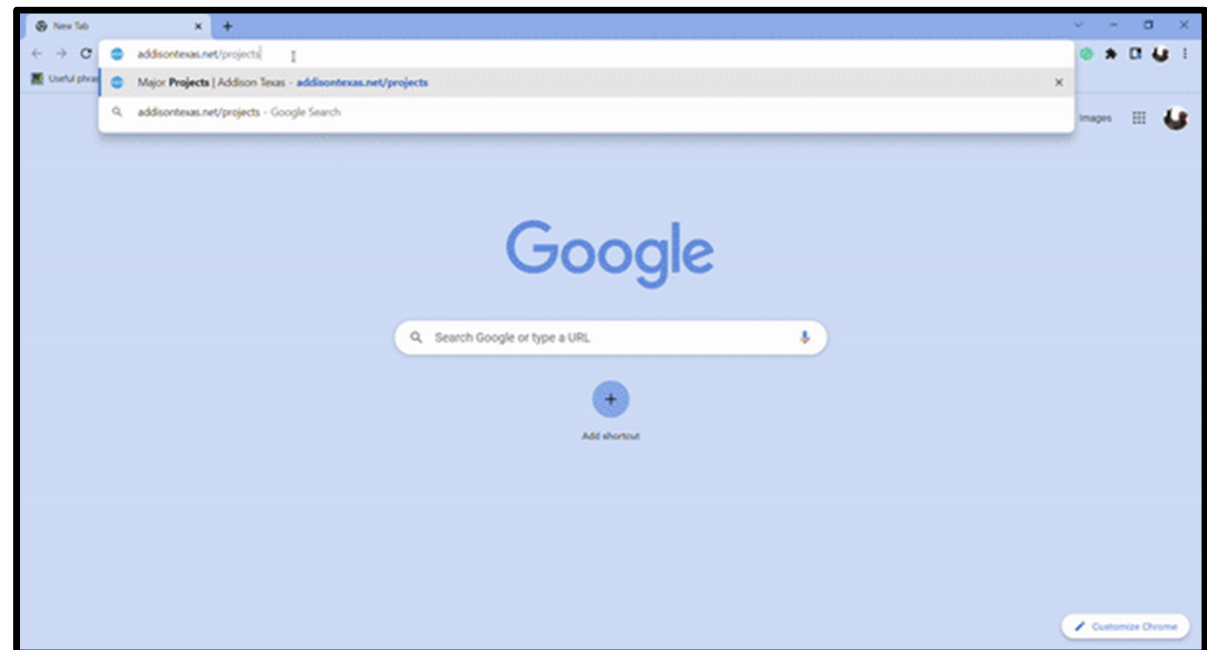
- Council awarded Kimley-Horn and Associates as the design engineer in April 2023.
- Adding a new traffic signal between Palladium and Belt Line at the VOP development near Loro.
- Design is anticipated to be completed in spring 2024
- Project Budget \$7.3M.
- Upcoming discussion regarding limits of project.



Projects Updates Website

ADDISON

- Project updates can be found at addisontx.net/projects
- Website has list of many projects across multiple departments.
- Scan the QR code below for the link!



Questions?

City Council (FY24)

2. a.

Meeting Date: 01/09/2024

Department: City Manager

AGENDA CAPTION:

City Manager's Announcements.

BACKGROUND:

The City Manager will make announcements of interest to the Town.

RECOMMENDATION:

Information only.

City Council (FY24)

2. b.

Meeting Date: 01/09/2024

Department: City Manager

AGENDA CAPTION:

Employee Recognition.

BACKGROUND:

The City Manager will recognize an employee for his/her service to the Town.

RECOMMENDATION:

Information only.

City Council (FY24)

4. a.

Meeting Date: 01/09/2024

Department: City Secretary

AGENDA CAPTION:

Consider action on the Minutes from the November 14, 2023 City Council Meeting.

BACKGROUND:

The minutes for the November 14, 2023 City Council Meeting have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - November 14, 2023

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL WORK SESSION

November 14, 2023

**Addison Conference Centre
15650 Addison Road, Addison, TX 75001
6:00 pm Executive Session & Work Session
7:30 pm Regular Meeting**

Present: Mayor Bruce Arfsten; Mayor Pro-Tempore Eileen Resnik; Deputy Mayor Pro-Tempore Guillermo Quintanilla; Council Member Nancy Craig; Council Member Darren Gardner; Council Member Dan Liscio; Council Member Marlin Willesen

WORK SESSION

1. **Call Meeting to Order and Announce that a Quorum is Present.**

Mayor Arfsten called the meeting to order and announced a quorum of the City Council was present.

2. **Citizen Comments on the Consent Agenda Items.** This item allows citizens to speak on any item listed on the Consent Agenda prior to its consideration. 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 beginning of this item.

3. **Council Member Clarification Requests Regarding Consent Agenda Items.**

4. **Council Questions and Answers.**

5. **Closed Meeting.** The Addison City Council will enter a Closed Meeting pursuant to Texas Government Code Sections 551-071 through 090 to discuss the following item(s):

- 551.071(1)(A) Consultation with Attorney to seek advice on pending or contemplated litigation.
 - White Rock Chapel

Mayor Arfsten closed the Open Meeting at 6:10 pm to convene the City Council into Closed Session.

6. **Open Meeting.** In accordance with Texas Government Code Chapter 551, the Addison City Council will reconvene in an Open Meeting to consider action, if any, on the matters discussed in the Closed Meeting.

Mayor Arfsten reconvened the City Council into Open Session at 7:05 pm. There was no action taken as a result of Closed Session.

7. **Work Session Reports**

- a. **Present and discuss maintenance of residential masonry perimeter screening walls.**
[Park & Recreation Director Janna Tidwell]

Mayor Pro-Tempore Resnik recused herself from this discussion. A copy of a Conflict of Interest Statement submitted by Mayor Pro-Tempore Resnik is attached and made a part of these minutes.

This presentation is a follow-up to presentations made by staff to the Council in 2022 and most recently on August 22, 2023, regarding the maintenance of masonry perimeter screening walls in residential areas. The previous presentations were made in response to several neighborhood groups requesting the Town maintain their perimeter screening walls. Some of the groups indicated that the Town's leadership had previously made a verbal commitment to maintain the walls. As a result, the Town hired a consultant to investigate ownership and maintenance responsibilities of masonry perimeter screening walls for the neighborhoods in Addison. The consultant reported their findings at the August 22, 2023 Council meeting. The report identified that the proper easements/agreements were not in place to assign wall maintenance obligations to the Town for most of the neighborhoods in Addison. Staff proposed establishing a grant that would allow the Town to participate in the costs of wall maintenance without dedicating a considerable amount of time and expense to acquiring easements for wall maintenance.

During the August 22, 2023 presentation, Council directed staff to conduct research and present information to Council regarding grant programs that other cities offer to help cover maintenance of masonry perimeter screening walls in their communities and to provide the framework for a proposed grant program that could be facilitated in Addison. The presentation provided the Council information related to a grant program. To help facilitate the conversation, an overview of the previous presentation, along with additional information related to the previous consultant's report was presented.

Citizen Comments in favor of Town participation in residential masonry perimeter screening wall: Fran Powell, Bob Heckman, Chuck Green

Directive: Staff to move forward to finalize grant program and establish formal policy.

- b. **Present and discuss the Airport Quarterly Report for the Fiscal Year 2023 (FY23) fourth quarter which ended September 30, 2023.** *[Airport Director Joel Jenkinson]*

Item was passed to be discussed at a later date and time.

c. **Present and discuss the Town of Addison Fiscal Year 2023 Fourth Quarter Financial Report.** [CFO Steven Glickman]

Editor Note: Item was discussed out of order at the end of this meeting after 6(b).

The Town of Addison's financial policies require the publication of a financial report 60 days subsequent to the end of the fiscal quarter. This report covers the financial performance through the fourth quarter for Fiscal Year 2023 (July 1, 2023 - September 30, 2023). Enclosed in the report is an executive dashboard that provides a high-level look at some of the key financial indicators along with more detailed exhibits that demonstrate the current financial positions of the various funds. The report includes information for the following funds: General, Hotel, Economic Development, Airport, Utility, and Stormwater funds. Key highlights for the fourth quarter include:

- General Fund revenue totaled \$47.7 million, which is 106.0 percent of the fiscal year budget.
- General Fund expenditures totaled \$43.7 million, which is 97.2 percent of the fiscal year budget.
- Sales tax collections totaled \$16.7 million, which is 109.6 percent of the fiscal year budget.
- The Hotel Fund had revenue of \$6.5 million, a decrease of \$964 thousand from this time a year ago, due to the receipt of ARPA funds in September 2022. Hotel Fund expenditures totaled \$6.2 million.
- Performing Arts expenditures are at 100 percent due to the full payment of the WaterTower Theatre grant.
- Special Events revenues totaled 92.1 percent and expenses totaled 91.7 percent of the fiscal year budget.
- Airport Fund operating revenue totaled \$7.4 million or 111.2 percent and operating expenditures totaled \$5.2 million or 93.3 percent of the fiscal year budget.
- Utility Fund operating revenue totaled \$16.5 million or 107.2 percent and expenditures totaled \$15.4 million or 96.9 percent of the fiscal year budget.
- Stormwater Fund revenue and expenditures are in line with historical averages.

Quarterly Investment Report – 4th Quarter FY 2023

Month	Market Value	Book Value
7/31/2023	\$125,892,085.92	\$130,732,165.64
8/31/2023	\$123,558,089.93	\$128,182,357.64
9/30/2023	\$127,771,813.30	\$132,459,862.82

COUNCIL MEETING

Mayor Arfsen convened the City Council into session at 7:30 pm in the Council Chambers.

1. **Pledge of Allegiance.** United States and Texas Flags

Mayor Arfsten led the Pledge of Allegiance to the United States and Texas Flags

2. **Proclamations / Presentations**

- a. City Manager's Announcements
- b. Employee Recognitions/Introductions
 - City Manager David Gains – City Manager Office – Chief of Staff Sarah Kuechler
 - Director of Development Services Ken Schmidt – Building Official Dale Jackson

3. **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.*

4. **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.*

- a. **Consider action on the Minutes from the October 24, 2023 City Council Meeting.**
- b. **Consider action on the Minutes from the October 17, 2023 Joint City Council and Planning & Zoning Commission Meeting.**
- c. **Resolution No. R23-095: Consider action on a Resolution for an Interlocal Cooperative Agreement Between The North Central Texas Council of Governments and the Town of Addison Concerning Cotton Belt Regional Trail Local Contributions and authorize the City Manager to execute the agreement.**
- d. **Resolution No. R23-096: Consider action on a resolution approving a grant funding agreement with the Texas Department of Transportation (TxDOT) Aviation Division accepting Routine Airport Maintenance Program (RAMP) grant funding for certain improvements to Addison Airport; authorizing local funding in the amount of \$111,111.12; and authorizing the City Manager to execute all contracts and agreements necessary to accept the grant funding.**

MOTION: Council Member Willesen moved to approve *CONSENT AGENDA* as presented. Deputy Mayor Pro-Tempore Quintanilla seconded the motion. Motion carried unanimously.

5. **Public Hearings.**

- a. **Ordinance No. O23-50: Hold a public hearing, present, discuss, and consider action on a request to amend Special Use Permit (SUP), Ordinance No. O13-051, for property located at 4875 Belt Line Road, that is currently zoned Commercial-2 (C-2), to allow modifications to the development plan. Case 1892-SUP/4875 Belt Line Road (Home2 Suites).** *[Development Services Director Ken Schmidt]*

The subject property is located at 4875 Belt Line Road. The existing hotel, Home2 Suites, has been operating since 2017. The subject property is zoned Commercial-2 (C-2), with Special Use Permit (SUP), Ordinance No. O13-051, to allow a hotel. An additional SUP, Ordinance No. O16-038, was later granted to allow the sale of alcohol for off-premises consumption. Home2 Suites is an existing hotel with 132 guest rooms. The hotel offers various guest amenities including a fitness center, business center, and outdoor pool. There is no restaurant or bar on site. The hotel requested an amendment to the existing SUP, Ordinance No. O13-051, to update the development plan to allow the construction of three shade structures on the outdoor patio. The shade structures will be located immediately surrounding the existing outdoor pool. The structures will be constructed of steel with a polyethylene cover. The hotel has expressed an interest in providing additional shade on the patio to make the outdoor space more enjoyable for guests.

With this request, Home2 Suites would construct three steel shade structures within the existing patio area, immediately surrounding the pool. The applicant proposes two 108 square foot (9' by 12') structures and one 192 square foot (8' by 24') structure. Both structures will be a maximum of 10 feet tall.

No modifications are proposed to the existing parking, primary façade and to the existing landscaping and open space approved by Ordinance No. O13- 051.

Public Hearing: No citizen requests to address this request.

The Addison Planning and Zoning Commission, meeting in regular session on October 17, 2023, voted to recommend approval of a request to amend Special Use Permit (SUP), Ordinance No. O13-051, for property located at 4875 Belt Line Road, which is currently zoned Commercial-2 (C-2), to allow modifications to the development plan. Approval of this request will allow reinvestment in the existing hotel site. The proposed modifications will provide enhanced accommodations and amenities for hotel guests with an updated exterior appearance. The improvements will not negatively impact the existing site conditions, including parking, landscaping, or open space.

MOTION: Mayor Pro-Tempore Resnik moved to approve Ordinance No. O23-50 to amend Special Use Permit (SUP), Ordinance No. O13-051, for property located at 4875 Belt Line Road, which is currently zoned Commercial-2 (C-2), to allow modifications to the development plan. as presented. Council Member Gardner seconded the motion. Motion carried unanimously.

- b. **Ordinance No. 023-51: Hold a public hearing, present, discuss, and consider action on a request to amend Special Use Permit (SUP), Ordinance No. 098-022, for property located at 4960 Arapaho Road, that is currently zoned Planned Development (PD), Ordinance No 004-048, to allow modifications to the development plan. Case 1893-SUP/4960 Arapaho Road (Radisson Hotel).** *[Development Services Director Ken Schmidt]*

The subject property is located at 4960 Arapaho Road. A hotel has been operating on the site since 2000. The subject property is zoned Planned Development (PD), Ordinance No. 004-048, with Special Use Permits (SUP) to allow a restaurant and the sale of alcohol for on premises consumption, and SUP, Ordinance No. 098-022, to allow a hotel. The Radisson Hotel is an existing hotel with 101 guest rooms. The hotel offers various guest amenities including a fitness center, meeting space, business center, restaurant, and outdoor pool. The hotel requested an amendment to the existing SUP, Ordinance No. 098-022, to update the development plan to allow updates to the building façade and floor plan. The building modifications are proposed in order to meet the Hampton by Hilton design brand standards. There are no proposed modifications to existing services offered on site.

With this request, the Radisson Hotel is proposing an exterior and interior remodel to rebrand to a Hampton by Hilton. The improvements include a modernized building entry and updated materials throughout the façade. The interior remodel will modify the first floor to provide an enhanced lobby, restaurant/bar, and fitness areas. The proposal does not include changes to the gross floor area or the number of guest rooms.

No modifications are proposed to the existing parking. The development plan approved by Ordinance No. 098-022 identified 101 parking spaces on site. The property currently has 97 spaces. It appears the parking deficit was created due to the construction of an outdoor pool at the southeast corner of the building in 2004. Staff has no knowledge of issues related to lack of parking on the subject property.

An exterior remodel is proposed with this request. The changes will include a new porte cochere on the north façade, new awnings on the east and west façades, a new fin wall and windows at the entrance, and updated exterior materials. The updated façade materials include brick, EFIS, and wood paneling. The new fin wall will increase the maximum height of the building by 3.5 feet, for an overall maximum height of 50 feet.

No modifications are proposed to the existing landscaping and open space approved by Ordinance No. 098-022.

Public Hearing: No citizen requests to address this request.

The Addison Planning and Zoning Commission, meeting in regular session on October 17, 2023, voted to recommend approval of a request to amend Special Use Permit (SUP), Ordinance No. 098-022, for property located at 4960 Arapaho Road, that is currently zoned Planned Development (PD), through Ordinance No. 004-048, to allow modifications to the development plan.

MOTION: Mayor Pro-Tempore Resnik moved to approve Ordinance No. O23-51, to amend Special Use Permit (SUP), Ordinance No. 098-022, for property located at 4960 Arapaho Road, that is currently zoned Planned Development (PD), through Ordinance No. 004-048, to allow modifications to the development plan as presented. Council Member Liscio seconded the motion. Motion carried unanimously.

- c. **Ordinance No. O23-52: Hold a public hearing, present, discuss, and consider action on a request for a Special Use Permit (SUP) for property located at 4006 Belt Line Road, Suite 100, that is currently zoned Planned Development (PD), through Ordinance No. 460, and amended by Ordinance No. 085-003, to allow an educational institution. 1897-SUP/4006 Belt Line Road, Suite 100 (Montessori Institute of North Texas).** [Development Services Director Ken Schmidt]

The subject property is located at 4006 Belt Line Road. The proposed business, Montessori Institute of North Texas, would be located within Suite 100, which is within the southernmost building. The subject property is zoned Planned Development (PD), Ordinance No. 460, as amended by Ordinance No. 085-003. The Montessori Institute of North Texas (MINT) is requesting a Special Use Permit (SUP) to allow a Montessori training center for teachers. This program will provide Montessori certification for teachers and serve as a resource for professional development. This institute is the only Montessori teacher training center in Texas that is affiliated with the Association Montessori Internationale (AMI). MINT will not provide schooling for children. MINT is proposed to be open 8:00 AM – 5:00 PM Monday through Friday. The anticipated class size will vary between 6-30 adults. Approximately 50% of the training takes place virtually. Courses are offered year-round; however, a majority of the classes are offered during the summer months while teachers are on summer vacation. The zoning ordinance allows educational institutions through the approval of an SUP within any zoning district. The proposed use complies with the ordinance.

With this request, MINT would utilize an existing 14,742 square foot suite to conduct training. The space will offer offices, classrooms, breakrooms, and a reception area. The classrooms are furnished with tables and chairs of various configurations for learning and as a mock classroom.

PD, Ordinance No. 460, specifies the following parking ratios for the site:

Land Use	Parking Ratio
Retail	1 space for each 200 SF
Restaurant	1 space for each 100 SF
Movie Theater	1 space for each 4 seats
All Other Uses	1 space for each 300 SF

The site was originally approved with 678 spaces in 1983. Currently, the site plan identifies 621 parking spaces to serve 206,303 square feet of office and restaurant space. The deficit appears to have been created due to the removal of parking spaces to accommodate accessible spaces and to provide driveway connections to the parking lot that is situated on the adjacent Texas Power and Light right-of-way. Staff has no knowledge of issues related to lack of parking on the subject property.

No modifications are proposed to the existing facades, landscaping and Open Space.

Currently, there is one outstanding code violation on the subject property. Town staff identified that the existing monument sign is in disrepair and is proceeding with standing enforcement processes. Staff does not believe this should delay consideration of this request as they are unrelated to the applicant.

Public Hearing: No citizen requests to address this request.

The Addison Planning and Zoning Commission, meeting in regular session on October 17, 2023, voted to recommend approval of a request for a Special Use Permit (SUP) to allow an educational institution for property located at 4006 Belt Line Road, Suite 100, that is currently zoned Planned Development, though Ordinance No. 460, and amended by Ordinance No. 085-003.

MOTION: Council Member Liscio moved to approve Ordinance No. O23-52, for a Special Use Permit (SUP) to allow an educational institution for property located at 4006 Belt Line Road, Suite 100, that is currently zoned Planned Development, though Ordinance No. 460, and amended by Ordinance No. 085-003 as submitted. Council Member Craig seconded the motion. Motion carried unanimously.

- d. **Ordinance No. O23-53: Hold a public hearing, present, discuss, and consider action on a request to amend the development standards and approve a development plan for Phase II of a 12.22± acre property located at 16675 Addison Road, currently zoned Planned Development (PD), Ordinance No. 023-32, to allow for the construction of an office/warehouse development with associated site improvements. Case 1900-Z/16675 Addison Road (Phase II).** [Development Services Director Ken Schmidt]

This request is specific to the former call center site located at 16675 Addison Road. The site is 12.22 acres, located at the southwest corner of Addison Road and Excel Parkway, approximately 600 feet west of the Dallas North Tollway. On July 11, 2023, the City Council approved Planned Development (PD), Ordinance No. 023-32, which provided permitted uses, development standards, a development plan for Phase I, and a concept plan for Phase II to allow the redevelopment of the site.

It was the intent of the previous applicant for Ordinance No. 023-32, Brockett Street Capital, to develop the property in two phases. The first phase would include the conversion of the existing 138,000 square foot call center into a multi-tenant office/warehouse structure. Phase II proposed a second 97,000 square foot multi-tenant office/warehouse structure within the existing concrete parking area.

Lovett Industrial is currently in the process of acquiring the subject property and intends to complete the project in one phase. Lovett Industrial is a Houston based real estate developer with a local office in Dallas. This request will amend the existing PD to allow minor modifications to the development standards and adopt an updated development plan for the entire site (Phases I and II). Tenants for this site have not yet been identified.

Minor modifications are proposed to the Permitted Use and Development Standards approved via Ordinance No. O23-32. The following modifications are specific to the floor plan development standards:

- A 495 square foot increase to the maximum tenant occupancy within Building 2; and
- To allow doors or windows, which can provide access or visibility into an interior lobby or office space, on the north façade of Building 2.

The remaining use and development standards are proposed to remain as previously approved.

The development plan includes a site plan, landscape plan, tree survey, façade plan, and floor plan for the western half of the site to allow a new 100,990 square foot office/warehouse structure and associated site improvements. This area has previously been referred to as Phase II of the project and is identified as Building 2 on the development plan.

The site is being constructed for speculative office/warehouse space. All tenants must comply with the Permitted Use and Development Standards.

A minimum of 1 space for each 1,000 square feet of gross floor area is proposed for the site. Building 2 is a 100,990 square foot structure, requiring 101 spaces. The site exceeds this requirement by providing 144 spaces.

The east elevation will be used as the service area and truck courtyard, providing thirteen loading dock doors. A proposed masonry screening wall at the northeast corner of the building, landscaping, and Building 1 will provide screening for the service area. Primary entrances will be situated on the north, west, and south facades. The building will be concrete tilt wall construction and be aesthetically compatible with Building 1.

The site will meet the minimum landscaping requirements requested by staff, including open space, landscape buffers along Addison Road and Excel Parkway, and parking lot landscaping. An enhanced landscaping treatment is proposed at the northeast corner of the building and along Excel Parkway to provide screening for the service area. With the development of Building 2, the applicant has proposed to remove 20 trees, or 304 caliper inches. Mitigation has been proposed through 20 replacement trees and providing a fee in lieu of to the Town's tree mitigation fund. Tree mitigation on site was challenging due to several existing utility easements and an increase in the density. 80 caliper inches will be mitigated on site and 228 caliper inches will be mitigated at \$192.00 per caliper inch, resulting in a \$43,776 fee.

The development plan is generally consistent with the concept plan approved via PD, Ordinance No. O23-32. The structure increased by 3,990 square feet, however, the site still meets the intent and character of the concept plan, as well as all Town requirements and the Permitted Use and Development Standards.

Public Hearing: No citizen requests to address this request.

The Addison Planning and Zoning Commission, meeting in regular session on October 17, 2023, voted to recommend approval of a request to amend the development standards and approve a

development plan for Planned Development (PD), Ordinance No. O23-32, for a 12.22± acre property located at 16675 Addison Road, to allow for the conversion of an existing call center site to a multi-building office/warehouse development with associated site improvements, subject to the permitted uses, proposed development standards, and development plan.

MOTION: Mayor Pro-Tempore Resnik moved to approve Ordinance No. O23-53, amending the development standards, approving a development plan for Planned Development (PD), Ordinance No. O23-32, for a 12.22± acre property located at 16675 Addison Road, allowing for the conversion of an existing call center site to a multi-building office/warehouse development with associated site improvements, subject to the permitted uses, proposed development standards, and development plan. Deputy Mayor Pro-Tempore Quintanilla seconded the motion. Motion carried unanimously.

6. **Items for Individual Consideration.**

- a. **Ordinance No. O23-54: Present, discuss, and consider action on the second reading of an Ordinance extending the existing franchise between the Town and Atmos Energy Corporation.** [*Chief Finance Officer Steven Glickman*]

Atmos Energy utilizes Town-owned rights-of-way to deliver, transport, and distribute gas in, out of, and through the Town to their customers, including the general public in the Town. The existing franchise agreement was originally approved in 2003 and is set to expire by the end of 2023. The proposed franchise agreement extension would extend the agreement from 2024 through 2043. Article VI, Section 6.02 of the Town's Code of Ordinances requires all ordinances granting, amending, renewing, or extending franchises for public utilities to be read at two separate regular meetings of the City Council. The first reading occurred at the September 26, 2023 Council meeting. The second reading and final consideration of the ordinance is required to occur at least thirty days after the first reading, after which time the full text of the ordinance is to be published once a week for four consecutive weeks in the Dallas Morning News. After final passage, the ordinance would go into effect on January 1, 2024.

MOTION: Mayor Pro-Tempore Resnik moved to approve Ordinance No. O23-54, extending the existing the Atmos Energy Corporation franchise to December 2043 as presented. Council Member Liscio seconded the motion. Motion carried unanimously.

- b. **Resolution No. R23-097: Consider action on a Resolution approving a Master Lease Agreement between the Town of Addison and Dallas Area Rapid Transit (DART), setting forth the terms and conditions of a ground lease of DART's Addison Transit Center property for inclusion in a future Transit Oriented Development project.** [*Economic Development Director Wayne Emerson*]

In 2021, the Town solicited development proposals for a transit-oriented development project on city-owned property north of DART's Addison Transit Center, in anticipation of the opening of rail service on the Silver Line, with an option to include DART's property in future phases. The Town and DART subsequently approved an Interlocal Agreement (ILA) that set forth the terms and conditions for the Town to enter into a long-term ground lease of the transit center property,

which is 5.5+ acres in size. DART's property holdings include the existing transit center and the adjacent office building (the "Baumann Building").

At the October 24th meeting, City Council had questions about the following provisions of the lease:

- Timeline for Engaging a Developer and Commencement of Construction - After the effective date of the lease, the Town has 48 months to engage a master developer and enter into a development agreement or sublease for the property. The lease also provides a 60 month "Pre-Development Period" for the developer to secure zoning, financing, prepare plans and commence construction. These time frames are concurrent.
- Rent Commencement – Annual rent is not due until the first to occur of the following:
 - 60 months after the effective date (the "Pre-Development Period");
 - The town issues a Certificate of Occupancy for the first building; or
 - Construction activities impact DART's transit activities.

Determination of Annual Base Rent and Subsequent Rent Adjustments – the initial annual base rent is determined by an appraisal process and does not change for the first five years after rent commencement. After five years and then at 10-year intervals, a reappraisal process adjusts the annual base rent by no less than 2% or more than 3% per year.

Unsubordinated Ground Leases – An unsubordinated ground lease allows the master developer and tenants of the project to obtain financing and encumber their respective leasehold interests to secure the loans, but DART's ownership cannot be encumbered. If the master developer defaults on a loan, its lender has no right to foreclose on DART's interest in the property. However, the master developer and its lender have the right to cure defaults under the master lease and also the right to receive a recognition agreement from DART that acknowledges the interests of the mortgage holder.

Summary of Lease Terms: The major provisions of the Master Lease Agreement, which are in accordance with the approved ILA, are:

- Term
 - An initial term of 49 years, with two 25-year extension options.
 - DART may terminate the Master Lease Agreement if no construction has commenced on the DART property within 60 months of its approval. The lease may also be terminated on the Baumann Building property if construction has not commenced within 10 years.
 - The Town may terminate the Master Lease agreement if no sublease or development agreement with a master developer has been approved within 48 months after the effective date of the agreement.
- Base Rent
 - The lease provides a Pre-Development Period of up to 60 months for the Town to select a master developer, who in turn must acquire financing and complete the surveying/zoning/planning/platting and permitting process. DART receives no base rent during the Pre-Development Period. Rent will commence when the Pre-Development Period ends, or the Town issues a Certificate of Occupancy for the

first building on the DART property, or when DART's ability to use the transit facilities is adversely impacted, whichever occurs first. DART will continue to collect all rent and other revenue from the lease of the Baumann Building until Base Rent becomes payable.

- Annual base rent is calculated as follows:
 - For the first 5 years of the lease, the base rent for DART's land is determined by an "as developed" appraisal conducted immediately after selection of the master developer, based on the proposed development plan, but also taking into consideration the impact of DART's operational and infrastructure requirements. The appraised value of DART's land will be multiplied by 4% to establish the base rent.
 - Appraisals will be conducted by one appraiser selected by the Town and DART and another chosen by the master developer. If the two appraisals are within 5% of the same value, the average will be used to calculate the base rent. If the difference in the two appraisals differs more than 5%, the two appraisers shall jointly select a third appraiser to make that determination.
 - A reappraisal shall be conducted initially after 5 years, and then every 10 years to reset the base rent. During these periods, the base rent shall be adjusted by not less than 2% but not more than 3% per year since the previous adjustment.
 - In addition, if the improvements actually constructed on the DART property deviate significantly from the original development plan, DART or Addison may require an adjustment to the annual base rent. The appraisal for this adjustment would be based on the actual improvements on DART's property.
- Excess Rent – Although unlikely, if the Town receives annual rent from the master developer for DART's property that exceeds the rent payable to DART, the excess rent is shared equally between the Town and DART. Property tax, sales tax and other tax receipts are not considered base rent, nor is any rent paid by the master developer which is rebated, credited or refunded by the Town for reimbursement of development costs.

Unsubordinated Ground Lease – the Master Lease Agreement will be unsubordinated, but with appropriate protections for subtenants and lenders.

Covenants, Conditions and Restrictions (CCRs) – The Town and DART will enter into a set of CCRs that prohibits noxious uses on all properties but promotes the development of a high-density, mixed-use transit-oriented development. Development and uses shall comply with DART's adopted Transit Oriented Development Guidelines and specific uses, such as self-storage and a stand-alone parking garage are prohibited on DART's property.

Capital and Operational Expenditures

- Project Capital and Operational Expenditures – The master developer will be responsible for all capital expenditures for infrastructure and facility improvements and replacements, and for property management. DART will remain responsible for capital expenditures related to the rail line and platform, ticket kiosks, information boards and associated infrastructure, as well as operating expenses related to transit operations.

- DART Operational and Infrastructure Requirements – DART’s ongoing bus and rail operations must be accommodated and continued as part of the development, in accordance with the requirements attached as Exhibit “B” to the lease.

Master Developer Selection – The Town has exclusive authority to solicit proposals from developers, to select the master developer and enter into a sublease for DART’s property and associated development agreements. DART will review correspondence and documents related to any development proposals, development agreements and sublease documents.

FTA Compliance – The lease and use of DART’s property is subject to compliance with Federal Transit Administration requirements.

General Provisions – The lease also contains general provisions such as requirements for insurance, utility and tax payments; provisions for use of maintenance of the property and improvements; and the terms for subleasing to the master developer.

MOTION: Council Member Craig moved to approve Resolution No. R23-097, approving a Master Lease Agreement between the Town and Dallas Area Rapid Transit for ground lease of DART’s Addison Transit Center property. Council Member Gardner seconded the motion. Motion carried unanimously.

7. **Items of Community Interest.** *The City Council will have this opportunity to address items of community interest, including: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition; a reminder about an upcoming event organized or sponsored by the Town of Addison; information regarding a social, ceremonial, or community event that was or will be attended by an Addison City Council member or an official; and, announcements involving an eminent threat to public health and safety in Addison that has arisen since posting this agenda.*

8. **Adjourn Meeting.**

There being no further business to come before the City Council, Mayor Arfsten adjourned the meeting at 8:51 pm.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma G. Parker, City Secretary

City Council (FY24)

4. b.

Meeting Date: 01/09/2024

Department: City Secretary

AGENDA CAPTION:

Consider action on the Minutes from the December 12, 2023 City Council Meeting.

BACKGROUND:

The minutes for the December 12, 2023 City Council Meeting have been prepared for consideration.

RECOMMENDATION:

Administration recommends approval.

Attachments

Minutes - December 12, 2023

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

December 12, 2023

Addison Conference Center
15650 Addison Road, Addison, TX 75001
5:00 PM Executive Session & Work Session
7:30 PM Regular Meeting

Present: Mayor Bruce Arfsten; Mayor Pro-Tempore Eileen Resnik; Deputy Mayor Pro-Tempore Guillermo Quintanilla; Council Member Nancy Craig; Council Member Darren Gardner; Council Member Dan Liscio; Council Member Marlin Willesen

WORK SESSION

1. **Call Meeting to Order and Announce that a Quorum is Present.**

Mayor Arfsten announced a quorum and called the December 12, 2023 meeting to order at 6:01 PM.

2. **Citizen Comments on the Consent Agenda Items.** *This item allows citizens to speak on any item listed on the Consent Agenda prior to its consideration. 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 beginning of this item.*

3. **Council Member Clarification Requests Regarding Consent Agenda Items.**

4. **Council Questions and Answers.**

5. **Closed Meeting.** The Addison City Council will enter a Closed Meeting pursuant to Texas Government Code Sections 551-071 through 090 to discuss the following item(s):

- Section 551.074 (a) (1) Personnel Matters to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee -
 - Annual City Manager Evaluation
 - Section 551.087(1): Economic Development Negotiations to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near
-

the territory of the governmental body and with which the governmental body is conducting economic development negotiations –

- Addison Circle Transit Oriented Development Project.

Mayor Arfsten closed the Open Meeting to convene the City Council into Closed Meeting at 6:04 PM.

6. **Open Meeting.** In accordance with Texas Government Code Chapter 551, the Addison City Council will reconvene in an Open Meeting to consider action, if any, on the matters discussed in the Closed Meeting.

Mayor Arfsten convened the City Council into Open Session at 7:30 PM. No action was taken as a result of the Closed Meeting. Mayor Arfsten advised that the Council would conduct a second Closed Meeting after **§6 Items for Individual Consideration.**

7. **Work Session Reports**

- a. **Present and discuss the operations and financial reconciliation for Addison Oktoberfest 2023.** *[Special Events Director Abby Morales]*

Addison Oktoberfest is a major festival produced by the Town annually that celebrates German culture, food, music and bier with a purely Texan twist. The event features four days of polka, lederhosen and dirndls to support local businesses and promote tourism. The festival was held September 14-17, 2023 at Addison Circle Park. The Special Events and Finance Departments presented a report to share the marketing, operational, and financial outcomes.

COUNCIL MEETING

Mayor Arfsten convened the Council Meeting at 7:30 PM in the Council Chambers.

1. **Pledge of Allegiance.** United States and Texas Flags

Mayor Arfsten led the Pledge of Allegiance to the United States and Texas Flags.

2. **Proclamations / Presentations**

- Presentation by Mayor Arfsten in recognition of Retiring Members of an Addison Commission or Board
 - Planning & Zoning Commission:
 - Tom Souers
 - Robert "Bob" Catalani
 - Board of Zoning Adjustment:
 - Gary Krupin
 - E.J. Copland

Mayor Arfsten presented a glass trophy to Planning & Zoning Commission former Chairman Tom Souers for his six years of service. Presentations of awards to all retiring members will be conducted at future council meetings in recognition of their volunteer service.

- a. City Manager's Announcements
 - b. Employee Recognition – employees recognized are as follows:
 - o Fire Department – Julie Winkler, Emergency Management Coordinator, introduced by Assistant Fire Chief C.J. Alexander
 - o Special Events – Yesenia Saldivar, Special Events Supervisor, introduced by Special Events Director Abby Morales
3. **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.*

Curtis Green: submitted email to address Council regarding parking requirements.
Trish Steward, 4000 Winter Park Lane: submitted letter to be read into record regarding preserving Town’s history.

4. **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.*
- a. **Resolution No. R23-098: Consider action to approve a Resolution for an agreement with Simple View for website design services for the Visit Addison website; and to authorize the City Manager to execute the agreement in an amount not to exceed \$58,900.**
 - b. **Resolution No. R23-099: Consider action to approve a Resolution for a contract between the Town of Addison and Rodney Hand & Associates Marketing Communications, LP for advertising in Addison and the North Dallas Guide; and to authorize the City Manager to execute the agreement in an amount not to exceed \$55,000 per issue, \$110,000 annually.**
 - c. **Resolution No. R23-100: Consider action on a Resolution to approve a fourth amendment to Ground Lease between the Town of Addison, Texas, and 16051 Addison LLC; authorizing the City Manager to execute the amendment and providing an effective date.**
 - d. **Resolution No. R23-101: Consider approving an agreement with Wizard Software Solutions, Inc. for the Airport's REPortfolio™ Lease and Agreement Management**

Software upgrade for an amount not to exceed \$60,000.00; authorizing the City Manager to execute the agreement; and providing an effective date.

- e. **Resolution No. R23-102: Consider action on a Resolution consenting to the sale and assignment of the ground leasehold from JJS Hangar, LLC to N898TX Leasing, LLC for commercial office and aeronautical use on the airport property located at 4585 Claire Chennault Drive; and authorizing the City Manager to execute the Consent of Landlord, as required under the ground lease.**
- f. **Resolution No. R23-103: Consider action on a Resolution approving the purchase of a medic ambulance from Mac Haik Dodge Chrysler Jeep pursuant to Quote No. Q3543-0001 from Frazer, LTD. in an amount not to exceed \$463,804.00.**
- g. **Resolution No. R23-104: Consider action on a Resolution approving the purchase of thirty-eight (38) Automated External Defibrillators (AEDs) with annual inspections.**
- h. **Resolution No. R23-105: Consider action on a Resolution requesting exclusion from the class action settlement agreement between active public water systems and the 3M Company related to perfluoroalkyl and polyfluoroalkyl substances ("PFAS").**
- i. **Resolution No. R23-106: Consider action on a Resolution requesting exclusion from the class action settlement agreement between public water systems and E.I. Dupont De Nemours and Company related to perfluoroalkyl and polyfluoroalkyl substances ("PFAS").**
- j. **Resolution No. R23-107: Consider action on a Resolution approving an agreement with Bureau Veritas for on-call building inspection services and authorizing the City Manager to execute the agreement in an amount not to exceed \$67,500.**

Mayor Arfsten called for any items to be removed from the Consent Agenda to be discussed separately. There were no requests. Mayor Arfsten called for a motion.

MOTION: Mayor Pro-Tempore Resnik moved to adopt CONSENT AGENDA 4(a-j) as presented. Council Member Craig seconded the motion. Motion carried unanimously.

5. **Public Hearings.**

- a. **Ordinance No. O23-56: Hold a public hearing, present, discuss, and consider action on a request to amend Special Use Permit (SUP), Ordinance No. 097-044, for property located at 3795 Belt Line Road, that is currently zoned Planned Development (PD), to allow modifications to the development plan. Case 1902-SUP/3795 Belt Line Road (McDonald's).** *[Planning & Development Manager Lesley Nyp]*

The subject property is located at 3795 Belt Line Road. The subject property is zoned Planned Development (PD), Ordinance No. 092-037, as amended by Ordinance No. 098-049, with Special

Use Permit (SUP), Ordinance No. 097-044, to allow a restaurant with a drive-through.

The existing McDonald's restaurant has operated at the subject property since 1998. The 5,423 square foot restaurant offers indoor dining, an indoor kid's play area, and a single-lane drive-through. The proposed SUP amendment is a solution to address inefficiencies with the existing single-lane drive-through that creates circulation issues. The site improvements will include adding an additional drive-through lane, which requires modifications to the sites' parking and landscaping.

With this request, McDonald's is proposing the addition of a second drive-through lane, a second drive-through exit lane, new menu ordering stations, removal of 17 parking spaces, and new interior landscaping. The proposal does not include changes to the interior or gross floor area of the existing building.

The proposed drive-through lane will require the removal of 17 existing parking spaces. The development plan approved by SUP, Ordinance No. 097-044, identified 81 parking spaces on site. The parking ratio for a restaurant is 1 space for each 70 square feet, which requires a minimum of 78 spaces. The request proposes 64 spaces, which is a ratio of 1 space for each 85 square feet of gross floor area.

The applicant completed a parking study of the site to support the proposed parking deficit. It was determined that during the busiest times, the maximum number of parking spaces used was 52. It is the intent that the demand for parking spaces will decrease with improved efficiency of the restaurant's drive-through. Staff have no knowledge of issues related to the lack of parking on the subject property.

There are no modifications proposed to the existing exterior facades included with this request.

The request proposes modifying the existing landscaping surrounding the menu board at the northeast corner of the building and the addition of new landscaped parking islands within the interior of the lot. The request has met or exceeded Town requirements for the provision of minimum landscape area, landscape buffer, tree plantings, parking lot interior landscaping, and tree mitigation.

The landscape modifications also include the removal of one 20-caliper-inch cedar elm at the northeast corner of the building. The removal of this tree was necessary to accommodate an additional drive-through lane within the limited area between the building and fire lane. The applicant proposed to mitigate on site with six 5-caliper-inch cedar elms, for a total of 30 caliper inches planted on site.

The proposed tree mitigation will allow the site to come into compliance with the requirement that all parking spaces must be located within 50 feet from the trunk of a shade tree. It will also allow construction of new parking islands to be added immediately west of the building, which is currently all pavement.

Approval of this request will allow an existing business to operate more efficiently and support the reduction of drive-through stacking congestion. While the improvements do create a 14-space deficit, staff does not anticipate this will have a negative impact on adjacent properties as the parking demand is less than the 64 spaces provided. Additionally, this restaurant has shown they have a high volume of drive-through customers to support allowing a decreased parking ratio. The landscape improvements will also bring the site into compliance with minimum standards.

The Addison Planning and Zoning Commission, meeting in regular session on November 15, 2023, voted to recommend approval of a request to amend Special Use Permit (SUP), Ordinance No. 097-044, for property located at 3795 Belt Line Road, which is currently zoned Planned Development (PD), via Ordinance Nos. 092-037 and 098-049, to allow modifications to the development plan. Staff recommends approval of the request.

Public Hearing: There were no individuals wishing to speak for or against this item.

MOTION: Council Member Gardner moved to approve *Ordinance No. O23-56*, an amendment to Special Use Permit (SUP), Ordinance No. 097-044, for property located at 3795 Belt Line Road, that is currently zoned Planned Development (PD), to allow modifications to the development plan. Case 1902-SUP/3795 Belt Line Road (McDonald's) as presented. Council Member Willesen seconded the motion. Motion carried unanimously.

- b. *Ordinance No. O23-57: **Hold a public hearing, present, discuss, and consider action on a request for a Special Use Permit (SUP) for property located at 14665 Midway Road, Suite 155, that is currently zoned Local Retail (LR), to allow an educational institution. Case 1899-SUP/14665 Midway Road, Suite 155 (Career Discovery Academy).*** [Planning & Development Manager Lesley Nyp]

The subject property is located at 14665 Midway Road. The proposed business, Career Discovery Academy, would be located within Suite 155. The subject property is zoned Local Retail (LR). The site has an existing multi-tenant office building constructed in the 1970s.

Career Discovery Academy is requesting a Special Use Permit (SUP) to allow a training program to provide employment skills and certification preparedness for healthcare professionals. The training offered includes Certified Nurse Aide (CNA), Phlebotomy Technician, and Medical Assistant. In addition to training, the facility will also offer testing by appointment. The academy will be operated by Ana Miranda and Bryan Oreamuno, who previously operated the school in Dallas prior to relocating to Addison.

The academy will be open during class hours, which includes weekdays from 9:00 AM – 8:00 PM. The maximum class size that may be accommodated on site is 12 students. Additional students may participate online. The program cycles last between 4-8 weeks, which include lectures and clinical training.

The zoning ordinance allows educational institutions through the approval of an SUP within any zoning district. The proposed use complies with the ordinance.

With this request, Career Discovery Academy would utilize an existing 1,775 square foot suite to conduct training and facilitate testing. The space will offer a reception area, office, kitchen, classroom, and testing rooms. The classroom and office features tables and chairs and the skills rooms are set up to simulate a patient room. There are no interior or exterior modifications proposed.

There are currently 139 parking spaces provided on site to serve the multi-tenant office building. There are an additional 42 parking spaces within the adjacent Texas Utilities right of way that appears to be used by the subject property. Staff has no knowledge of issues on site related to lack of parking.

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

No modifications are proposed to the existing landscaping and open space. The ongoing reconstruction of Midway Road will include landscaping improvements to the frontage of the subject property.

As proposed, this training and testing center will function similarly to an office setting and will primarily operate during typical business hours. The classes will be small with a maximum of 12 students, which is unlikely to create conditions that would negatively affect other businesses located within the office building.

The Addison Planning and Zoning Commission, meeting in regular session on November 15, 2023, voted to recommend approval of a request for a Special Use Permit (SUP) to allow an educational institution for property located at 14665 Midway Road, Suite 155, that is currently zoned Local Retail (LR). Staff recommends approval of this request.

Public Hearing: There were no individuals wishing to speak for or against this item.

MOTION: Deputy Mayor Pro-Tempore Quintanilla moved to approve Ordinance No. O23-57, a Special Use Permit (SUP) for property located at 14665 Midway Road, Suite 155, that is currently zoned Local Retail (LR), to allow an educational institution. Case 1899-SUP/14665 Midway Road, Suite 155 (Career Discovery Academy) as presented. Mayor Pro-Tempore Resnik seconded the motion. Motion carried unanimously.

6. **Items for Individual Consideration.**

- a. **Resolution No. R23-108: Consider action on a Resolution appointing four (4) citizens to serve on the Planning & Zoning Commission for two-year terms commencing January 1, 2024, and providing an effective date.** [City Secretary Irma Parker]

Historically, the City Council reviews the standing board and commission memberships in the last quarter of each calendar year. Notifications were made to the community informing individuals interested in serving on the Planning & Zoning Commission of the opportunity to apply. The

application deadline was set for November 30, 2023. All current Commission members were notified that their terms are expiring and were asked to complete and submit a new application indicating their interest in continuing their service. City Council members have been provided with a complete list of applicants and their respective applications.

The Planning & Zoning Commission has four (4) members with terms expiring on December 31, 2023. The table below indicates the Commissioners' terms and other important information. Commission members may serve up to three (3) consecutive two-year terms. The next term of office begins in January 2024 and expires in December 2025. Place 5 is currently held by Jimmy Barker and Place 6 is currently held by Chris DeFrancisco.

Place #	Council Member	Other
4	Craig	Robert Catalani - Reached term limit
5	Willesen	*1
6	Liscio	*2
7	Arfsten	Vacant

MOTION - *Place 4*: Council Member Craig moved to nominate Tom Braun to Place 4. Mayor Pro-Tempore Resnik seconded the motion. Motion carried unanimously.

MOTION - *Place 5*: Council Member Willesen moved to nominate Jimmy Barker to Place 5. Council Member Liscio seconded the motion. Motion carried 5 to 2 with Mayor Pro-Tempore Resnik and Deputy Mayor Pro-Tempore Quintanilla voting against.

MOTION - *Place 6*: Council Member Liscio moved to nominate Chris DeFrancisco to Place 6. Council Member Craig seconded the motion. Motion carried unanimously.

MOTION - *Place 7*: Mayor Arfsten moved to nominate Chelsey Smith to Place 7. Council Member Craig seconded the motion. Motion carried unanimously.

- b. **Resolution No. R23-109: Consider action on a Resolution appointing four (4) citizens to serve on the Board of Zoning Adjustment for two-year terms commencing January 1, 2024 and providing an effective date.** [City Secretary Irma Parker]

Historically, the City Council reviews the standing board and commission memberships in the last quarter of each calendar year. Notifications were made to the community informing individuals interested in serving on the Board of Zoning Adjustment of the opportunity to apply. The application deadline was set for November 30, 2023. City Council members have been provided with a complete list of applicants and their respective applications.

The Board of Zoning Adjustment has four (4) members with terms expiring on December 31, 2023.

Place #	Council Member	Other
4	Craig	E.J. Copeland reached term limits
5	Willesen	Jeanne Dunlap reached term limits
6	Liscio	Gary Krupkin reached term limits
7	Arfsten	Vacant

MOTION – Place 4: Council Member Craig moved to nominate James Peck to Place 4. Council Member Liscio seconded the motion. Motion carried unanimously.

MOTION – Place 5: Council Member Willesen moved to nominate Tyler Sommers to Place 5. Mayor Pro-Tempore Resnik seconded the motion. Motion carried unanimously.

MOTION – Place 6: Council Member Liscio moved to nominate John Eaglen to Place 6. Deputy Mayor Pro-Tempore Quintanilla seconded the motion. Motion carried unanimously.

MOTION – Place 7: Mayor Arfsten moved to nominate Sheila Wooldridge to Place 7. Council Member Gardner seconded the motion. Motion carried unanimously.

- c. Resolution No. R23-110: Consider and take action to approve a Resolution to nominate a Suburban Cities' Representative to the Dallas Central Appraisal District Board of Directors. [City Secretary Irma Parker]

The Town has received notice from Dallas Central Appraisal District's Executive Director/Chief Appraiser, W. Kenneth Nolan, that the nomination process for persons to serve on this Board has been completed. By state law, the Town is required to vote by official ballot resolution. Should the Town choose to abstain from voting, that must be submitted to Mr. Nolan in writing.

The Dallas Central Appraisal District has five members on its Board of Directors, including Dallas County Tax Assessor/Collector as an ex-officio member, representing the following groups: Dallas County; City of Dallas; Dallas Independent School District; Suburban Cities; and Suburban School District. Candidates and their nominating city are as follows:

CANDIDATE	NOMINATING CITY
Brett Franks	City of Sachse
Carrie F. Gordon	City of Balch Springs
Michael Hurtt	Cities of Seagoville, Carrollton
Mark Jones	City of Desoto
Terry Lynne	City of Farmers Branch
Steve Nichols	City of Hutchins

Resumes for each candidate were provided. There are 30 votes eligible in Places 4 and 5 with a majority required for appointment. In 2021, the Town along with the Cities of Desoto, Duncanville, Farmers Branch, Richardson and Seagoville cast their vote for Mr. Michael Hurtt who has served in this position since 2008.

MOTION: Mayor Arfsten nominated Mr. Michael Hurtt as the Town’s choice for Place 4 of the DCAD Board of Directors. Mayor Pro-Tempore Resnik seconded the motion. Motion carried unanimously.

* * * **CLOSED MEETING** * * *

(CONTINUED)

- **Closed Meeting.** The Addison City Council will enter a Closed Meeting pursuant to Texas Government Code Sections 551-071 through 090 to discuss the following item(s):
 - Section 551.074 (a) (1) Personnel Matters to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee -
 - Annual City Manager Evaluation
 - Section 551.087(1): Economic Development Negotiations to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations –
 - Addison Circle Transit Oriented Development Project.

Mayor Arfsten closed the Open Meeting to convene the City Council into Closed Meeting at 8:37 PM.

- **Open Meeting.** In accordance with Texas Government Code Chapter 551, the Addison City Council will reconvene in an Open Meeting to consider action, if any, on the matters discussed in the Closed Meeting.

Mayor Arfsten convened the City Council into Open Session at 9:22 PM. No action was taken as a result of the Closed Meeting.

7. **Items of Community Interest.** *The City Council will have this opportunity to address items of community interest, including: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition; a reminder about an upcoming event organized or sponsored by the Town of Addison; information regarding a social, ceremonial, or community event that was or will be attended by an Addison City Council member or an official; and, announcements involving an eminent threat to public health and safety in Addison that has arisen since posting this agenda.*

8. **Adjourn Meeting.**

There being no further business to come before the City Council, Mayor Arfsten adjourned the meeting at 9:22 PM.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma G. Parker, City Secretary

City Council (FY24)

4. c.

Meeting Date: 01/09/2024

Department: City Manager

AGENDA CAPTION:

Consider action on a Resolution approving a First Amended City Manager Employment Agreement providing for amendments to Articles III and VI of the Agreement; authorizing the Mayor to execute the Agreement; and providing for an effective date.

BACKGROUND:

On November 15, 2022, City Council appointed and approved an employment agreement with David Gaines to serve as City Manager. Following the first year of his employment, City Council held an annual review with City Manager Gaines on December 12, 2023. This item is for Council to consider amendments to Articles III and VI of his employment agreement as discussed during the review session.

RECOMMENDATION:

Staff recommends consideration by City Council.

Attachments

Resolution - First Amended City Manager Employment Agreement

First Amended City Manager Employment Agreement (changes)

First Amended City Manager Employment Agreement (clean)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A FIRST AMENDED CITY MANAGER EMPLOYMENT AGREEMENT PROVIDING FOR AMENDMENTS TO ARTICLES III AND VI OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to amend and restate the current City Manager Employment Agreement by amending Articles III and VI of the Agreement; and

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

SECTION 1. The City Council hereby approves the First Amended City Manager Employment Agreement, a copy of which is attached to this Resolution as **Exhibit A**. The Mayor is hereby authorized to execute 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 **9th** day of **JANUARY, 2024**.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

TOWN OF ADDISON
FIRST AMENDED CITY MANAGER
EMPLOYMENT AGREEMENT

This City Manager Employment Agreement (“Agreement”) is made by and between the Town of Addison, Texas, a Texas home-rule municipal corporation (the “Town”) and David Gaines, individually (“Manager”), both of whom agree as follows:

RECITALS:

WHEREAS, the City Council of the Town (the “Council”) and Manager believe that an employment agreement negotiated between the Council, on behalf of the Town, and Manager can be mutually beneficial to the Town, Manager, and the community they serve; and

WHEREAS, when appropriately structured, the Council and Manager believe an employment agreement can strengthen the Council-Manager relationship by enhancing the excellence and continuity of the management of the Town for the benefit of its citizens; and

WHEREAS, the Council, on behalf of the Town, desires to employ the services of Manager, as the City Manager of the Town (“City Manager”), pursuant to the terms, conditions and provisions of this Agreement; and

WHEREAS, Manager has agreed to accept employment as the City Manager, subject to the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, the Town and Manager, for and in consideration of the terms, conditions and provisions hereinafter established have agreed, and do hereby agree as follows:

Article I
Term

1.1 Term. Manager’s employment as City Manager for the Town shall commence on January 3, 2023 (the “Effective Date”) and shall continue indefinitely until terminated in conformance with the provisions of this Agreement.

1.2 Employment At-Will; Manager Resignation. Nothing in this agreement is intended, nor shall prevent, limit or otherwise interfere with (i) the right of the City Council to terminate the services of the City Manager at any time in accordance with Section 3.02 of the Town Charter, or (ii) the right of Manager to resign the position of City Manager at any time, subject to the provisions set forth in Article VI, below.

Article II
City Manager’s Duties and Responsibilities

2.1 Duties of the City Manager. Manager shall serve as the chief executive officer of the Town and shall faithfully perform the duties of the City Manager as set forth in this Agreement and as set forth in the Town Charter (“Charter”), the code of ordinances (herein, the “City Code”) and all such other duties as may be lawfully assigned by the Council from time to time (collectively referred to herein as the “duties” of the City Manager). Manager shall perform the duties of the City Manager with reasonable care, diligence, skill and expertise, and in conformance with all applicable state and federal laws, the Charter, the City Code, and all Town policies, rules and regulations as they exist or may hereinafter be adopted or amended; together with all lawful Council orders or directives (collectively “Applicable Law”). In addition to the general duties of the City Manager, Manager (or their authorized designee) shall:

- (a) employ all other employees of the Town, except as otherwise provided by Applicable Law;
- (b) direct, assign, reassign and evaluate all employees of the Town;
- (c) organize, reorganize and arrange the staff of the Town;
- (d) develop and establish such internal regulations, rules and procedures which Manager deems necessary for the efficient and effective operation of the Town; and
- (e) accept resignations of all employees of the Town, except for those persons for whom the City Council must accept such resignations by Applicable Law.

2.2 Council Meetings. Manager or their authorized designee shall attend, and shall be permitted to attend, all meetings of the Council, both public and closed, unless otherwise prohibited by Applicable Law. Notwithstanding the foregoing, Manager shall not be entitled to attend any closed meeting wherein the Council will discuss or consider (i) any action (or lack of action) concerning the subject matter of this Agreement, (ii) amendment of this Agreement, (iii) the Manager's evaluation, or (iv) resolution of conflicts between individual Council members related to the subject matter of this Agreement.

2.3 Hours of Work; Outside Employment. Manager acknowledges the proper performance of the City Manager's duties require Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. Manager agrees to devote such additional time as is necessary for the full and proper performance of the City Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. Manager will devote full time and effort to the performance of the City Manager's duties, and shall remain in the exclusive employ of the Town during the term of this Agreement and shall not undertake, nor accept, any outside or other employment which would in any way limit Manager's performance of their duties hereunder or their availability for performance of their duties hereunder without the prior consent of the Council. The term "outside or other employment" means any services provided to third parties for which Manager is compensated and which are performed outside of normal business hours or on Manager's time

2.4 Standards of Conduct; Code of Ethics. The Town expects Manager to adhere to the highest professional standards. Manager's actions will always comply with those standards. Manager agrees to follow the Code of Ethics of the International City/County Management Association (ICMA) and the ethics rules, regulations, and laws of the State of Texas, as the same may be amended from time to time. The ICMA Code of Ethics (herein "Code") can be found on the ICMA website, icma.org. Consistent with the standards outlined in the Code, Manager shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fundraising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time. Neither the Council nor any individual member thereof acting in their official capacity, shall request Manager to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality, and merit.

2.5 Other Terms and Conditions of Employment. The Council may, upon consent of Manager (which shall not be unreasonably withheld) fix any such other terms and conditions of employment as it may determine from time-to-time, relating to the performance of Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or Applicable Law

2.6 Reassignment; Demotion. The Council may not reassign or demote Manager from the position of City Manager to another position without Manager's written consent.

2.7 Indemnification. TO THE EXTENT IT MAY BE PERMITTED TO DO BY LAW, INCLUDING, BUT NOT LIMITED TO TEXAS CIVIL PRACTICE & REMEDIES CODE CHAPTER 102, THE TOWN DOES HEREBY AGREE TO DEFEND, HOLD HARMLESS, AND INDEMNIFY MANAGER FROM ANY AND ALL DEMANDS, CLAIMS, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES INCURRED IN ANY LEGAL PROCEEDINGS BROUGHT AGAINST MANAGER IN MANAGER'S INDIVIDUAL OR OFFICIAL CAPACITY AS AN EMPLOYEE AND AS CITY MANAGER, PROVIDED THAT THE INCIDENT(S), WHICH IS (ARE) THE BASIS OF ANY SUCH DEMAND, CLAIM, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES, AROSE OR DOES ARISE IN THE FUTURE FROM AN ACT OR OMISSION OF MANAGER, AS AN EMPLOYEE OF THE TOWN, ACTING WITHIN THE COURSE AND SCOPE OF MANAGER'S EMPLOYMENT WITH THE TOWN; excluding, however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Manager committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence; and excluding any costs, fees, expenses or damages that are recovered or paid under an insurance contract held by the Town. The selection of Manager's legal counsel shall be with the mutual agreement of Manager and the Town, provided, that the Town does not select the city attorney to defend the same. A legal defense may be provided through insurance coverage, in which case Manager's right to agree to legal counsel provided for them will depend on the terms of the applicable insurance policies. To the extent this Section 2.7 exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section 2.7 shall survive the termination of this Agreement and/or Manager's employment with the Town.

Article III Compensation

3.1 Salary. The Town shall provide Manager with an annual salary in the sum of ~~Two Hundred Eighty Thousand Dollars (\$280,000.00)~~ Three Hundred and Eight Thousand Dollars (\$308,000.00), paid in equal installments on the same schedule as other Town employees, net of any applicable withholding or deductions.

3.2 Adjustments to Salary; Cost of Living. At any time during the term of this Agreement, the Council may, in its discretion, review and adjust the salary of Manager, but in no event shall Manager be paid less than the annual salary set forth in Paragraph 3.1, above, except by mutual agreement of the parties. All such discretionary adjustments shall be made by Council resolution amending this Agreement, which shall be approved by a vote of at least four (4) members of the Council. Notwithstanding the foregoing, this Agreement shall be automatically amended to reflect any salary increases that are provided or required by the Town's compensation policies to apply to the position of City Manager, including all cost of living adjustments (COLA) to all full-time employees.

3.3 Vehicle Allowance. Manager's duties require that they have continuously available transportation for business purposes. Manager shall provide their own vehicle and/or alternate transportation, which shall be available for their exclusive and unrestricted use in the performance of Manager's duties under this Agreement. Manager shall be paid a vehicle allowance in the amount of six-hundred fifty (\$650) dollars per month, paid at the same time as their annual salary. Manager shall at all times maintain comprehensive insurance policies on all vehicles used by Manager, in whole or in part, in connection with Manager's duties under this Agreement. Manager shall further be responsible for all other expenses related such vehicle(s), including, without limitation, the purchase, operation, maintenance, repair, and regular replacement of the same.

3.4 Paid Leave; Holidays. Except as otherwise provided herein, Manager shall be entitled to the same number of hours of vacation, sick leave and personal leave authorized for other administrative employees of the Town, which may be taken in a single period or at different times; provided, that any

vacation leave will be taken at such time(s) as will least interfere with the performance of the City Manager's duties. Further, Manager shall observe the same legal holidays as provided by the Town for its administrative employees. On the Effective Date hereof, Manager shall be credited with 40 hours of annual leave and 40 hours of sick leave. In recognition of Manager's 14 years of public service experience, Manager shall also accrue annual leave at the accrual rate attributed to Town employees with 14 years of service and will continue to earn additional annual leave in conformance with the Town's established leave schedules.

3.5 Other Benefits; Retirement. Unless expressly provided otherwise in this Agreement, Manager shall be entitled to the same benefits that are enjoyed by any other administrative employees of the Town pursuant to Applicable Law. Without limiting the foregoing, the Town shall pay the premiums for health, hospitalization, vision, dental and comprehensive medical insurance for Manager pursuant to the group health care plan provided by the Town to the same extent as other administrative employees of the Town. The Town further agrees to enroll Manager into the applicable state or local retirement system and to make at least the same level of contributions for Manager or on Manager's behalf as the Town does for its other administrative employees consistent with Applicable Law.

3.6 Reimbursement of Expenses. The Town shall pay or reimburse Manager for reasonable expenses incurred by Manager in the continuing performance of Manager's duties under this Agreement. The Town agrees to pay the actual and incidental costs incurred by Manager for travel in connection with Town business. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses reasonably incurred in the performance of the business of the Town. Manager shall comply with all procedures and documentation requirements in accordance with Applicable Law.

3.7 Bonds. The Town shall bear the full cost of any fidelity or other bonds required of Manager under Applicable Law.

3.8 Appropriation. The Council has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and otherwise unappropriated funds of the Town in an amount sufficient to fund and pay all financial obligations of the Town pursuant to this Agreement.

Article IV Professional Development

4.1 Professional Dues and Subscriptions. Manager is encouraged to participate in community and civic organizations and activities that will benefit the Town. Accordingly, the Town agrees to budget and to pay the reasonable costs incurred by Manager for membership in the following professional and civic organizations and subscriptions of Manger necessary for their continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for continued professional participation, growth and advancement for the good of the Town. The parties contemplate that such organizations will, at a minimum, include the following:

- (a) International City/County Management Association
- (b) Texas City Management Association
- (c) North Texas City Management Association
- (d) Two (2) additional civic clubs/professional organizations

4.2 Professional Development Travel. The Town agrees to budget for and to pay for reasonable travel and subsistence expenses incurred by Manager for professional and official travel and meetings to adequately continue the professional development of Manager and to pursue necessary official functions for the Town, including but not limited to the ICMA Annual Conference, the Texas Municipal

League, the Texas City Management Association, and such other national, regional, state and local governmental groups and committees in which Manager is a member.

4.3 Professional Continuing Education. The Town also agrees to budget for and to pay for reasonable travel and subsistence expenses incurred by Manager for short courses, institutes, and seminars that are necessary and/or desirable for the good of the Town through Manager's professional development.

Article V Performance Evaluations

5.1 Evaluation Process. The Council shall review Manager's job performance at least once annually with the first review being in April 2023, and subsequent annual reviews to occur during the month of January of each year thereafter unless the parties agree otherwise. The annual performance reviews and evaluations shall be in writing and in accordance with criteria and format developed jointly by the Council and Manager. The Council shall provide Manager a reasonable opportunity to discuss with the Council and/or respond to Manager's evaluation. Based on Manager's overall job performance, the Council may (in its sole discretion) increase Manager's compensation under this Agreement in connection with the annual performance review.

5.2 Confidentiality. Unless Manager expressly requests otherwise in writing, evaluation of Manager's performance under this Agreement shall at all times be conducted in closed session of the Council and such information shall be considered confidential to the fullest extent permitted by law. Nothing herein shall prohibit the Council or Manager from sharing the content of Manager's evaluation with their respective legal counsel.

5.3 Modification Of Evaluation Process. In the event the Council decides to modify the evaluation instruments, format and/or procedures, and such modifications would require new or different performance expectations, then Manager shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

Article VI Termination and Severance

6.1 Termination Events. This Agreement shall terminate immediately upon the occurrence of any one or more of the following events:

- (a) mutual written agreement of the Council and Manager;
- (b) death of Manager;
- (c) termination of Manager's employment for "good cause" (as defined in Paragraph 6.2, below);
- (d) unilateral termination by Town (as set forth in Section 6.3, below); or
- (e) resignation of Manager (as set forth in Section 6.8, below).

6.2 Good Cause. For the purposes of this Agreement, the term "good cause" is defined as follows:

[Ethics violations as described in the Town of Addison Employee Handbook, Code of Ethics or the ICMA Code of Ethics, integrity compromises, violations of law other than Class C misdemeanors or minor traffic violations, violations of Town of Addison Employee Handbook, gross negligence, insubordination, willful and serious misconduct, or misappropriation of City assets. In the event of such termination, the City shall not pay the Employee any severance pay as described in paragraph 6.5. Examples may include:](#)

- (a) any willful, knowing, grossly negligent, or negligent breach, disregard or habitual neglect of any provision of this Agreement;
- (b) failure to fulfill duties or responsibilities of Manager set forth under the terms and conditions of this Agreement;
- ~~(c) incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda or other written communication from the Council;~~
- ~~(d)(c)~~ insubordination or failure to comply with lawful written Council directives;
- ~~(e)(d)~~ failure to comply with the Town’s Charter, City Code or employment policies;
- ~~(f)(e)~~ misappropriation of Town assets;
- ~~(g)(f)~~ conviction of a felony or crime involving moral turpitude;
- ~~(h)(g)~~ failure to meet the Town’s adopted code and/or standards of professional conduct;
- ~~(i)(h)~~ failure to comply with reasonable professional development requirements regarding advanced course work or professional development as requested by the Council;
- ~~(j)(i)~~ assault on any person;
- ~~(k)(j)~~ knowingly falsifying records or documents related to Town business;
- ~~(l)(k)~~ intentional misrepresentation of facts to the Council or other Town officials in the conduct of Town business; or
- ~~(m)(l)~~ any other reason constituting “good cause” pursuant to Texas law.

6.3 Termination for Good Cause. If Manager’s employment is terminated for good cause, then the Town shall not be obligated to pay any portion of the Severance (as defined in Section 6.5) of this Agreement but may be required to recognize and pay benefits that have vested and to which Manager is entitled under the Town’s personnel policies or Applicable Law.

6.4 Termination by Town. In conformance with Section 3.02 of the Town Charter, the Council may end the employment relationship and terminate this Agreement at the will and pleasure of the Council at any time, with or without cause, upon written notice to Manager. Notwithstanding, the parties mutually agree that as a part of the mutual consideration of the parties given under this Agreement, the Council will provide Manager not less than thirty (30) days prior written notice of its intent to unilaterally terminate this Agreement if such termination is without ‘good cause’.

6.5 Severance. In the event this Agreement is unilaterally terminated by Council without ‘good cause’ pursuant to Section 6.4, above, the provisions of this section shall apply and Manager shall be entitled to receive severance consisting of the severance amount and severance benefits defined in this section (collectively, the “Severance”). The ‘severance amount’ shall be an amount equal to (i) the value of twelve (12) months of Manager's then current salary, plus (ii) the value of any accrued but unused vacation and other compensable leave days, which shall be computed on an hourly basis determined by dividing Manager’s then current annual salary by 2080 hours. In addition, the Town will provide continued

health insurance benefit pursuant to Paragraph 3.5 of this Agreement, for a period equal to the lesser of (i) six (6) months following the effective date of Manager's termination, or (ii) the date upon which Manager obtains other full-time employment and coverage through a group health insurance plan from another employer.

6.6 Payment of Severance. In the event Manager is entitled to receive Severance pursuant to this Agreement, the parties shall execute a mutual written separation agreement in which the Manager request that the Town to pay the Severance in any lawful manner (e.g., lump sum, periodic payment, etc...), provided that there shall be no limitations on the Town making all deductions and withholdings required by law and the total severance amount shall be paid in full on or before the first (1st) anniversary of the effective date of Manager's termination.

6.7 Waiver, Release and Non-Disparagement. Upon termination of Manager in conformance with this Article VI, Manager expressly waives and releases Manager's rights to continued employment with the Town, as well as the right to have a hearing on the issue of good cause through arbitration or any other legal proceeding. In the event of termination under Section 6.5, above, the parties agree not to make disparaging comments or statements about each other and shall include a mutual 'non-disparagement' clause in the written separation agreement.

6.8 Resignation of Manager. In the event Manager voluntarily resigns the position of City Manager during the term of this Agreement, then Manager shall give the Town sixty (60) days' advance written notice (unless the parties mutually agree otherwise), and Manager shall not under any circumstances be entitled to receive any portion of the Severance set forth in this Article.

Article VII Residency; Moving Expenses

7.1 Manager's Residency. Manager intends to establish residence within the corporate boundaries of the Town of Addison, within six (6) months of the Effective Date of this Agreement ("Residency Deadline"), and thereafter to maintain a primary residence within the corporate boundaries of the Town throughout the term of this Agreement. Recognizing that current market conditions and limited housing inventory may affect Manager's ability to timely obtain satisfactory housing within the Town, the parties agree that Manager may request to extend the Residency Deadline under this section by submitting a written request to Council on or before said deadline, providing the basis for such extension. Council agrees it will promptly review the same and negotiate a reasonable extension with Manager based upon the facts and circumstances presented.

7.2 Moving Expenses. The Town agrees to reimburse Manager for the expenses of moving Manager and their family and personal property. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges (but exclude any costs related to the rental, lease, purchase and sale, closing or financing of Manager's residence, including, without limitation, any fees associated with brokers, realtors, inspectors, banks, escrow agents or title companies). Manager shall submit receipts for actual expenses incurred within twelve (12) months of establishing residency and the Town shall reimburse Manager for qualifying expenses in an aggregate amount not to exceed \$10,000.00.

Article VIII Miscellaneous

8.1 Entire Agreement. This Agreement sets forth and establishes the entire understanding between the parties relating to the employment of Manager by the Town. Any prior discussions or representations by or between the parties (or their representatives) are merged into and rendered null and void by this Agreement. The parties by mutual written signed agreement may amend any provision of this Agreement during the term of this Agreement; such amendments shall be incorporated and made a part of Town of Addison First Amended City Manager Employment Agreement

this Agreement.

8.2 Binding Effect. This Agreement shall be binding on the Town and Manager as well as their heirs, assigns, executors, personal representatives and successors in interest.

8.3 Party Representations. Each party verifies, confirms, represents, warrants, acknowledges, and agrees that they:

- (a) have freely and willingly executed this Agreement and it embodies the complete agreement between the parties hereto and their successors and assigns;
- (b) have had the opportunity to consult with separate, independent counsel of their choice prior to executing this Agreement;
- (c) were not in a significantly disparate bargaining position with the other party;
- (d) have carefully read this Agreement and that they fully understand all provisions, terms and conditions contained here; and
- (e) SPECIFICALLY DISCLAIM RELIANCE ON ANY STATEMENTS, REPRESENTATIONS, OR PROMISES MADE BY THE OTHER PARTY PRIOR TO THE EXECUTION OF THIS AGREEMENT.

8.4 Savings. If any term or provision of this Agreement, as applied to any party or to any circumstance, is declared by a court of competent jurisdiction hereof to be illegal, unenforceable or void in any situation and in any jurisdiction, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending provision in any other situation or in any other jurisdiction. The parties agree that the court or arbitrator making such determination shall have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases or to replace any illegal, unenforceable or void term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

8.5 Conflicts. In the event of any conflict between the terms, conditions and provisions of this Agreement and Applicable Law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over the contrary provisions of the Applicable Law during the term of this Agreement.

8.6 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas and shall be performable in the state district courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said courts.

[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 Town:

For Manager:

TOWN OF ADDISON, TEXAS

DAVID GAINES

By: _____
~~Joe Chow~~ Bruce Arfsten
Mayor

By: _____
David Gaines

Date: _____

Date: _____

Notice Address:

Notice Address:

Town of Addison
Attn: Mayor
P.O. Box 9010
Town of Addison, Texas 75001
E: jchowbarfsten@addisontx.gov

E: _____

**TOWN OF ADDISON
FIRST AMENDED CITY MANAGER
EMPLOYMENT AGREEMENT**

This City Manager Employment Agreement (“Agreement”) is made by and between the Town of Addison, Texas, a Texas home-rule municipal corporation (the “Town”) and David Gaines, individually (“Manager”), both of whom agree as follows:

RECITALS:

WHEREAS, the City Council of the Town (the “Council”) and Manager believe that an employment agreement negotiated between the Council, on behalf of the Town, and Manager can be mutually beneficial to the Town, Manager, and the community they serve; and

WHEREAS, when appropriately structured, the Council and Manager believe an employment agreement can strengthen the Council-Manager relationship by enhancing the excellence and continuity of the management of the Town for the benefit of its citizens; and

WHEREAS, the Council, on behalf of the Town, desires to employ the services of Manager, as the City Manager of the Town (“City Manager”), pursuant to the terms, conditions and provisions of this Agreement; and

WHEREAS, Manager has agreed to accept employment as the City Manager, subject to the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, the Town and Manager, for and in consideration of the terms, conditions and provisions hereinafter established have agreed, and do hereby agree as follows:

**Article I
Term**

1.1 Term. Manager’s employment as City Manager for the Town shall commence on January 3, 2023 (the “Effective Date”) and shall continue indefinitely until terminated in conformance with the provisions of this Agreement.

1.2 Employment At-Will; Manager Resignation. Nothing in this agreement is intended, nor shall prevent, limit or otherwise interfere with (i) the right of the City Council to terminate the services of the City Manager at any time in accordance with Section 3.02 of the Town Charter, or (ii) the right of Manager to resign the position of City Manager at any time, subject to the provisions set forth in Article VI, below.

**Article II
City Manager’s Duties and Responsibilities**

2.1 Duties of the City Manager. Manager shall serve as the chief executive officer of the Town and shall faithfully perform the duties of the City Manager as set forth in this Agreement and as set forth in the Town Charter (“Charter”), the code of ordinances (herein, the “City Code”) and all such other duties as may be lawfully assigned by the Council from time to time (collectively referred to herein as the “duties” of the City Manager). Manager shall perform the duties of the City Manager with reasonable care, diligence, skill and expertise, and in conformance with all applicable state and federal laws, the Charter, the City Code, and all Town policies, rules and regulations as they exist or may hereinafter be adopted or amended; together with all lawful Council orders or directives (collectively “Applicable Law”). In addition to the general duties of the City Manager, Manager (or their authorized designee) shall:

- (a) employ all other employees of the Town, except as otherwise provided by Applicable Law;
- (b) direct, assign, reassign and evaluate all employees of the Town;
- (c) organize, reorganize and arrange the staff of the Town;
- (d) develop and establish such internal regulations, rules and procedures which Manager deems necessary for the efficient and effective operation of the Town; and
- (e) accept resignations of all employees of the Town, except for those persons for whom the City Council must accept such resignations by Applicable Law.

2.2 Council Meetings. Manager or their authorized designee shall attend, and shall be permitted to attend, all meetings of the Council, both public and closed, unless otherwise prohibited by Applicable Law. Notwithstanding the foregoing, Manager shall not be entitled to attend any closed meeting wherein the Council will discuss or consider (i) any action (or lack of action) concerning the subject matter of this Agreement, (ii) amendment of this Agreement, (iii) the Manager's evaluation, or (iv) resolution of conflicts between individual Council members related to the subject matter of this Agreement.

2.3 Hours of Work; Outside Employment. Manager acknowledges the proper performance of the City Manager's duties require Manager to generally observe normal business hours and will also often require the performance of necessary services outside of normal business hours. Manager agrees to devote such additional time as is necessary for the full and proper performance of the City Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. Manager will devote full time and effort to the performance of the City Manager's duties, and shall remain in the exclusive employ of the Town during the term of this Agreement and shall not undertake, nor accept, any outside or other employment which would in any way limit Manager's performance of their duties hereunder or their availability for performance of their duties hereunder without the prior consent of the Council. The term "outside or other employment" means any services provided to third parties for which Manager is compensated and which are performed outside of normal business hours or on Manager's time

2.4 Standards of Conduct; Code of Ethics. The Town expects Manager to adhere to the highest professional standards. Manager's actions will always comply with those standards. Manager agrees to follow the Code of Ethics of the International City/County Management Association (ICMA) and the ethics rules, regulations, and laws of the State of Texas, as the same may be amended from time to time. The ICMA Code of Ethics (herein "Code") can be found on the ICMA website, icma.org. Consistent with the standards outlined in the Code, Manager shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fundraising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time. Neither the Council nor any individual member thereof acting in their official capacity, shall request Manager to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality, and merit.

2.5 Other Terms and Conditions of Employment. The Council may, upon consent of Manager (which shall not be unreasonably withheld) fix any such other terms and conditions of employment as it may determine from time-to-time, relating to the performance of Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or Applicable Law

2.6 Reassignment; Demotion. The Council may not reassign or demote Manager from the position of City Manager to another position without Manager's written consent.

2.7 Indemnification. TO THE EXTENT IT MAY BE PERMITTED TO DO BY LAW, INCLUDING, BUT NOT LIMITED TO TEXAS CIVIL PRACTICE & REMEDIES CODE CHAPTER 102, THE TOWN DOES HEREBY AGREE TO DEFEND, HOLD HARMLESS, AND INDEMNIFY MANAGER FROM ANY AND ALL DEMANDS, CLAIMS, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES INCURRED IN ANY LEGAL PROCEEDINGS BROUGHT AGAINST MANAGER IN MANAGER'S INDIVIDUAL OR OFFICIAL CAPACITY AS AN EMPLOYEE AND AS CITY MANAGER, PROVIDED THAT THE INCIDENT(S), WHICH IS (ARE) THE BASIS OF ANY SUCH DEMAND, CLAIM, SUITS, ACTIONS, JUDGMENTS, EXPENSES AND ATTORNEYS' FEES, AROSE OR DOES ARISE IN THE FUTURE FROM AN ACT OR OMISSION OF MANAGER, AS AN EMPLOYEE OF THE TOWN, ACTING WITHIN THE COURSE AND SCOPE OF MANAGER'S EMPLOYMENT WITH THE TOWN; excluding, however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Manager committed official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence; and excluding any costs, fees, expenses or damages that are recovered or paid under an insurance contract held by the Town. The selection of Manager's legal counsel shall be with the mutual agreement of Manager and the Town, provided, that the Town does not select the city attorney to defend the same. A legal defense may be provided through insurance coverage, in which case Manager's right to agree to legal counsel provided for them will depend on the terms of the applicable insurance policies. To the extent this Section 2.7 exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly. The provisions of this Section 2.7 shall survive the termination of this Agreement and/or Manager's employment with the Town.

Article III Compensation

3.1 Salary. The Town shall provide Manager with an annual salary in the sum of Three Hundred and Eight Thousand Dollars (\$308,000.00), paid in equal installments on the same schedule as other Town employees, net of any applicable withholding or deductions.

3.2 Adjustments to Salary; Cost of Living. At any time during the term of this Agreement, the Council may, in its discretion, review and adjust the salary of Manager, but in no event shall Manager be paid less than the annual salary set forth in Paragraph 3.1, above, except by mutual agreement of the parties. All such discretionary adjustments shall be made by Council resolution amending this Agreement, which shall be approved by a vote of at least four (4) members of the Council. Notwithstanding the foregoing, this Agreement shall be automatically amended to reflect any salary increases that are provided or required by the Town's compensation policies to apply to the position of City Manager, including all cost of living adjustments (COLA) to all full-time employees.

3.3 Vehicle Allowance. Manager's duties require that they have continuously available transportation for business purposes. Manager shall provide their own vehicle and/or alternate transportation, which shall be available for their exclusive and unrestricted use in the performance of Manager's duties under this Agreement. Manager shall be paid a vehicle allowance in the amount of six-hundred fifty (\$650) dollars per month, paid at the same time as their annual salary. Manager shall at all times maintain comprehensive insurance policies on all vehicles used by Manager, in whole or in part, in connection with Manager's duties under this Agreement. Manager shall further be responsible for all other expenses related such vehicle(s), including, without limitation, the purchase, operation, maintenance, repair, and regular replacement of the same.

3.4 Paid Leave; Holidays. Except as otherwise provided herein, Manager shall be entitled to the same number of hours of vacation, sick leave and personal leave authorized for other administrative employees of the Town, which may be taken in a single period or at different times; provided, that any

vacation leave will be taken at such time(s) as will least interfere with the performance of the City Manager's duties. Further, Manager shall observe the same legal holidays as provided by the Town for its administrative employees. On the Effective Date hereof, Manager shall be credited with 40 hours of annual leave and 40 hours of sick leave. In recognition of Manager's 14 years of public service experience, Manager shall also accrue annual leave at the accrual rate attributed to Town employees with 14 years of service and will continue to earn additional annual leave in conformance with the Town's established leave schedules.

3.5 Other Benefits; Retirement. Unless expressly provided otherwise in this Agreement, Manager shall be entitled to the same benefits that are enjoyed by any other administrative employees of the Town pursuant to Applicable Law. Without limiting the foregoing, the Town shall pay the premiums for health, hospitalization, vision, dental and comprehensive medical insurance for Manager pursuant to the group health care plan provided by the Town to the same extent as other administrative employees of the Town. The Town further agrees to enroll Manager into the applicable state or local retirement system and to make at least the same level of contributions for Manager or on Manager's behalf as the Town does for its other administrative employees consistent with Applicable Law.

3.6 Reimbursement of Expenses. The Town shall pay or reimburse Manager for reasonable expenses incurred by Manager in the continuing performance of Manager's duties under this Agreement. The Town agrees to pay the actual and incidental costs incurred by Manager for travel in connection with Town business. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses reasonably incurred in the performance of the business of the Town. Manager shall comply with all procedures and documentation requirements in accordance with Applicable Law.

3.7 Bonds. The Town shall bear the full cost of any fidelity or other bonds required of Manager under Applicable Law.

3.8 Appropriation. The Council has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and otherwise unappropriated funds of the Town in an amount sufficient to fund and pay all financial obligations of the Town pursuant to this Agreement.

Article IV Professional Development

4.1 Professional Dues and Subscriptions. Manager is encouraged to participate in community and civic organizations and activities that will benefit the Town. Accordingly, the Town agrees to budget and to pay the reasonable costs incurred by Manager for membership in the following professional and civic organizations and subscriptions of Manger necessary for their continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for continued professional participation, growth and advancement for the good of the Town. The parties contemplate that such organizations will, at a minimum, include the following:

- (a) International City/County Management Association
- (b) Texas City Management Association
- (c) North Texas City Management Association
- (d) Two (2) additional civic clubs/professional organizations

4.2 Professional Development Travel. The Town agrees to budget for and to pay for reasonable travel and subsistence expenses incurred by Manager for professional and official travel and meetings to adequately continue the professional development of Manager and to pursue necessary official functions for the Town, including but not limited to the ICMA Annual Conference, the Texas Municipal

League, the Texas City Management Association, and such other national, regional, state and local governmental groups and committees in which Manager is a member.

4.3 Professional Continuing Education. The Town also agrees to budget for and to pay for reasonable travel and subsistence expenses incurred by Manager for short courses, institutes, and seminars that are necessary and/or desirable for the good of the Town through Manager's professional development.

Article V Performance Evaluations

5.1 Evaluation Process. The Council shall review Manager's job performance at least once annually with the first review being in April 2023, and subsequent annual reviews to occur during the month of January of each year thereafter unless the parties agree otherwise. The annual performance reviews and evaluations shall be in writing and in accordance with criteria and format developed jointly by the Council and Manager. The Council shall provide Manager a reasonable opportunity to discuss with the Council and/or respond to Manager's evaluation. Based on Manager's overall job performance, the Council may (in its sole discretion) increase Manager's compensation under this Agreement in connection with the annual performance review.

5.2 Confidentiality. Unless Manager expressly requests otherwise in writing, evaluation of Manager's performance under this Agreement shall at all times be conducted in closed session of the Council and such information shall be considered confidential to the fullest extent permitted by law. Nothing herein shall prohibit the Council or Manager from sharing the content of Manager's evaluation with their respective legal counsel.

5.3 Modification Of Evaluation Process. In the event the Council decides to modify the evaluation instruments, format and/or procedures, and such modifications would require new or different performance expectations, then Manager shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

Article VI Termination and Severance

6.1 Termination Events. This Agreement shall terminate immediately upon the occurrence of any one or more of the following events:

- (a) mutual written agreement of the Council and Manager;
- (b) death of Manager;
- (c) termination of Manager's employment for "good cause" (as defined in Paragraph 6.2, below);
- (d) unilateral termination by Town (as set forth in Section 6.3, below); or
- (e) resignation of Manager (as set forth in Section 6.8, below).

6.2 Good Cause. For the purposes of this Agreement, the term "good cause" is defined as follows:

Ethics violations as described in the Town of Addison Employee Handbook, Code of Ethics or the ICMA Code of Ethics, integrity compromises, violations of law other than Class C misdemeanors or minor traffic violations, violations of Town of Addison Employee Handbook, gross negligence, insubordination, willful and serious misconduct, or misappropriation of City assets. In the event of such termination, the City shall not pay the Employee any severance pay as described in paragraph 6.5. Examples may include:

- (a) any willful, knowing, grossly negligent, or negligent breach, disregard or habitual neglect of any provision of this Agreement;
- (b) failure to fulfill duties or responsibilities of Manager set forth under the terms and conditions of this Agreement;
- (c) insubordination or failure to comply with lawful written Council directives;
- (d) failure to comply with the Town's Charter, City Code or employment policies;
- (e) misappropriation of Town assets;
- (f) conviction of a felony or crime involving moral turpitude;
- (g) failure to meet the Town's adopted code and/or standards of professional conduct;
- (h) failure to comply with reasonable professional development requirements regarding advanced course work or professional development as requested by the Council;
- (i) assault on any person;
- (j) knowingly falsifying records or documents related to Town business;
- (k) intentional misrepresentation of facts to the Council or other Town officials in the conduct of Town business; or
- (l) any other reason constituting "good cause" pursuant to Texas law.

6.3 Termination for Good Cause. If Manager's employment is terminated for good cause, then the Town shall not be obligated to pay any portion of the Severance (as defined in Section 6.5) of this Agreement but may be required to recognize and pay benefits that have vested and to which Manager is entitled under the Town's personnel policies or Applicable Law.

6.4 Termination by Town. In conformance with Section 3.02 of the Town Charter, the Council may end the employment relationship and terminate this Agreement at the will and pleasure of the Council at any time, with or without cause, upon written notice to Manager. Notwithstanding, the parties mutually agree that as a part of the mutual consideration of the parties given under this Agreement, the Council will provide Manager not less than thirty (30) days prior written notice of its intent to unilaterally terminate this Agreement if such termination is without 'good cause'.

6.5 Severance. In the event this Agreement is unilaterally terminated by Council without 'good cause' pursuant to Section 6.4, above, the provisions of this section shall apply and Manager shall be entitled to receive severance consisting of the severance amount and severance benefits defined in this section (collectively, the "Severance"). The 'severance amount' shall be an amount equal to (i) the value of twelve (12) months of Manager's then current salary, plus (ii) the value of any accrued but unused vacation and other compensable leave days, which shall be computed on an hourly basis determined by dividing Manager's then current annual salary by 2080 hours. In addition, the Town will provide continued health insurance benefit pursuant to Paragraph 3.5 of this Agreement, for a period equal to the lesser of (i) six (6) months following the effective date of Manager's termination, or (ii) the date upon which Manager obtains other full-time employment and coverage through a group health insurance plan from another employer.

6.6 Payment of Severance. In the event Manager is entitled to receive Severance pursuant to this Agreement, the parties shall execute a mutual written separation agreement in which the Manager request that the Town to pay the Severance in any lawful manner (e.g., lump sum, periodic payment, etc...), provided that there shall be no limitations on the Town making all deductions and withholdings required by law and the total severance amount shall be paid in full on or before the first (1st) anniversary of the effective date of Manager's termination.

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7.1 Manager's Residency. Manager intends to establish residence within the corporate boundaries of the Town of Addison, within six (6) months of the Effective Date of this Agreement ("Residency Deadline"), and thereafter to maintain a primary residence within the corporate boundaries of the Town throughout the term of this Agreement. Recognizing that current market conditions and limited housing inventory may affect Manager's ability to timely obtain satisfactory housing within the Town, the parties agree that Manager may request to extend the Residency Deadline under this section by submitting a written request to Council on or before said deadline, providing the basis for such extension. Council agrees it will promptly review the same and negotiate a reasonable extension with Manager based upon the facts and circumstances presented.

7.2 Moving Expenses. The Town agrees to reimburse Manager for the expenses of moving Manager and their family and personal property. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges (but exclude any costs related to the rental, lease, purchase and sale, closing or financing of Manager's residence, including, without limitation, any fees associated with brokers, realtors, inspectors, banks, escrow agents or title companies). Manager shall submit receipts for actual expenses incurred within twelve (12) months of establishing residency and the Town shall reimburse Manager for qualifying expenses in an aggregate amount not to exceed \$10,000.00.

Article VIII Miscellaneous

8.1 Entire Agreement. This Agreement sets forth and establishes the entire understanding between the parties relating to the employment of Manager by the Town. Any prior discussions or representations by or between the parties (or their representatives) are merged into and rendered null and void by this Agreement. The parties by mutual written signed agreement may amend any provision of this Agreement during the term of this Agreement; such amendments shall be incorporated and made a part of this Agreement.

8.2 Binding Effect. This Agreement shall be binding on the Town and Manager as well as their heirs, assigns, executors, personal representatives and successors in interest.

8.3 Party Representations. Each party verifies, confirms, represents, warrants, acknowledges, and agrees that they:

- (a) have freely and willingly executed this Agreement and it embodies the complete agreement between the parties hereto and their successors and assigns;
- (b) have had the opportunity to consult with separate, independent counsel of their choice prior to executing this Agreement;
- (c) were not in a significantly disparate bargaining position with the other party;
- (d) have carefully read this Agreement and that they fully understand all provisions, terms and conditions contained here; and
- (e) SPECIFICALLY DISCLAIM RELIANCE ON ANY STATEMENTS, REPRESENTATIONS, OR PROMISES MADE BY THE OTHER PARTY PRIOR TO THE EXECUTION OF THIS AGREEMENT.

8.4 Savings. If any term or provision of this Agreement, as applied to any party or to any circumstance, is declared by a court of competent jurisdiction hereof to be illegal, unenforceable or void in any situation and in any jurisdiction, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending provision in any other situation or in any other jurisdiction. The parties agree that the court or arbitrator making such determination shall have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases or to replace any illegal, unenforceable or void term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision.

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8.6 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas and shall be performable in the state district courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said courts.

[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 Town:

For Manager:

TOWN OF ADDISON, TEXAS

DAVID GAINES

By: _____
Bruce Arfsten
Mayor

By: _____
David Gaines

Date: _____

Date: _____

Notice Address:

Notice Address:

Town of Addison
Attn: Mayor
P.O. Box 9010
Town of Addison, Texas 75001
E: barfsten@addisontx.gov

E: _____

City Council (FY24)

4. d.

Meeting Date: 01/09/2024

Department: City Manager

Pillars: Gold Standard in Customer Service

AGENDA CAPTION:

Consider action on a Resolution authorizing Valencia Garcia to serve as the Interim City Secretary.

BACKGROUND:

The City Secretary position is a Council appointment with the day to day supervision being delegated to the City Manager. The duties of the City Secretary are to coordinate all the open record requests to ensure that the Town is adhering to all legal requirements; coordinate the elections; manage the Town's documents and record functions; and manage the meeting agendas and minutes functions.

RECOMMENDATION:

Staff recommends approval.

Attachments

Resolution - Interim City Secretary

TOWN OF ADDISON, TEXAS

RESOLUTION NO. R__-__

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS AUTHORIZING VALENCIA GARCIA TO SERVE AS THE INTERIM CITY SECRETARY OF THE TOWN OF ADDISON AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. That Valencia Garcia is appointed as the interim City Secretary of the Town of Addison and is authorized to act with all of the authority of the city secretary of the Town of Addison as provided in the Charter, the Code of Ordinances, City of Addison, Texas, and the statutory and common laws of the State of Texas.

Section 2. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 9th day of January, 2024.

Bruce Arfsten, Mayor

ATTEST:

By: _____
Irma Parker, City Secretary

APPROVED AS TO FORM:

By: _____
Whitt Wyatt, City Attorney

City Council (FY24)

4. e.

Meeting Date: 01/09/2024

Department: Airport

Pillars: Excellence in Transportation Systems

Milestones: Improve all modes of transportation with infrastructure in an acceptable condition and well maintained

AGENDA CAPTION:

Consider action on a Resolution approving the exercise of the first one-year renewal option of the agreement for professional services with Garver, LLC executed in FY23 for on-call professional consulting services for airport capital projects and authorizing the City Manager to execute the renewal for FY24 in an amount not to exceed \$150,000 and optionally to execute renewals in subsequent fiscal years (FY25, FY26, and FY27) in amounts not to exceed that which is included in the airport operating budget approved by City Council for those respective fiscal years.

BACKGROUND:

Through a Request for Qualifications selection process administered by the TxDOT Aviation Division in 2022, the Town of Addison selected Garver, LLC (Garver) as the Addison Airport Engineer of Record to provide engineering design services for all grant-funded airport capital projects.

At its October 11, 2022, regular meeting, City Council approved an agreement with Garver, LLC for on-call professional consulting services for FY23 for airport capital projects in an amount not to exceed \$150,000 (in FY23), which was included in the approved airport operating budget. The agreement allows the City, in its sole discretion, to extend the term for an additional year (covering the period of October 1, 2023, through September 30, 2024). Up to four such one-year extensions may be agreed, with not-to-exceed compensation amounts for extension years determined for each year at the time of extension, if any. The agreement can be terminated for any reason upon delivery of a 30-day prior written notice to Garver.

This item requests City Council authorize the City Manager to renew the agreement for FY24 in an amount not to exceed \$150,000 (which is budgeted in the approved FY24 airport operating budget) and optionally to renew the agreement in subsequent fiscal years (FY25, FY26, and FY27) predicated on not exceeding amounts provided in the approved airport operating budget for those respective fiscal years.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Garver FY24 PSA Renewal

FY23 Executed Professional Services Agreement with Garver

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE ANNUAL RENEWAL OF AN AGREEMENT WITH GARVER, LLC FOR ON-CALL PROFESSIONAL CONSULTING SERVICES FOR AIRPORT CAPITAL PROJECTS IN AN AMOUNT NOT TO EXCEED \$150,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND TO APPROVE AND EXECUTE FUTURE RENEWALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize a renewal of an agreement with Garver, LLC for on-call professional consulting services for airport capital projects in conformance with the City's requirements; and

WHEREAS, the City Council authorizes the City Manager to approve and execute annual renewals of this agreement in subsequent fiscal years (FY25, FY26, and FY27).

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

SECTION 1. The City Council hereby approves the annual renewal of the agreement between the Town of Addison and Garver, LLC for on-call professional consulting services for airport capital projects in conformance with the City's requirements and in an amount not-to-exceed of \$150,000.00.

SECTION 2. The City Council hereby authorizes the City Manager to execute any optional renewals for this agreement in subsequent fiscal years (FY25, FY26, and FY27) in amounts not to exceed that which is included in the airport operating budget approved by City Council for those respective fiscal years.

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

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the 9th day of JANUARY 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

PROFESSIONAL SERVICES AGREEMENT
On-call Professional Consulting Services for Airport Capital Projects

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

RECITALS

WHEREAS, City desires to engage Professional 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, 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 Services

Professional agrees to provide professional consulting services for airport capital projects on an as-needed basis in conformance with this Agreement and as more particularly described 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 expire on September 30, 2023 ("Initial Term"), unless extended or renewed in the manner provided herein. The parties may, in City's sole discretion, extend the term of this Agreement for up to four (4) additional one (1) year renewal terms beginning on October 1st and ending on September 30th of each year thereafter (each a "Renewal Term"), unless sooner terminated as provided in Section 8, below. The City has the option to extend the term of this Agreement, as necessary, for the Professional to complete work on any work order entered into prior to the expiration of the Agreement.

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

(b) 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 omissions 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 Services.

(c) Additional Services. Should City require additional services not anticipated 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.

(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 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.

(e) Independent Professional. 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 Professional, 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.

(f) 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 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 as a result of the services under this Agreement. City agrees that it will exercise its right to audit, examine or inspect Professional's Records only during regular business hours and upon reasonable prior notice. 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, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Except as required under applicable law, in no event shall City be entitled to audit the proprietary makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

(g) 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 and in accordance with the work orders that are specified for each project. Time is of material consideration for services performed under this Agreement. A sample of the work orders to be incorporated under this Agreement are attached hereto as Exhibit "C". 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 equitable adjustment in the services, including an extension of time for performance or necessary adjustment in pricing for the services affected, in conformance with this Section 4.

(b) **Extensions; Written Request Required.** No allowance of any extension of time or equitable adjustment to the services, 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 the same within two (2) business days after the cause for such extension or adjustment occurred, and unless City and Professional have agreed in writing upon the allowance of the same.

Section 5. Documents

(a) **Project Documents.** All surveys, studies, proposals, applications, drawings, plans, specifications and other documents, including those in electronic form, prepared by Professional and its consultants, subcontractors, agents, representatives, and/or employees in connection with this Agreement ("**Project Documents**") are intended for the use and benefit of City. Professional and its consultants, subcontractors, agents, representatives, and/or employees shall be deemed the authors of their respective part of the Project Documents. Notwithstanding, upon payment by City as required by this Agreement, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement. City releases Professional and its subconsultants against all claims, losses, damages, injuries, and expenses, including reasonable attorneys' fees arising out of change to, or re-use of deliverables provided under this Agreement for any other project where Professional is not involved in said other project, or modification(s). City shall have full authority to authorize Professional(s), subcontractors, sub-subcontractors, City consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the 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, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings and specifications, or other documents prepared by Professional, its employees, Professional, agents, or consultants.

(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 or its suppliers. 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 in any materials provided to Professional. 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 or if instructed to do so by City. In the event City delivers to Professional information that it has 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 in connection with Professional's performance of the services under this Agreement. This obligation of confidentiality 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. All confidentiality obligations hereunder shall expire three (3) years after completion of the services. Professional shall further, at its own expense, defend all third-party 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 unless such claim is based on information and/or technology provided or specified by City.

Section 6. Payment

(a) **Payment Terms.** City agrees to pay Professional for all services authorized by written work order and properly performed by Professional, 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 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 disputed payment to Professional when Professional has not made satisfactory progress on the services described in a particularly work order.

(b) **Compensation.** Professional's compensation shall be on an hourly basis as specified in each work order in conformance with the fee schedule set forth in Exhibit B; provided, that the total compensation during the Initial Term under this Agreement shall not exceed One-Hundred and Fifty Thousand Dollars (\$150,000.00). Compensation thereafter for each Renewal Term will be determined by the City at the time the Parties have agreed to renew this Agreement for any additional terms. In the event of any material breach by Professional of any provision or obligation of this Agreement, or in the

event of the assertion by other parties of any claim or lien against City, or City's premises, arising out of Professional's performance of this Agreement, City shall have the right to retain out of any 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 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 satisfactorily completed according to the industry standard of care 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 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 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 performed according to the industry standard of care 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 Professional 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

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

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

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

- (i) Name the City, its officers, and employees as additional insureds as to all applicable coverage to the extent of the indemnities agreed between the parties in Section 10 of this Agreement. (not including the Workers Compensation Insurance and Professional Liability);
- (ii) Provide for at least thirty (30) days prior written notice to the City for cancellation or non-renewal of the insurance or reduction in coverage limits/material change; and
- (iii) Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance (not including the Professional Liability Insurance).

(c) Additional Insurance Requirements. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A-(minus)" by AM Best or other equivalent rating service. A certificate of insurance evidencing the required insurance and all endorsements shall be delivered to City prior to commencement of services.

Section 10. Indemnification; Notice.

CITY SHALL NOT BE LIABLE FOR ANY THIRD-PARTY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER CAUSING ANY BODILY INJURY TO PERSONS OR DAMAGE TO THIRD PARTY TANGIBLE PROPERTY ARISING FROM THE NEGLIGENT SERVICES OF PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY THIRD-PARTY TANGIBLE PROPERTY OR BODILY INJURY TO, OR DEATH OF, ANY PERSON ARISING FROM PROFESSIONAL'S PERFORMANCE OF SERVICES AT ANY TIME THIS AGREEMENT IS IN EFFECT WHERE SAID HARM IS CAUSED BY PROFESSIONAL'S NEGLIGENCE. PROFESSIONAL SHALL NOT BE LIABLE FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY INDEMNITEES FROM AND AGAINST ANY AND ALL THIRD PARTY TORT LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY THIRD PARTIES BY REASON OF BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY OF THIRD PARTIES TO THE EXTENT CAUSED BY THE NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEE 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 obligation under Section 10 of 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.

THE PROVISIONS OF THIS SECTION SHALL SURVIVE 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 as of the Effective Date 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. The prevailing party shall be entitled to recover its attorneys' fees, costs, and expenses. (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

GARVER, LLC

By: 

Hamid Khareghipour
Interim City Manager

By: 

Josh Crawford, P.E.
Texas Business Line Leader

Date: October 12, 2022

Date: 09/12/2022

Notice Address:

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

Notice Address:

Garver, LLC
Attn: Mitchell R. McAnally, Project Manager
14160 N. Dallas Parkway, Suite 850
Dallas, Texas 75254
E: mrmcanally@garverusa.com

Addison Contract ID:
PSA_v1.20230422

RESOLUTION NO. R22-065

EXHIBIT A
SCOPE OF SERVICES

GENERAL INFORMATION

All communications regarding the services to be performed under this Agreement shall be directed to the following individuals:

Airport Representative

Name: _____

Phone: _____

Email: _____

Professional Representative

Name: _____

Phone: _____

Email: _____

DESCRIPTION OF SERVICES

Professional will perform professional consulting services in connection with Addison Airport's annual capital projects on an as-needed basis. The services may include, without limitation:

Infrastructure Consulting Services

Airfield Planning Alternatives
Construction Layout Alternatives
Utility Layouts
Infrastructure forecasting

Engineering Consulting Services

Plan Development
Layout alternatives
Engineering details
Lessons Learned presentations
Bidding Services

Development Consulting Services

Real Estate plan reviews
Real Estate survey reviews
Developer construction plan reviews
Developer construction coordination

Construction Consulting Services

Site visits to observe construction operations
Advising on construction quality
Advising on construction operations
Advising on Construction Materials
Construction Material Reviews
Construction Administration Services
Construction Safety and Phasing Services
Construction Airspacing

Professional will only pro form of the work order shall be in substantial conformance with the sample form provided in Exhibit C of this Agreement.

**EXHIBIT B
FEE SCHEDULE**



(Agreed Upon Rates)

	2023 Rates
Engineers	
E-1	\$161.00
E-2	\$189.00
E-3	\$225.00
E-4	\$265.00
E-5	\$322.00
E-6	\$397.00
E-7	\$444.00
Architect/Landscape Architect	
A-3	\$211.00
A-4	\$234.00
Planners	
P-1	\$194.00
P-2	\$230.00
P-3	\$261.00
P-5	
Designers	
D-1	\$145.00
D-2	\$164.00
D-3	\$194.00
D-4	\$227.00
Technicians	
T-1	\$126.00
T-2	\$170.00
T-3	\$184.00
Surveyors	
S-1	\$78.00
S-2	\$93.00
S-3	\$128.00
S-4	\$175.00
S-5	\$230.00
S-6	\$268.00
2-Man Crew (Survey)	\$291.00
3-Man Crew (Survey)	\$351.00
2-Man Crew (GPS Survey)	\$344.00
3-Man Crew (GPS Survey)	\$403.00
Construction Observation	

On-Call Service for the Addison Airport

**EXHIBIT B
FEE SCHEDULE**



C-1	\$137.00
C-2	\$174.00
C-3	\$207.00
C-4	\$268.00
Administration	
M-1	\$444.00
X-1 (Previously A-1)	\$94.00
X-2 (Previously A-2)	\$120.00
X-3 (Previously A-3)	\$189.00
X-4	\$225.00
X-5	\$236.00
X-6	\$280.00

EXHIBIT C
SAMPLE WORK ORDER



(FORM OF WORK ORDER)

WORK ORDER NO. [?]
Town of Addison, Texas
Project No. 23A11110

This WORK ORDER ("Work Order") is made by and between the **Town of Addison, Texas** (hereinafter referred to as "Client") and **Garver, LLC**, (hereinafter referred to as "Garver") in accordance with the provisions of the MASTER AGREEMENT FOR PROFESSIONAL SERVICES executed on [????????] (the "Agreement").

Under this Work Order, the Client intends to have Garver perform [Insert Services/Project Title] for various airport projects.

Garver will provide professional services related to these improvements as described herein. Terms not defined herein shall have the meaning assigned to them in the Agreement.

1. SCOPE OF SERVICES

Garver's work and services to be provided and performed by Garver under this Agreement will include assisting the Client in [Insert Services description].

- 1.1. Example of services covered, but not limited to under this Agreement are providing the following Services:
 - 1.1.1. [Insert text here [or] in Appendix A as needed.]

2. PAYMENT

For the Services set forth above, Client will pay Garver on an hourly rate basis based on the attached hourly rate schedule within Appendix A. The Client represents that funding sources are in place with the available funds necessary to pay Garver.

The Client will pay Garver, for time spent on the project, at the rates shown in Appendix A for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The not-to-exceed amount under this agreement is estimated to be [\$XX,XXX.XX].

The Client will pay Garver the amount above under in the terms set out in accordance with the provisions of the Agreement.

3. APPENDICES

- 3.1. The following Appendices are attached to and made a part of this Work Order:
 - 3.1.1. Appendix A – Garver Hourly Rate Schedule

This Work Order may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Approval and acceptance of this Work Order, including attachments listed in Section 3 – APPENDICES, shall incorporate this document as part of the Agreement. Garver is authorized to begin performance

**EXHIBIT C
SAMPLE WORK ORDER**



upon receipt of a copy of this Work Order signed by the Client. The effective date of this Work Order shall be the last date written below.

Town of Addison, Texas

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

City Council (FY24)

4. f.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information systems
Improve communications and the use of technology

AGENDA CAPTION:

Consider action on a Resolution approving a professional services agreement between the Town of Addison and RLC Controls, Inc. for SCADA (Supervisory Control and Data Acquisition) system upgrades and authorizing the City Manager to execute the agreement in an amount not to exceed \$198,750.

BACKGROUND:

The purpose of this item is to approve a Professional Services Agreement (PSA) with RLC Controls, Inc. for SCADA upgrades.

In the past couple of years, planning has been underway for the upgrade of the Town's SCADA system. This system is the backbone of the Town's water and sanitary sewer system. The system, installed in the 1990s, currently relies on outdated communication methods and components are challenging to procure or no longer supported. This project aims to improve the monitoring system by enhancing communication, reliability, and controls for the Town's critical infrastructure.

RLC Controls was chosen for its industry expertise, excellent reputation, and proven track record in providing exceptional customer service to other municipalities.

This project was approved as a part of the FY24 budget process as a decision package with a budget of \$350,000. The funding for these services will come out of the FY24 utility budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - RLC Controls

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH RLC CONTROLS, INC. FOR SCADA UPGRADES IN AN AMOUNT NOT TO EXCEED \$198,725.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with RLC Controls, Inc. for SCADA Upgrades 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 RLC Controls, Inc. in an amount not-to-exceed of \$198,725.00, 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 **9th** day of **JANUARY**, 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT SCADA UPGRADES

This Professional Services Agreement ("Agreement") is made by and between the **Town of Addison, Texas** ("City"), and **RLC Controls, 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 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, 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

Upon written notice to proceed by City, Professional agrees to provide to City SCADA Upgrades ("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 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 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 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.

(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 (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 AND NINETY-EIGHT THOUSAND, SEVEN HUNDRED AND TWENTY-FIVE DOLLARS (\$198,725.00).

(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 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 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 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 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 NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. 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 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 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 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 investigation 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.

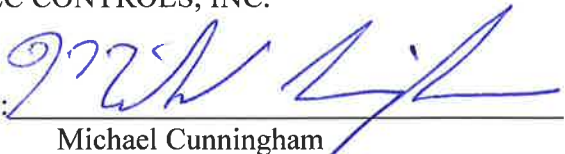
For City:

For Professional:

TOWN OF ADDISON, TEXAS

RLC CONTROLS, INC.

By: _____
David Gaines
City Manager

By:  _____
Michael Cunningham
President

Date: _____

Date: 12-19-2023

Notice Address:

Notice Address:

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

RLC Controls, Inc.
Attn: Michael Cunningham, President
8115 Hicks Holw
McKinney, Texas 75071
E: michael@rlccontrols.com

Addison Contract ID:
PSA_STW_December 19, 2023_v1.20220427

EXHIBIT "A"
SCOPE OF SERVICES

(attached)

RLC Controls, Inc.

Serving your Instrumentation Needs

*Main Address: 8115 Hicks Hollow
McKinney, TX 75071
Phone: 972-542-7375*

DATE: 10/10/2023

PROJECT: Town of Addison SCADA Upgrade

Scope of work for the SCADA Upgrade

RLC, Inc. is pleased to provide pricing for this project as an Instrumentation & Controls Subcontractor:

THIS QUOTE INCLUDES THE FOLLOWING:

Celestial Pump Station

- A. RLC will provide and install two Dell R450 servers one at the Celestial Pump Station and one at the Service Center. There are existing ethernet communication connections at each location. The client computers and mobiles will be provided by the Town of Addison.
- B. RLC will provide and install VTScada HMI software on the two new servers configured to fail over to each other. The VTScada System will come with the following:
 - 1K VTScada Dual Server Premium Package
 - Redundant Servers with Runtime Configuration Licenses
 - Redundant Alarm Notification Systems
 - Unlimited Thin Client Connections this includes workstations and mobiles devices
- C. RLC develop new HMI screens off the existing Wonderware screens. RLC will hold an HMI workshop to make sure the new screens are developed the way to fit the Town of Addison's needs.
- D. RLC will develop reports in VTSCADA to match the existing reports.
- E. RLC will provide training on the new system and software.
- F. RLC will provide and install one 75" flat screen TV for viewing the SCADA System
- G. RLC will provide and install a new back panel equipped with redundant power supplies, terminal blocks, relays and surge protection.
- H. RLC will replace the existing Motorola PLC with the new Scheider M340 PLC.
- I. RLC will provide fans in the existing enclosure for ventilation.
- J. RLC will program the new PLC for system control approved by the City of Addison.
- K. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- L. RLC will provide as-builts drawings for the new PLC and provide copies of the PLC and HMI software.
- M. RLC will remove un-needed wires in the existing RTU enclosure.

Addison Circle EST

- N. RLC will provide and install a new back panel equipped with redundant power supplies, terminal blocks, relays and surge protection.
- O. RLC will replace the existing Motorola PLC with the new Scheider M340 PLC.
- P. RLC will program the new PLC for system control approved by the Town of Addison.
- Q. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- R. RLC will provide as-built panel drawings and copies of the PLC code.

Kellway Lift Station

- S. RLC will remove existing RTU enclosure.
- T. RLC will provide and install a new RTU equipped with the following:
 - Enclosure
 - PLC (Scheider M340 PLC)
 - UPS
 - Terminal blocks, relays and surge protection.
- U. RLC will program the new PLC for system control approved by the Town of Addison.
- V. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- W. RLC will provide as-built panel drawings and copies of the PLC code.

Surveyor PS

- X. RLC will provide and install a new back panel equipped with redundant power supplies, terminal blocks, relays and surge protection.
- Y. RLC will replace the existing Motorola PLC with the new Scheider M340 PLC.
- Z. RLC will program the new PLC for the existing chemical feed systems soft I/O.
- AA. RLC will program the new PLC for the chemical measurement equipment.
- BB. RLC will provide and install a rack mount enclosure for the existing UPS. RLC will remove the existing UPS and install it in the newly provided enclosure.
- CC. RLC will program the new PLC for system control approved by the Town of Addison.
- DD. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- EE. RLC will provide as-built panel drawings and copies of the PLC code.

Surveyor EST

- FF. RLC will replace the existing PLC with a Scheider M340 PLC and reuse the existing enclosure and back panel.
- GG. RLC will install 75' of Conduit from the RTU to the location where the new fiber switch was installed.
- HH. RLC will provide and install one Cat6 cable from the RTU to the network switch location.
- II. RLC will program the new PLC for system control approved by the Town of Addison.
- JJ. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- KK. RLC will provide as-built panel drawings and copies of the PLC code.

Vitruvian Well

- LL. RLC will provide and install a new back panel equipped with redundant power supplies, terminal blocks, relays and surge protection.
- MM. RLC will replace the existing Motorola PLC with the new Scheider SCADAPack 474 PLC.
- NN. RLC will provide a cellular modem for communication to the SCADA Network.
- OO. RLC will provide and install a cellular antenna equipped with antenna, coax cable and surge protection.
- PP. RLC will bring I/O from the ROTTO control panel into the new PLC. The I/O comes to the well site using an existing I/O radio.
- QQ. RLC will program the new PLC for system control approved by the Town of Addison.
- RR. RLC will test the new PLCs with field I/O and HMI to make sure everything works properly.
- SS. RLC will provide as-built panel drawings and copies of the PLC code.

Top End Software, Severs, 75" Flat Screens and Development.....	\$58,500.00
Celestial Pump Station.....	\$28,250.00
Addison Circle EST.....	\$19,200.00
Kellway Lift Station Lift Station.....	\$27,725.00
Surveyor PS.....	\$25,800.00
Surveyor EST.....	\$16,750.00
Vitruvian Well.....	\$22,500.00

Project Total \$198,725.00

Proposal Clarifications & Exclusions

1. Pricing does NOT include the following services and equipment:
 - a. Furnishing or installation of any panel racks, instrument racks or mounting plates, conduit, raceway, duct banks, wire, etc. required to connect instruments and associated panels.
 - b. Sales tax or bonding cost. Payment and/or Performance Bond pricing can be added by request.
2. Pricing includes all Per Diem and Travel Costs.
3. Pricing is based on progressive invoicing and to include payment for properly stored material. Payment terms to be net thirty days.
4. Bid valid for sixty (60) days.

TERMS: Net due in thirty (30) days from date of invoice.

TAXES: Excluded

FREIGHT: FOB Jobsite; freight allowed.

INSURANCE: RLC carries builder's risk and general liability insurance as required by project specifications. Any additional insurance, such as being named on our policy, can be provided at an additional cost.

RLC Controls, Inc.

Michael Cunningham
President

City Council (FY24)

4. g.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management
Gold Standard in Public Safety

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

AGENDA CAPTION:

Consider action on a Resolution approving a Professional Services Agreement (PSA) between the Town of Addison and Stantec for Water and Wastewater Master Plan Updates and authorizing the City Manager to execute the agreement in an amount not to exceed \$208,461.

BACKGROUND:

The purpose of this item is to approve a PSA with Stantec to provide updates to the Water and Sanitary Sewer Master Plans.

The Town completed the most recent Water Master Plan in 2016, and the Sanitary Sewer Master Plan was completed in 2017. Both plans included updates to their respective hydraulic models and established Capital Improvement Program (CIP) projects. While conducting the CIP validation study in FY23, it was discovered that none of the previous models matched existing conditions. It was determined to modify that project to update the water and wastewater models.

This project will utilize the new updated hydraulic models to update the Town's utility CIP projects and is being revised alongside the development of the Town's Comprehensive Plan. This synchronized approach ensures concurrence between the two plans.

The scope of work for these services includes the following:

- Project Management and Meetings
- Water Model and CIP Update
- Wastewater Model and CIP Update
- Active Master Plan Integration
- AI Flow Capacity Evaluation Tool

A more detailed description of these services can be found in the PSA, Exhibit A, of the Resolution.

Stantec was selected for these services based on their specialization with the Town's water models, familiarity with the water master plan, and experience with the Town.

This project's funding will be taken out of the Annual Utility Operations and Maintenance Fund.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Stantec

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH STANTEC FOR WATER AND WASTEWATER MASTER PLAN UPDATES IN AN AMOUNT NOT TO EXCEED \$208,461.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Stantec for Water and Wastewater Master Plan Updates 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 Stantec in an amount not-to-exceed of \$208,461.00, 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 **9th** day of **JANUARY**, 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT WATER AND WASTEWATER MASTER PLAN UPDATES

This Professional Services Agreement (“Agreement”) is made by and between the **Town of Addison, Texas** (“City”), and **Stantec Consulting Services 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 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, 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

Upon written notice to proceed by City, Professional agrees to provide to City Water and Wastewater Master Plan Updates (“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 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 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 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. Notwithstanding the foregoing, the City's right to inspect, copy and audit shall not extend to the composition of the Professional's rates and fees, percentage mark-ups or multipliers but shall apply only to their application to the applicable units.

(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.

(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. The City agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by

law, to indemnify and hold harmless the Professional, its officers, partners, employees and consultants (collectively, Professional) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the Professional.

Section 4. Performance Schedule

Time for Performance. Professional shall perform all services as provided for under this Agreement in a proper, efficient, and professional manner in accordance with a mutually agreed upon schedule. 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.

(a) 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 legally determined 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 TWO HUNDRED AND EIGHT THOUSAND, FOUR HUNDRED AND SIXTY-ONE DOLLARS (\$208,461.00).

(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 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 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 Services.

(c) Deductions. City may deduct from any amounts due or to become due, at law, 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, at law, 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, AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS (BUT NOT DEFEND) THE CITY INDEMNITEES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO 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 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 of such claims or demand at Professional's sole cost and expense. 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.

The total amount of all claims the City may have against the Professional under this Agreement or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees or \$300,000. As the City's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Professional and not against any of the Professional's employees, officers or directors.

Neither the City nor the Professional shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected to this Agreement or the performance of the services on this Project. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies.

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, Professional's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement;

(c) pursuant to Texas Government Code Chapter 2251, 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; and

(d) pursuant to Texas Government Code Chapter 2276, Professional's organization does not currently boycott energy companies and will not boycott energy companies during the term of this Agreement.

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

STANTEC CONSULTING SERVICES
INC.

By: _____
David Gaines
City Manager

By:  _____
Alex Visotski
Senior Project Manager

Date: _____

Date: 12/21/2023

Notice Address:

Notice Address:

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

Stantec Consulting Services Inc.
Attn: Alex Visotski, Senior Project Manager
6080 Tennyson Pkwy Suite 200
Plano, Texas 75024
E: alex.visotski@stantec.com

Addison Contract ID:
PSA_STW_December 13, 2023_v1.20220427

EXHIBIT “A”
SCOPE OF SERVICES

(attached)



Stantec
6080 Tennyson Parkway, Suite 200
Plano, TX 75024-6003

December 4, 2023

Attention: Mr. Shannon Hicks, P.E.

Town of Addison
Public Works and Engineering Department
16801 Westgrove Dr.
Addison, TX 75001

Reference: Water and Wastewater Master Plan Updates

Dear Mr. Hicks:

As requested, Stantec is pleased to submit the following Letter Proposal to provide engineering services to the Town to update the Master Plan documents for the water distribution and wastewater collection systems.

Project Understanding

While looking to update the Capital Improvement Plan (CIP) projects for the Town's water and wastewater networks, it was identified that the models used to create the projects were out of date compared to existing conditions. It was decided the Master Plan document for the Town's water system, dated January 2016, and the document for the wastewater system, dated October 2018, should be updated in order to accurately assess the need and size of planned CIP projects given the changed conditions in the Town. The master plan updates will be completed in cooperation and coordination with Town staff to accompany the Advance Addison 2050 Comprehensive Plan.

The work in this project will include identifying additional infrastructure needed for planned developments throughout the Town and create a series of what-if scenarios to evaluate additional infrastructure needs from developments and other densification of existing land use. The water and wastewater master plan updates will identify Capital Improvement Plan (CIP) projects needed for proposed developments and future growth. Each project will be tied to a trigger, such as a development occupancy rate, that easily identifies when the project is needed. Working with Town staff, the master plan information will also be integrated into the Town's GIS and asset management system, as appropriate, to create active master plans rather than static reports. This information can allow the CIP to be better-tracked, assist with flow diversion planning, construction coordination, and maintenance activities.

As an optional task, Stantec will host an online Flow Capacity Evaluation Tool for a period of one year. The Tool will have a water portal and a wastewater portal that incorporates hydraulic modeling data and is configured to the Town's evaluation criteria. Town staff can utilize the tool to complete an initial assessment of impacts to Town pipelines where a proposed development will increase water demands and wastewater flows. The tool will also consolidate the proposed development locations, increased demands, and sewer flows, so they can be incorporated into the next hydraulic model update and master plan.

Reference: Water and Wastewater Master Plan Updates

Scope of Work

The Scope of Work for services to be completed under this project are detailed in the task descriptions that follow.

TASK 1 – PROJECT MANAGEMENT AND MEETINGS

Stantec will coordinate with the Town's Project Manager to ensure that relevant project deliverables and other documents are available for the project team. Stantec will prepare monthly project status reports which will be included in the monthly invoices.

Stantec will attend monthly teleconference update meetings. These meetings will be primarily technical but will include a brief project management update.

Up to three (3) Stantec staff will create content for and report at up to two (2) in-person presentations to the Town Council and one (1) public meeting. Stantec will also attend up to six (6) coordination meetings with the Town's consultant for the Advance Addison 2050 Comprehensive Plan.

TASK 2 – WATER MODEL AND CIP UPDATE

The purpose of Task 2 is to update the Master Plan for the City's water system, which is dated January 2016. Building on data collected, model updates, and calibration efforts completed in a previous task order, this effort will consist of analyzing the system for present-day and future conditions, updating recommended CIP projects, and preparing a Water Master Plan Update report.

Task 2.1 Design and Evaluation Criteria

Stantec will review and, if needed, update criteria used in the 2016 Master Plan for evaluation of the water system and design of proposed improvements, including pipe size. Additional criteria may be added based on existing State guidelines, governing regulatory requirements, and engineering practice. Any proposed changes to evaluation criteria will be discussed with and approved by the Town.

Task 2.2 Evaluate Existing System Capacities

The Town's water system will be evaluated using the recalibrated hydraulic model and updated criteria under maximum day, peak hour, and maximum day plus fire flow demand conditions. The following system infrastructure will be evaluated for capacity-related deficiencies:

- Addison Circle and Surveyor elevated storage tanks
- Surveyor Pump Station, Celestial Pump Station, and ground storage tanks
- Pipelines
- Pressure relief valves (PRVs)
- Flow control valves (FCVs)

Storage and supply capacities will be reviewed to see that they meet operational, regulatory, and fire flow requirements. Existing system deficiencies will be documented in tabular or map format and presented to the Town at a project progress meeting.

Reference: Water and Wastewater Master Plan Updates

Task 2.3 Analyze Future Condition and What-If Scenarios

Future scenarios will be added to the hydraulic model recalibrated to existing conditions. Future demands will be added, and model results will be evaluated under maximum day, peak hour, and maximum day plus fire flow demand scenarios. Future scenario results will be used to size future system piping and other facilities. Water demands will be calculated for future development areas based on water demand factors and land use planning. Future demands will be added to current water demands and saved as a separate demand set in the model. Fire flows will be added to appropriate future model junctions. The future water distribution system will be assessed, and system deficiencies will be documented in tabular or map format and presented to the Town at a project progress meeting.

Up to three (3) what-if scenarios will be created to evaluate potential water demands and additional infrastructure needed for development and densification of existing land use from redevelopment. Additional infrastructure identified from these scenarios will be added as alternate projects.

Task 2.4 Update CIP Project List

Stantec will update Capital Improvement Plan (CIP) projects to address existing and future system deficiencies. Projects are anticipated to consist of pipeline upsize / replacements, pumping and storage improvements, flow control valve changes, and increased looping. A trigger will be identified for each project, such as a percent occupancy of a future development, that can be used by Town staff to easily identify when a project will be needed. Separate triggers will be identified for projects identified under what-if scenarios. Opinions of Probable Construction Cost (OPCC's) will be developed for each project.

TASK 3 – WASTEWATER MODEL AND CIP UPDATE

The purpose of Task 3 is to update the Town's wastewater master plan, which is dated October 2017. Building on data collected and model updates completed in a previous task order, this effort will consist of calibrating the Town's hydraulic model, analyzing the system for present-day and future conditions, updating recommended CIP projects, and preparing a Wastewater Master Plan Update report.

Task 3.1 – Dry-Weather Calibration of Wastewater Model

Stantec will calibrate the updated wastewater system model using flow, depth, and velocity data collected from the Town from up to ten locations. Dry-weather calibration will be completed using up to 3 dry-weather periods, consisting of three consecutive dry days with at least one weekend day. Calibration will focus on diurnal pattern timing and volumetric balance in accordance with guidelines published in the Chartered Institution of Water and Environmental Management (CIWEM) Code of Practice for Hydraulic Modeling of Urban Drainage Systems.

Task 3.2 Wet-Weather Calibration and Validation

This task will include wet-weather calibration, which will focus on peak flow and volumetric balance for up to 5 selected events in accordance with guidelines published in the Chartered Institution of Water and Environmental Management (CIWEM) Code of Practice for Hydraulic Modeling of Urban Drainage Systems. Calibration will also compare the overall hydrograph shape, peak response time, and recession time. Hydrologic parameters within the subcatchments will be adjusted in an iterative process until a reasonable match can be achieved between modeled and metered results. Two additional rainfall events will be simulated to validate the wet-weather performance of the model.

Reference: Water and Wastewater Master Plan Updates

Task 3.3 Design and Evaluation Criteria

Stantec will review and, if needed, update criteria used in the 2017 Master Plan for evaluation of the wastewater system and design of proposed improvements, including pipe size. Additional criteria may be added based on existing State guidelines, governing regulatory requirements, and engineering practice. Any proposed changes to evaluation criteria will be discussed with and approved by the Town.

Task 3.4 Evaluate Existing System Capacity

The Town's wastewater system will be evaluated using the recalibrated hydraulic model and updated criteria. Capacity of pipelines and the sanitary sewer lift station on Kellway Circle will be evaluated under dry- and wet-weather flow conditions and system deficiencies will be identified. Existing system deficiencies will be documented in tabular or map format and presented to the Town at a project progress meeting.

Task 3.5 Analyze Future Condition and What-If Scenarios

Future scenarios for dry- and wet-weather flow will be added to the hydraulic model recalibrated to existing conditions. Future flows will be added and the capacity of the wastewater network will be evaluated under dry-weather conditions and under wet-weather conditions using the design storm event from the 2017 Master Plan. Future scenario results will be used to size future piping improvements. The future wastewater system will be assessed, and system deficiencies will be documented in tabular or map format and presented to the Town at a project progress meeting.

Up to three (3) what-if scenarios will be created to evaluate potential wastewater flow increases and additional infrastructure needed from multi-family development and densification of existing land use from redevelopment. Additional infrastructure identified from these scenarios will be added as alternate projects.

Task 3.6 Update CIP Project List

Stantec will update CIP projects to address existing and future system deficiencies. Projects are anticipated to consist of pipeline upsize / replacements, pumping and storage improvements, and parallel or relief sewers. A trigger will be identified for each project, such as a percent occupancy of a future development, that can be used by Town staff to easily identify when a project will be needed. Separate triggers will be identified for projects identified under what-if scenarios. OPCC's will be developed for each project.

TASK 4 – ACTIVE MASTER PLAN INTEGRATION

Stantec will prepare a Water and Wastewater Master Plan Update that summarizes existing conditions, future developments, system updates, model updates and calibration, evaluation and design criteria, evaluations completed, and updated CIP projects. The Master Plan Update will be a single report for both the water and wastewater systems. A draft Update report will be submitted to the Town for review. Stantec will coordinate a review meeting with the Town and gather comments that will be incorporated in a final Water and Wastewater Master Plan Update.

Stantec will work with Town staff to integrate model output and updated Master Plan data from the water and wastewater systems into the Town's GIS and asset management databases. The purpose of this task will be to copy modeling data and proposed CIP projects into an interactive GIS environment that Town staff can utilize to visually see the project interactions and model results. This interactive information will supplement the written Master Plan Update and is anticipated to consist of the following data:

Reference: Water and Wastewater Master Plan Updates

- Model output for each pipeline under average day and peak hour demand/flow conditions for existing (2023) conditions and ultimate buildout conditions. For water pipelines, this information may include peak flow and pressure, fire flow capacity, and head loss per 1,000 feet of pipe. For wastewater pipelines this information may include peak flow and d/D, and wet-weather capacity.
- Create a new GIS shapefile with proposed CIP projects that includes a consistent project ID, proposed pipe sizes, and development triggers. A separate shapefile will be created for proposed developments that includes approximate boundaries, ultimate water demands, and wastewater flow projections. Alternatives considered during the plan process will be included in the shapefiles and tagged as alternates to the selected project ID.
- For those pipes proposed to be replaced or relieved, add a project trigger for that replacement or relief and cross-reference to the associated CIP project ID.

Stantec will consolidate modeling and CIP project data to create a visual representation of each system to portray city-wide deficiencies and projects tied to specific developments and other what-if scenarios.

OPTIONAL TASK 5 – FLOW CAPACITY EVALUATION TOOL

If approved as an optional task, Stantec will configure, set up, and host an online Flow Capacity Evaluation Tool for a period of one year. Stantec will also train Town staff to use the tool.

Optional Task 5.1 Configuration, Setup, and Testing

The initial set up of the Flow Capacity Evaluation (FCE) tool consists of data mapping, application configuration, and data population. Stantec will compile data from the hydraulic models, GIS files, and other Master Plan documents to map the appropriate data fields within the FCE.

After compiling data, the FCE will be configured and customized to meet the specific needs of the Town and staff using it. Configuration options are assumed to include setting up user roles and permissions, defining workflows and processes for reviewing developer submittals, and implementing security measures to protect the data and user accounts. This may involve implementing authentication mechanisms, such as multi-factor authentication, and establishing data encryption protocols to safeguard sensitive information.

After configuration the relevant data will be transferred or imported into the FCE online platform. Working with Town staff, Stantec will complete functional testing of the FCE to confirm operation and useability of the tool.

Optional Task 5.2 Technical Documentation, Training, and Deployment

Stantec will create and provide technical documentation. Technical documentation will include relevant information about the database design, application features, system integration, and other relevant information related to supporting and maintaining the system from an IT perspective.

The technical documentation will be used as the basis for a 4-hour in-person training workshop with Town staff. Training will include review of the technical documentation and the use of other multi-media such as videos.

Upon completion of training and functional testing, Stantec will work with the Town to deploy the FCE tool for use by Town staff.

Reference: Water and Wastewater Master Plan Updates

Optional Task 5.3 Post Deployment Support

Stantec will provide continued on-call support for additional functional development for up to one year following the deployment of the FCE tool. This support is anticipated to consist of software bug fixes, hosting/server support, and system security management functions. A level of effort of 40 hours has been assumed for this task.

Assumptions:

- The Master Plan Update will utilize existing zoning, funding, treatment alternatives, and maintenance recommendations from the current Master Plans.
- Opinions of Probable Construction Cost (OPCCs) will be based on tabulations for recent construction bids in the Town, escalated appropriately for future years. The OPCCs will be Class 5 estimates appropriate for capital planning.
- For the Active Master Plan Integration task, Stantec will provide data to Town staff in a format capable of being integrated into the GIS or Asset Management systems. Integration of data into the Town's system will be completed by Town staff.

Deliverables:

- Updated water and wastewater models with calibration, existing, and future scenarios.
- Draft and Final Water and Wastewater Master Plan Update Report
- Electronic data files for the Active Master Plan Integration
- Optional: Training documentation for and deployment of the FCE tool
- Optional: one (1) year subscription to the FCE tool after setup and deployment

Schedule

The schedule for this task is defined by activity below, assuming a Notice to Proceed on or before January 8, 2024:

Task	Scheduled Completion
Project Management and Meetings	12/31/2024
Water Model and CIP Update	04/26/2024
Wastewater Model and CIP Update	04/26/2024
Active Master Plan Integration	07/26/2024
Optional Task: Flow Capacity Tool	10/31/2025

Reference: Water and Wastewater Master Plan Updates

Proposed Fee

Our proposed fee for this project has been developed on a task basis as shown in the attached fee summary table. The table below provides an overview of the budget requested.

Task	Proposed Fee
Project Management and Meetings	\$36,220
Water Model and CIP Update	\$33,159
Wastewater Model and CIP Update	\$48,231
Active Master Plan Integration	\$40,371
Optional Task: Flow Capacity Tool	\$50,479
Total:	\$208,461

We appreciate the opportunity to propose this project and look forward to working with you and other members of your staff. Please feel free to contact me if you have any questions or comments.

Kind Regards,

Stantec Consulting Services Inc.

Bill Marriott, PE
Senior Project Manager

Direct: +1 (214) 346-3335
Mobile: +1 (973) 452-7747
bill.marriott@stantec.com

6080 Tennyson Parkway, Suite 200
Plano, TX 75024-6003

City Council (FY24)

4. h.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider action on a Resolution approving a contract agreement between the Town of Addison and Machine Valve and Automation LLC for construction services for the Kellway Lift Station Control Panel Upgrades Project and authorizing the City Manager to execute the agreement in an amount not to exceed \$64,515.

BACKGROUND:

The purpose of this item is to authorize an agreement with Machine Valve Automation Services LLC (MVA) for upgrades to the electrical control panel at the Kellway Lift Station.

This project will provide safety enhancements for personnel operating the control panel by not exposing them to electrical hazards while performing maintenance. The project also involves the installation of variable frequency drives to optimize pump performance. The existing components in the control panel are outdated, and the scarcity of replacement parts necessitates this upgrade.

The procurement of these services is through a cooperative purchasing agreement with the City of Fort Worth. The cooperative agreement and contract with MVA can be found in the attachments. The Town has utilized MVA for several electrical and pump services in the past and has been satisfied with their work.

This project was approved as a capital improvement decision package during the Fiscal Year 2024 budget process. This project was budgeted for \$80,000 and is within budget. The funding for these services is coming from the 2022 Certificates of Obligation.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - MVA

Fort Worth Interlocal Agreement and MVA Contract

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH MACHINING & VALVE AUTOMATION SERVICES LLC. FOR THE KELLWAY LIFT STATION ELECTRICAL CONTROL PANEL UPGRADES IN AN AMOUNT NOT TO EXCEED \$64,515.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Machining & Valve Automation Services LLC. for the Kellway Lift Station Electrical Control Panel Upgrades in conformance with the project documents for City Bid No. 24-97.

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 Machining & Valve Automation Services LLC. for the Kellway Lift Station Electrical Control Panel Upgrades in conformance with the project documents identified in the agenda memorandum for this Resolution, in an amount not-to-exceed of \$64,515.00, 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 **9th** day of **JANUARY**, 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

CONTRACT SERVICES AGREEMENT Kellway Lift Station Electrical Control Panel Upgrades

This Contract Services Agreement (“Agreement”) is made by and between the **Town of Addison, Texas** (“City”), and **Machining & Valve Automation Services LLC** (“Contractor”) (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

Upon notice to proceed by City, Contractor agrees to provide the necessary services, labor, materials, equipment and supplies related to the Kellway Lift Station electrical control panel upgrades, such services being more fully described herein and pursuant to the Contract Documents. 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

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and shall continue until Contractor completes the services required herein to the satisfaction of City and has been paid in full by City, unless sooner terminated in conformance with this Agreement.

Section 3. Contract Documents

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

- (1) This Agreement, including all exhibits and addenda hereto;
- (2) City’s solicitation for bids;
- (3) City’s written notice(s) to proceed to the Contractor;
- (4) Properly authorized change orders;
- (5) Contractor’s Quote #2023-100691 (**Exhibit A**); 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 construction of 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) City Directives. Contractor shall comply with and timely execute the City's directives in all matters related to the operation of the City's special events parking including, without limitation, operating procedures, security, traffic control, hours of operation, locations and priority of space assignments, space markings, and general customer service matters. Contractor acknowledges that the parking areas identified in the Contract Documents may vary from time to time and that City retains sole discretion to determine the actual location of the parking areas for all City events.

(d) Customer Claims and Complaints. Contractor shall investigate and report to the City, in a manner satisfactory to the City; all complaints and all claims made for loss of or damage to vehicles or other property related to the services. In the event that any written complaint with respect to Contractor's services under this Agreement is delivered to the Contractor, Contractor agrees that it will deliver a copy of the complaint to the City within twenty-four (24) hours after Contractor's receipt of the complaint and will promptly prepare a response for the City to review, making a good-faith attempt to explain, resolve, or rectify the cause of the complaint. The City reserves the right to respond to such complaint directly.

(e) 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; and without decreasing the effectiveness of the performance of services required under this Agreement.

(f) 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.

(g) 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.

(h) 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. 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.

(i) 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 in any materials provided to Contractor. 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 or if instructed to do so by City. In the event City delivers to Contractor information that it has 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 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.

(j) 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

(b) 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.

(c) 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) Payment Terms. City agrees to pay Contractor for all services authorized in writing and properly performed by Contractor in general conformance with Contractor's Quote #2023-100691, attached hereto as **Exhibit A**. 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 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) Compensation. Contractor's total compensation for the services under this Agreement shall not exceed \$64,515.00 (the "Contract Price"), subject to the parties' mutual agreement for Contractor to provide additional services in conformance with this Agreement. 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 6. 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 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 6(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 (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 (C) 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 7. 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 Contractor 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 8. 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 under this Agreement are maintained by and accessible through the City's purchasing department.

Section 9. 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 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 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 NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. CONTRACTOR 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 NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OR WILFUL MISCONDUCT OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY THE CITY INDEMNITEE TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

Notices of Claim. 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 SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR A PERIOD OF FOUR (4) YEARS.

Section 10. Notice.

All notices required by this Agreement shall be in writing and addressed to the parties at the addresses set forth on the first page 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 personal delivery, nationally recognized overnight courier (with all fees pre-paid), or e-mail of a PDF document (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a notice is effective only (a) upon receipt by the receiving party, and (b) if the party giving the notice has complied with the requirements of this section.

Section 11. 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 12. 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, 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]

The parties have executed and delivered this Agreement as of the Effective Date.

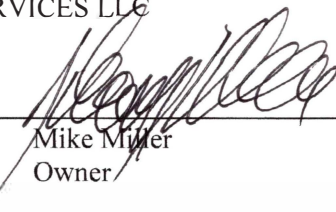
For City:

For Contractor:

TOWN OF ADDISON, TEXAS

MACHINING & VALVE AUTOMATION SERVICES LLC

By: _____
David Gaines
City Manager

By: _____

Mike Miller
Owner

Date: _____

Date: 12/6/23

Notice Address:

Notice Address:

Town of Addison
Attn: David Gaines, City Manager
5300 Belt Line Road
Town of Addison, Texas 75254
E: dgaines@addisontx.gov

Machining & Valve Automation Services LLC.
Attn: Mike Miller, Owner
PO Box 311
Royce City, TX 75189
E: mike@mvaserv.com



**MACHINING & VALVE
AUTOMATION SERVICES LLC**
PO Box 311
ROYSE CITY TX 75189
214-502-6432

QUOTE

DATE	QUOTE #
10/12/2023	2023-100691

TOWN OF ADDISON
PO Box 9010
ADDISON TX 75001
PWEINVOICES@ADDISONTX.GOV

TOWN OF ADDISON
PO Box 9010
ADDISON TX 75001
PWEINVOICES@ADDISONTX.GOV

REP	TERMS
MIKE	NET 30

DESCRIPTION	QTY	COST	TOTAL
KELLWAY CABINET AND PUMP REPLACEMENT			
3PC 60HP VFD PACKAGE 480VAC 3PH WITH LS H100+ DRIVE INCLUDES: SERVICE ENTRANCE RATED BREAKER, H/O/A + START PB, SPEED POT, VFD/OFF/ATL SWITCH, RAYCAP SURGE SUPPRESSION, EMERGENCY BYPASS INSTALLED, FAN COOLED WHITE ENCLOSURE	1	49,390.00	49,390.00
INSTALL AND START PUMP CABINET	1	14,250.00	14,250.00
STARTUP MVA SERVICE TECHNICIAN / MECHANICAL SPECIALIST CREW TECHNICIAN / MECHANICAL SPECIALIST ESTIMATED ELEC. MATERIALS NEEDED	1	875.00	875.00

IF EXTRA LABOR OR MATERIALS NOT DESCRIBED ABOVE ARE REQUIRED, THE OWNER WILL BE NOTIFIED FOR APPROVAL BEFORE WORK IS COMPLETED. THIS QUOTE IS GOOD FOR 30 DAYS FROM THE DATE REFERENCED ABOVE. WE THANK YOU FOR CONSIDERING MVA SERVICES FOR YOUR SERVICE NEEDS.

TOTAL \$64,515.00

THANKS

MIKE
MVA SERVICES
SERVICE YOU CAN COUNT ON!
MIKE@MVASERV.COM
OFFICE 214-502-6432
CELL 214-538-0932

*****DUE TO THE CORONA VIRUS OUTBREAK ALL SHIP DATES ARE ESTIMATED & NOT GUARANTEED*****

*****MATERIAL PRICES MAY INCREASE DUE TO THE MARKET. PRICE IN EFFECT AT TIME OF ORDER.*****

TOWN OF ADDISON, TEXAS

RESOLUTION NO. R11-007

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, AUTHORIZING THE EXECUTION OF A COOPERATIVE PURCASHING AGREEMENT WITH THE CITY OF FORT WORTH, TEXAS PROVIDING FOR A COOPERATIVE PURCHASING PROGRAM FOR GOODS AND SERVICES; DESIGNATING A TOWN REPRESENTATIVE IN CONNECTION WITH THE AGREEMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 271.102, Tex. Loc. Gov. Code, authorizes a local government, including a municipality, to participate in a cooperative purchasing program with another local government or a local cooperative organization, and further provides that that a local government that purchases goods or services pursuant to that statute satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services; and

WHEREAS, Chapter 791, Tex. Gov. Code, authorizes a local government, including a municipality, to contract with another local government to perform governmental functions and services, including purchasing functions; and

WHEREAS, the Town of Addison, Texas desires to enter into a cooperative purchasing agreement in accordance with the said laws, that will, among other things, allow Addison and Fort Worth to purchase goods and services and avoid duplicate procurement efforts and obtain the benefits of volume purchasing.

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

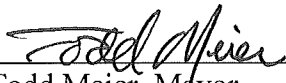
Section 1. Incorporation of Recitals. The above and foregoing recitals are true and are incorporated herein and made a part hereof.

Section 2. Approval of Cooperative Purchasing Agreement. The City Council of the Town of Addison, Texas (the "Town") does hereby approve that agreement for cooperative purchasing entitled "Cooperative Purchasing Agreement" ("Agreement") between the Town and the City of Fort Worth, Texas, a true and copy of which Agreement is attached hereto as Exhibit A and incorporated herein. The City Manager is authorized to execute the same on behalf of the Town of Addison.

Section 3. Representative. The City's Director of Finance, or the Director's designee, is, under the direction of the City Manager, hereby designated to act for the Town in all matters relating to the Agreement, including the designation of specific contracts in which the Town desires to participate.

Section 4. Effective Date. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 14th day of June, 2011.



Todd Meier, Mayor

ATTEST:

By: 

Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney



VENDOR SERVICES AGREEMENT

This **VENDOR SERVICES AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF FORT WORTH** (“City”), a Texas home rule municipal corporation, and **Machining & Valve Automation Services LLC** (“Vendor”), each individually referred to as a “party” and collectively referred to as the “parties.”

1. **Scope of Services.** Purchase of valves, appurtenances, actuators, replacement parts, on-site or shop repairs, startup services and field troubleshooting (“Services”), which are set forth in more detail in Exhibit “A,” attached hereto and incorporated herein for all purposes. Following the award of this Agreement, additional products and services of the same general category that could have been encompassed in the award, and that are not already made a part of the Agreement, may be added based on the discount provided on Vendor’s bid response (if applicable) and price sheet provided with Vendor’s bid response or a current quote provided from the Vendor.

2. **Term.** The initial term of this Agreement is for 1 year(s), beginning on the date that this Agreement is executed by the City’s Assistant City Manager (“Effective Date”). Unless terminated earlier in accordance with this Agreement (“Initial Term”), City will have the option, in its sole discretion, to renew this Agreement under the same terms and conditions, for up to four (4) one-year renewal option(s) (each a “Renewal Term”).

3. **Compensation.** City will pay Vendor in accordance with the provisions of this Agreement, including Exhibit “B,” which is attached hereto and incorporated herein for all purposes. **Total payment made under this non-exclusive Agreement for the first year by City shall be an amount not to exceed Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00).** The Parties acknowledge that this is a non-exclusive agreement and there is no guarantee of any specific amount of work. Further, Vendor recognizes that the not to exceed amount mentioned above is the total amount of funds available, collectively, for any Vendor that enters into an agreement with the City under Mayor and Council Communication No. 23-0626 (August 8, 2023) and that once the collected not to exceed amount has been exhausted, funds have therefore been exhausted under this Agreement as well. Vendor will not perform any additional services or bill for expenses incurred for City not specified by this Agreement unless City requests and approves in writing the additional costs for such services. City will not be liable for any additional expenses of Vendor not specified by this Agreement unless City first approves such expenses in writing.

4. **Termination.**

4.1. **Written Notice.** City or Vendor may terminate this Agreement at any time and for any reason by providing the other party with 30 days’ written notice of termination.

4.2. **Non-appropriation of Funds.** In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Vendor of such occurrence and this Agreement will terminate on the last day of the fiscal period for which

appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

4.3 Duties and Obligations of the Parties. In the event that this Agreement is terminated prior to the Expiration Date, City will pay Vendor for services actually rendered up to the effective date of termination and Vendor will continue to provide City with services requested by City and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Vendor will provide City with copies of all completed or partially completed documents prepared under this Agreement. In the event Vendor has received access to City Information or data as a requirement to perform services hereunder, Vendor will return all City provided data to City in a machine readable format or other format deemed acceptable to City.

5. Disclosure of Conflicts and Confidential Information.

5.1 Disclosure of Conflicts. Vendor hereby warrants to City that Vendor has made full disclosure in writing of any existing or potential conflicts of interest related to Vendor's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Vendor hereby agrees immediately to make full disclosure to City in writing.

5.2 Confidential Information. Vendor, for itself and its officers, agents and employees, agrees that it will treat all information provided to it by City ("City Information") as confidential and will not disclose any such information to a third party without the prior written approval of City.

5.3 Public Information Act. City is a government entity under the laws of the State of Texas and all documents held or maintained by City are subject to disclosure under the Texas Public Information Act. In the event there is a request for information marked Confidential or Proprietary, City will promptly notify Vendor. It will be the responsibility of Vendor to submit reasons objecting to disclosure. A determination on whether such reasons are sufficient will not be decided by City, but by the Office of the Attorney General of the State of Texas or by a court of competent jurisdiction.

5.4 Unauthorized Access. Vendor must store and maintain City Information in a secure manner and will not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Vendor must notify City immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised, in which event, Vendor will, in good faith, use all commercially reasonable efforts to cooperate with City in identifying what information has been accessed by unauthorized means and will fully cooperate with City to protect such City Information from further unauthorized disclosure.

6. **Right to Audit.** Vendor agrees that City will, until the expiration of three (3) years after final payment under this Agreement, or the final conclusion of any audit commenced during the said three years, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records, including, but not limited to, all electronic records, of Vendor involving transactions relating to this Agreement at no additional cost to City. Vendor agrees that City will have access during normal working hours to all necessary Vendor facilities and will be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City will give Vendor reasonable advance notice of intended audits.

7. **Independent Contractor.** It is expressly understood and agreed that Vendor will operate as an independent contractor as to all rights and privileges and work performed under this Agreement, and not as agent, representative or employee of City. Subject to and in accordance with the conditions and provisions of this Agreement, Vendor will have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, Vendors, and subcontractors. Vendor acknowledges that the doctrine of *respondeat superior* will not apply as between City, its officers, agents, servants and employees, and Vendor, its officers, agents, employees, servants, contractors, and subcontractors. Vendor further agrees that nothing herein will be construed as the creation of a partnership or joint enterprise between City and Vendor. It is further understood that City will in no way be considered a Co-employer or a Joint employer of Vendor or any officers, agents, servants, employees, contractors, or subcontractors. Neither Vendor, nor any officers, agents, servants, employees, contractors, or subcontractors of Vendor will be entitled to any employment benefits from City. Vendor will be responsible and liable for any and all payment and reporting of taxes on behalf of itself, and any of its officers, agents, servants, employees, contractors, or contractors.

8. **Liability and Indemnification.**

8.1 **LIABILITY - VENDOR WILL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF VENDOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS.**

8.2 **GENERAL INDEMNIFICATION - VENDOR HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO VENDOR'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR MALFEASANCE OF VENDOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS.**

8.3 **INTELLECTUAL PROPERTY INDEMNIFICATION** – Vendor agrees to defend, settle, or pay, at its own cost and expense, any claim or action against City for infringement of any patent, copyright, trade mark, trade secret, or similar property right arising from City's use of the software and/or documentation in accordance with this Agreement, it being understood that this agreement to defend, settle or pay will not apply if City modifies or misuses the software and/or documentation. So long as Vendor bears the cost and expense of payment for claims or actions against City pursuant to this section, Vendor will have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, City will have the right to fully participate in any and all such settlement, negotiations, or lawsuit as necessary to protect City's interest, and City agrees to cooperate with Vendor in doing so. In the event City, for whatever reason, assumes the responsibility for payment of costs and expenses for any claim or action brought against City for infringement arising under this Agreement, City will have the sole right to conduct the

defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, Vendor will fully participate and cooperate with City in defense of such claim or action. City agrees to give Vendor timely written notice of any such claim or action, with copies of all papers City may receive relating thereto. Notwithstanding the foregoing, City's assumption of payment of costs or expenses will not eliminate Vendor's duty to indemnify City under this Agreement. If the software and/or documentation or any part thereof is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, Vendor will, at its own expense and as City's sole remedy, either: (a) procure for City the right to continue to use the software and/or documentation; or (b) modify the software and/or documentation to make it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the software and/or documentation; or (c) replace the software and/or documentation with equally suitable, compatible, and functionally equivalent non-infringing software and/or documentation at no additional charge to City; or (d) if none of the foregoing alternatives is reasonably available to Vendor terminate this Agreement, and refund all amounts paid to Vendor by City, subsequent to which termination City may seek any and all remedies available to City under law.

9. **Assignment and Subcontracting.**

9.1 **Assignment.** Vendor will not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of City. If City grants consent to an assignment, the assignee will execute a written agreement with City and Vendor under which the assignee agrees to be bound by the duties and obligations of Vendor under this Agreement. Vendor will be liable for all obligations of Vendor under this Agreement prior to the effective date of the assignment.

9.2 **Subcontract.** If City grants consent to a subcontract, the subcontractor will execute a written agreement with Vendor referencing this Agreement under which subcontractor agrees to be bound by the duties and obligations of Vendor under this Agreement as such duties and obligations may apply. Vendor must provide City with a fully executed copy of any such subcontract.

10. **Insurance.** Vendor must provide City with certificate(s) of insurance documenting policies of the following types and minimum coverage limits that are to be in effect prior to commencement of any Services pursuant to this Agreement:

10.1 **Coverage and Limits**

(a) Commercial General Liability:

\$1,000,000 - Each Occurrence
\$2,000,000 - Aggregate

(b) Automobile Liability:

\$1,000,000 - Each occurrence on a combined single limit basis

Coverage will be on any vehicle used by Vendor, or its employees, agents, or representatives in the course of providing Services under this Agreement. "Any vehicle" will be any vehicle owned, hired and non-owned.

(c) Worker's Compensation:

Statutory limits according to the Texas Workers' Compensation Act or any other state workers' compensation laws where the Services are being performed

Employers' liability

- \$100,000 - Bodily Injury by accident; each accident/occurrence
- \$100,000 - Bodily Injury by disease; each employee
- \$500,000 - Bodily Injury by disease; policy limit

(d) Professional Liability (Errors & Omissions):

- \$1,000,000 - Each Claim Limit
- \$1,000,000 - Aggregate Limit

Professional Liability coverage may be provided through an endorsement to the Commercial General Liability (CGL) policy, or a separate policy specific to Professional E&O. Either is acceptable if coverage meets all other requirements. Coverage must be claims-made, and maintained for the duration of the contractual agreement and for two (2) years following completion of services provided. An annual certificate of insurance must be submitted to City to evidence coverage.

10.2 General Requirements

(a) The commercial general liability and automobile liability policies must name City as an additional insured thereon, as its interests may appear. The term City includes its employees, officers, officials, agents, and volunteers in respect to the contracted services.

(b) The workers' compensation policy must include a Waiver of Subrogation (Right of Recovery) in favor of City.

(c) A minimum of Thirty (30) days' notice of cancellation or reduction in limits of coverage must be provided to City. Ten (10) days' notice will be acceptable in the event of non-payment of premium. Notice must be sent to the Risk Manager, City of Fort Worth, 200 Texas Street, Fort Worth, Texas 76102, with copies to the Fort Worth City Attorney at the same address.

(d) The insurers for all policies must be licensed and/or approved to do business in the State of Texas. All insurers must have a minimum rating of A- VII in the current A.M. Best Key Rating Guide, or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management. If the rating is below that required, written approval of Risk Management is required.

(e) Any failure on the part of City to request required insurance documentation will not constitute a waiver of the insurance requirement.

(f) Certificates of Insurance evidencing that Vendor has obtained all required insurance will be delivered to the City prior to Vendor proceeding with any work pursuant to this Agreement.

11. **Compliance with Laws, Ordinances, Rules and Regulations.** Vendor agrees that in the performance of its obligations hereunder, it will comply with all applicable federal, state and local laws, ordinances, rules and regulations and that any work it produces in connection with this Agreement will also comply with all applicable federal, state and local laws, ordinances, rules and regulations. If City notifies Vendor of any violation of such laws, ordinances, rules or regulations, Vendor must immediately desist from and correct the violation.

12. **Non-Discrimination Covenant.** Vendor, for itself, its personal representatives, assigns, contractors, subcontractors, and successors in interest, as part of the consideration herein, agrees that in the performance of Vendor's duties and obligations hereunder, it will not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. **IF ANY CLAIM ARISES FROM AN ALLEGED VIOLATION OF THIS NON-DISCRIMINATION COVENANT BY VENDOR, ITS PERSONAL REPRESENTATIVES, ASSIGNS, CONTRACTORS, SUBCONTRACTORS, OR SUCCESSORS IN INTEREST, VENDOR AGREES TO ASSUME SUCH LIABILITY AND TO INDEMNIFY AND DEFEND CITY AND HOLD CITY HARMLESS FROM SUCH CLAIM.**

13. **Notices.** Notices required pursuant to the provisions of this Agreement will be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

<p>To CITY:</p> <p>City of Fort Worth Attn: Assistant City Manager 200 Texas Street Fort Worth, TX 76102-6314 Facsimile: (817) 392-8654</p> <p>With copy to Fort Worth City Attorney's Office at same address</p>	<p>To VENDOR:</p> <p>Machining & Valve Automation, LLC Mike Miller, Owner 8932 FM 2101 Quinian, TX 75474 Facsimile: <u>214-682-6823</u></p>
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14. **Solicitation of Employees.** Neither City nor Vendor will, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. Notwithstanding the foregoing, this provision will not apply to an employee of either party who responds to a general solicitation of advertisement of employment by either party.

15. **Governmental Powers.** It is understood and agreed that by execution of this Agreement, City does not waive or surrender any of its governmental powers or immunities.

16. **No Waiver.** The failure of City or Vendor to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein does not constitute a waiver of City's or Vendor's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

17. **Governing Law / Venue.** This Agreement will be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought pursuant to this Agreement, venue for such action will lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

18. **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

19. **Force Majeure.** City and Vendor will exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but will not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law, ordinance, or regulation; acts of God; acts of the public enemy; fires; strikes; lockouts; natural disasters; wars; riots; epidemics or pandemics; government action or inaction; orders of government; material or labor restrictions by any governmental authority; transportation problems; restraints or prohibitions by any court, board, department, commission, or agency of the United States or of any States; civil disturbances; other national or regional emergencies; or any other similar cause not enumerated herein but which is beyond the reasonable control of the Party whose performance is affected (collectively, "Force Majeure Event"). The performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided the affected Party provides notice of the Force Majeure Event, and an explanation as to how it prevents or hinders the Party's performance, as soon as reasonably possible after the occurrence of the Force Majeure Event, with the reasonableness of such notice to be determined by the City in its sole discretion. The notice required by this section must be addressed and delivered in accordance with Section 13 of this Agreement.

20. **Headings not Controlling.** Headings and titles used in this Agreement are for reference purposes only, will not be deemed a part of this Agreement, and are not intended to define or limit the scope of any provision of this Agreement.

21. **Review of Counsel.** The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or Exhibits A, B, and C.

22. **Amendments / Modifications / Extensions.** No amendment, modification, or extension of this Agreement will be binding upon a party hereto unless set forth in a written instrument, which is executed by an authorized representative of each party.

23. **Counterparts.** This Agreement may be executed in one or more counterparts and each counterpart will, for all purposes, be deemed an original, but all such counterparts will together constitute one and the same instrument.

24. **Warranty of Services.** Vendor warrants that its services will be of a high quality and conform to generally prevailing industry standards. City must give written notice of any breach of this warranty within thirty (30) days from the date that the services are completed. In such event, at Vendor's option, Vendor will either (a) use commercially reasonable efforts to re-perform the services in a manner that conforms with the warranty, or (b) refund the fees paid by City to Vendor for the nonconforming services.

25. **Immigration Nationality Act.** Vendor must verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Vendor will provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Vendor must adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Vendor employee who is not legally eligible to perform such services. **VENDOR WILL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY VENDOR, VENDOR'S EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR AGENTS.** City, upon written notice to Vendor, will have the right to immediately terminate this Agreement for violations of this provision by Vendor.

26. **Ownership of Work Product.** City will be the sole and exclusive owner of all reports, work papers, procedures, guides, and documentation that are created, published, displayed, or produced in conjunction with the services provided under this Agreement (collectively, "Work Product"). Further, City will be the sole and exclusive owner of all copyright, patent, trademark, trade secret and other proprietary rights in and to the Work Product. Ownership of the Work Product will inure to the benefit of City from the date of conception, creation or fixation of the Work Product in a tangible medium of expression (whichever occurs first). Each copyrightable aspect of the Work Product will be considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended. If and to the extent such Work Product, or any part thereof, is not considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended, Vendor hereby expressly assigns to City all exclusive right, title and interest in and to the Work Product, and all copies thereof, and in and to the copyright, patent, trademark, trade secret, and all other proprietary rights therein, that City may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of City.

27. **Signature Authority.** The person signing this Agreement hereby warrants that they have the legal authority to execute this Agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. This Agreement and any amendment hereto, may be executed by any authorized representative of Vendor. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

28. **Change in Company Name or Ownership.** Vendor must notify City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of Vendor or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to provide the specified documentation so may adversely impact future invoice payments.

29. **No Boycott of Israel.** **If Vendor has fewer than 10 employees or this Agreement is for less than \$100,000, this section does not apply.** Vendor acknowledges that in accordance with Chapter

2271 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” has the meanings ascribed to those terms in Section 2271 of the Texas Government Code. **By signing this Agreement, Vendor certifies that Vendor’s signature provides written verification to the City that Vendor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.**

30. **Prohibition on Boycotting Energy Companies.** Vendor acknowledges that in accordance with Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more, which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Vendor certifies that Vendor’s signature provides written verification to the City that Vendor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.**


31. **Prohibition on Discrimination Against Firearm and Ammunition Industries.** Vendor acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate,” “firearm entity” and “firearm trade association” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Vendor certifies that Vendor’s signature provides written verification to the City that Vendor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.**

32. **Electronic Signatures.** This Agreement may be executed by electronic signature, which will be considered as an original signature for all purposes and have the same force and effect as an original signature. For these purposes, “electronic signature” means electronically scanned and transmitted versions (e.g. via pdf file or facsimile transmission) of an original signature, or signatures electronically inserted via software such as Adobe Sign.

33. **Entirety of Agreement.** This Agreement contains the entire understanding and agreement between City and Vendor, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

(signature page follows)

ACCEPTED AND AGREED:

<p>CITY OF FORT WORTH:</p> <p>By: <u><i>Dana Burghdoff</i></u> <small>Dana Burghdoff (Oct 1, 2023 14:10 CDT)</small></p> <p>Name: Dana Burghdoff Title: Assistant City Manager</p> <p>Date: _____</p> <p>APPROVAL RECOMMENDED:</p> <p>By: <u><i>Christopher Harder</i></u> <small>Christopher Harder (Sep 22, 2023 13:40 CDT)</small></p> <p>Name: Chris Harder Title: Water Department Director</p> <p>ATTEST:</p> <p>By: <u><i>Jannette Goodall</i></u> Name: Jannette Goodall Title: City Secretary</p> 	<p>CONTRACT COMPLIANCE MANAGER: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.</p> <p>By: <u><i>Shatabya Bergland</i></u> Name: Shatabya Bergland Title: Contract Compliance Specialist</p> <p>APPROVED AS TO FORM AND LEGALITY:</p> <p>By: <u><i>DBlack</i></u> <small>DBlack (Sep 29, 2023 11:28 CDT)</small></p> <p>Name: Doug Black Title: Sr. Assistant City Attorney</p> <p>CONTRACT AUTHORIZATION: M&C: 23-0626 Form 1295: 2023-1034483</p>
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VENDOR:

Machining & Valve Automation Services LLC

By: *Johnny Miller*

Name: Johnny Miller

Title: Owner

Date: September 14th, 2023

EXHIBIT A
SCOPE OF SERVICES

See next page.

PART – 2

DETAILED SERVICES/SPECIFICATIONS

1.0 SCOPE

- 1.1 The City of Fort Worth (City) seeks bids to finalize an agreement for new valves, appurtenances, actuators, replacement parts, on-site or shop repairs, startup services and field troubleshooting for the Water Department on an “as needed basis”. Prospective responding bidders should ensure they download all attachments for complete responses and understanding of the agreement the City intends to award from this solicitation. The successful bidder(s), known hereafter as “Contractor”/“Vendor.”
- 1.2 This Agreement shall begin upon award or execution of the City Secretary Contract (“Effective Date”) and shall expire on the upcoming September 30th, (“Expiration Date”), unless terminated earlier in accordance with this Agreement (“Initial Term”). Upon the expiration of the Initial Term, the Agreement shall renew under the same terms and conditions for up to four (4) one-year renewal periods (October 1 to September 30) and for a fifth renewal period which shall expire on completion of total five-year duration, unless City or Contractor provides the other party with notice of non-renewal at least 60 days before the expiration of the Initial Term or renewal period. However, if funds are not appropriated, the City may cancel the Agreement 30 calendar days after providing written notification to the Contractor/Vendor.
- 1.3 The City owns and maintains an extensive inventory of varied manufacturer brands and models of Valves at water plants, wastewater plants and wastewater lift stations located throughout the City.
- 1.4 Vendor shall provide unit prices for listed items required on the Bid Offer page. Unit prices shall include all associated costs with the specified work, including but not limited to handling, delivery, fuel charges, fees and certifications fees. No additional charges will be accepted or paid by the City.
- 1.5 The quantities listed on the Price Submittal pages are only estimates based on previous usage and do not indicate intent to purchase or a guarantee of future business. The City is obligated to pay for only those services actually ordered by an authorized City employee and then received as required and accepted by the City.
- 1.6 Following the award, additional goods of the same general category that could have been encompassed in the award of this Agreement, and that are not already on the Agreement, may be added.
- 1.7 Unit prices shall include all costs associated with the specified work, including but not limited to handling, delivery, fuel charges, fees and certification fees. **NO ADDITIONAL CHARGES WILL BE ACCEPTED OR PAID BY THE CITY.**
- 1.8 Any specifications/requirements that have been omitted from this scope of service that are clearly necessary or in conformance shall be considered a requirement although not directly specified or called for in the scope of services.
- 1.9 All items supplied under the Agreement resulting from this quote shall be of recent production, unused, and suitable for their intended purpose.
- 1.10 The submission of a bid by the bidder shall be considered evidence of compliance with these requirements.

7.0 CONTRACTOR REQUIREMENTS

- 7.1 All inspections, tests and troubleshooting shall utilize manufacturers' instruction manuals applicable to each particular component
- 7.2 Contractor shall be experienced in the startup, commissioning, repairs, troubleshooting, and overall knowledge of the valves they manufacture or represent. Vendor shall have good working relationships with suppliers, and be able to show a history of work coordination with valve suppliers.
- 7.3 Contractor shall maintain a written record of all work activities and equipment provided to the City during the lifetime of this contract. When called upon, Vendor shall provide maintenance and repair records to the City.
- 7.4 Contractor is required to have a minimum of five (5) employees to perform services.
- 7.5 Installation of New Actuators on New Valves – Should the City elect to purchase new actuators to mount on new valves, the contractor shall disclose with their job estimate the time required to perform the work. Additional time required beyond the estimated time resulting from either the inexperience of vendor staff, improper actuator sizing, or lack of coordination with the valve supplier will not be compensated by the City.
- 7.6 Contractor shall be responsible for meeting all federal, state, and local requirements related to workplace safety.
- 7.7 Contractor is required to provide their staff with all personal protective equipment associated with the job requirements.
- 7.8 Contractor shall coordinate with City staff to de-energize equipment prior to initiating field work activities.
- 7.9 Contractor shall provide City with insurance certificate prior to award of contract.
- 7.10 Field Quality Control: Contractor shall provide field testing and performance reports to the City upon request.

8.0 DELIVERY TERMS

- 8.1 The successful vendor will be responsible for all delivery costs to include returns. Deliveries shall be FOB-destination. All other delivery charges shall be included in the unit price as the vendor shall prepay all shipping charges.
- 8.2 Partial shipments will be accepted only with the notification to the authorized City representative, but the order shall not be considered complete until the total number of items ordered has been received.
- 8.3 The delivery ticket will indicate the contract number/ purchase order number.
- 8.4 Deliveries will be accepted Monday through Friday between the hours of 7:00 a.m. and 4:00 p.m., unless otherwise requested.
- 8.5 All delivery and freight charges (FOB to the City of Fort Worth designated location) are to be included in the bid price.
- 8.6 Orders may be dropped shipped; HOWEVER, if Vendor chooses to drop ship the Vendor MUST supply a representative to verify count of items at no cost to the City of Fort Worth

8.7 Equipment requiring shop work shall be delivered and picked up by the Contractor unless otherwise requested by the City. Compensation for pickup and delivery of equipment shall be per mile required for transportation from the site to the Contractors' shop. Equipment shall be delivered to the following address:

8.7.1 Village Creek Water Reclamation Facility
4500 Wilma Lane
Arlington, Texas, 76012

9.0 COMPENSATION, HOURLY RATES AND PRICING REQUIREMENTS

9.1 Hourly Rates - Due to the wide range of work to be performed within this contract, compensation to the Vendor shall be broken down into hourly rates for field and shop services, with regular time being defined as Monday – Friday 7AM to 4PM and overtime being Monday – Friday 4:01PM to 6:59AM, in accordance with the employee's classification and time the work is performed. The unit price for hourly rates shall be full compensation for all salaries, benefits, transportation costs, overhead and profits. No compensation will be provided for tools, testing equipment, or software necessary to perform the work.

9.2 Contractor shall be compensated for these purchases at the cost plus percentage markup shown on the completed "Pricing Submittal". Unless otherwise approved by the City, all materials, components, and equipment must be new.

9.2.1 The percentage markup must be inclusive of any and all costs associated with salaries, benefits, transportation costs, overhead and profits. A copy of the invoice price for the materials, equipment, components, and supplies shall accompany the invoice to the city.

10.0 GENERAL EQUIPMENT REQUIREMENTS

10.1 Contractor shall provide one electronic and two hard copies of shop drawings and Operation and Maintenance (O&M) manuals for new equipment provided under this contract.

10.3 The City shall supply equipment shop drawings, O&M manuals, engineering drawings and specifications, and any additional equipment and/or system information helpful to the Vendor prior to field investigation or troubleshooting.

10.4 Contractor shall be expected to properly size new or replacement equipment, based on information provided by the City on operational parameters. Should the sizing not be performed properly based on the information provided by the City, Vendor shall be responsible for the replacement or upgrade.

10.5 At the equipment commissioning, the Contractor shall be responsible for implementing all final settings and adjustments on equipment provided, with input from the City on the operational parameters.

11.0 EQUIPMENT AND MATERIAL APPLICABLE CODE, STANDARDS AND REFERENCES

11.1 All work, equipment, and materials shall be in accordance with the following applicable codes and standards except as provided.

11.1.1 American Water Works Association (AWWA) Standards:

11.1.1.1 AWWA C111/A21.11 – Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings

- 11.1.1.2 AWWA C500 – Metal Seated Gate Valves for Water Supply Service
- 11.1.1.3 AWWA C504 – Standard for Rubber Seated Butterfly Valves
- 11.1.1.4 AWWA C507 – Ball Valves, 6 in. through 48 in.
- 11.1.1.5 AWWA C509 – Resilient Seated Gate Valves for Water Supply Service
- 11.1.1.6 AWWA C515 – Reduced-Wall, Resilient-Seated Gate Valves for Water Supply Service
- 11.1.1.7 AWWA C522 – Rotary Cone Valves, 6in through 60 in.
- 11.1.1.8 AWWA C540 – Power-Actuating Devices for Valve and Slide Gates
- 11.2 National Electrical Manufacturer’s Association (NEMA) Standards
- 11.3 American Society for Testing and Materials (ASTM) Standards:
 - 11.3.1 ASTM A126 Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings
 - 11.3.2 ASTM A536 – Standard Specification for Ductile Iron Casting
- 11.4 American Society of Mechanical Engineers (ASME) Standards:
 - 12.4.1 ASME B16.1 Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125 and 250
- 11.5 American National Standards Institute (ANSI) Standards
- 11.6 Underwriters Laboratories (UL)
- 11.7 NSF Compliance: NSF 61, “Drinking Water Systems Components – Health Effects” for valve materials for potable-water service.
- 11.8 NSF/ANSI 372 – Drinking Water Systems Components – Lead Content.
- 11.9 All inspections, tests and troubleshooting shall utilize manufacturers’ instruction manuals applicable to each particular component.

12.0 STARTUP, COMMISSIONING, TROUBLESHOOTING, REPAIRING

- 12.1 At the equipment commissioning, the Contractor shall be responsible for implementing all final settings and adjustments on equipment provided, with input from the City on the operational parameters.
- 12.2 Field Quality Control: Contractor shall provide field testing and performance reports to the City upon request.
 - 12.2.1 Perform Tests and Inspections:
 - 12.2.2 Valve may be either tested while testing pipelines, or as a separate step.
 - 12.2.3 Test that valve opens and closes smoothly with operating pressure on one side and atmospheric pressure on the other, in both directions for two-way valve and applications.
 - 12.2.4 Count and record the number of turns to open and close valve, account for any discrepancies with manufacturer’s data.
 - 12.2.5 Set, verify, and record set pressures for all relief and regulating valves.

- 12.2.6 Automatic valves to be tested in conjunction with control system testing and as specified under Manufacturer's services.
- 12.2.7 Certified Test Reports: Submit Certified Test Reports for factory performance tests, and hydrostatic tests.
- 12.2.8 Equipment Installation Report: Submit Equipment Installation Reports from the rotary cone valve supplier.

13.0 FIELD SAFETY PRECAUTIONS

- 13.1 Contractor shall be responsible for meeting all federal, state, and local requirements related to workplace safety.
- 13.2 Contractor is required to provide their staff with all personal protective equipment associated with the job requirements.
- 13.3 Contractor shall coordinate with City staff to de-energize equipment prior to initiating field work activities.
- 13.4 Contractor shall provide City with insurance certificate prior to award of contract.

14.0 CONE VALVES

- 14.1 Factory Testing
 - 14.1.1 Valve Body Hydrostatic Test: Perform after application of final coatings.
 - 14.1.1.1 Perform with the valve positioned as installed in a horizontal pipeline.
 - 14.1.1.2 Apply internal hydrostatic test pressure of 2 times the Valve Pressure Class and maintain for 30 minutes. With the valve in the partially open position, allow water to enter and completely fill the cavity between both flanged ends.
 - 14.1.1.3 Use flanged bulkheads. Do not use a hydraulic press.
 - 14.1.1.4 There shall be no leakage through any portion of the valve, shaft seals, or at the flange joints. There shall be no permanent deformation of any valve component.
- 14.2 Valve Shutoff Leak Test: Perform after Valve Body Hydrostatic Test.
 - 14.2.1 Apply test pressure equal to the Valve Pressure Class and maintain for 15 minutes. Test with the flanges in the vertical plane. Fill the cavity between the plug and bulkheaded flange with water. Apply pressure through the bulkhead into the cavity. The cone valve shall be visible. Perform this test in both flow directions.
 - 14.2.2 Use flanged bulkheads. Do not use a hydraulic press.
 - 14.2.3 During the leakage test, leakage past the closed valve shall not exceed a rate of 0.4 fluid ounce/min/inch of diameter.
- 14.2 Actuator and Operations Test:
 - 14.3.1 Operate the actuator and valve assembly under a no-flow condition through 5 cycles. The valve shall operate smoothly and free from any evidence of improper assembly, misalignment of parts, binding, scraping, or other defects over the full travel of the actuator. No signs of permanent deformation shall be evident.
 - 14.3.2 Timing of each cycle shall be recorded and fall within specified parameters and be repeatable within (+/- 5 seconds).

14.4 Operating Details:

14.4.1 General: The cone valve shall be of the conical plug type with an operating mechanism employing a threaded lift nut to generate an axial motion to seat and unseat the plug and rotary motion to open and close the valve. The valve shall provide minimum pressure drop when fully open. The valve shall be for cold water service.

14.4.2 Maximum Full-Open Velocity: 20 feet per second.

14.4.3 Orientation: With the valve mounted in a horizontal pipeline, position the plug operating shaft horizontally and perpendicular to the flow direction. Position the electro-hydraulic operator in the vertical axis as recommended by the manufacturer.

14.4.4 Design Stresses: Except for actuator gearing, design materials with a minimum safety factor of 5 based on the ultimate tensile strength, or a minimum safety factor of 3 based on the yield strength of materials used.

14.4.5 Maximum Required Valve Operating Torque: Valve shall seat and unseat at the Working Water Pressure and operate under bi-directional flow at the maximum full-open velocity.

14.5 Storage: The valves may be stored indoors or outdoors. If outdoors, the rotary cone valves shall be covered with plastic.

14.6 Metal Seated Rotary Cone Valves

14.6.1 The valves shall be full opening, straight flow through rotary cone valves of the sizes and suitable for the pressures indicated in the solicitation. Valves shall be flanged end and shall be for mounting in horizontal pipe with a horizontal plug shaft axis. Operation shall include axial motion to lift plug and quarter turn to open valve. The head shall make a registered connection with the valve body to assure proper bearing alignment. Valves shall be completely assembled and equipped, as a self-contained unit with the accessories listed herein.

14.7 Valve Description:

14.7.1. Valve Body:

14.7.1.1. General: The body shall house the valve plug, shall carry the valve lower bearing, and shall have full unobstructed circular inlet and outlet equal to the diameter of specified size of valve.

14.7.1.1.2 The valve body shall be provided with two (2) tapered seat rings with minimum taper of 1-1/2"/12" or 7 degrees of Monel metal electrically fused to the body waterway and sufficiently raised above the internal surface of the body to assure unrestricted operation.

14.7.1.1.3 The valve body shall be of ductile iron ASTM A536 Grade 65-45-12, suitable for waterworks service. Valves shall be designed for maximum working pressure and differential pressure shown in the attached schedule. Flanges shall conform to ASME/ANSI B16.1/B16.42 standards and suitable for the pressures indicated. Flanges shall be flat

faced and finished to true plane surfaces with a tolerance limit of 0.005 inch.

14.7.1.1.4 Each flange shall be perpendicular to the longitudinal axis of the valve with a maximum angular variation tolerance of 0.002 inch per foot of flange diameter. Flange faces shall have a serrated finish. Serrations shall be V-shaped, 1/64-inch deep, 1/32-inch apart, and concentric.

14.7.1.1.5 Provide two pipe connections, one for an air vent and one for drain with stainless steel pipe and stainless-steel ball valve.

14.7.1.1.6 Provide a cast or ASTM A36 steel base for support of the valve on a concrete foundation.

14.8.1 Valve Plug

14.8.1.1 General: The valve plug shall be the principal moving element within the valve body and shall be provided with Monel to Monel seats on inlet and outlet, electrically fused to the casting and machined to assure tight valve closure.

14.8.1.2 Shall have full line-size unobstructed circular waterway in either direction.

14.8.1.3 Shall have a set of two (2) tapered Monel seat rings with minimum taper of 1-1/2"/12" or 7 degrees electrically fused to the plug waterway and sufficiently raised above the extended surface of the plug to assure unrestricted operation.

14.8.1.4 Provide a second set of 2 Monel seat rings electrically fused around the plug openings to prevent flow around the plug in the open position.

14.8.1.5 The valve plug shall be fully skirted with integrally cast trunnions.

14.8.1.6 Trunnion bearings in the body and head cover shall be bronze and shall mate with stainless steel bushings on the plug trunnion.

14.8.1.7 The plug shall not make any contact with the body during the opening and closing operation.

14.8.1.8 Valve plug shall be ductile iron ASTM A53665-45-12.

14.8.2 Shaft:

14.8.2.1 General: The valve shaft and plug shall be fitted together as one piece to preclude looseness or vibration.

14.8.2.2 ASTM A564 17-4, type 630, condition H1150, H1100, H1075 or H1025 stainless steel.

14.8.3 Valve Head Cover:

14.8.3.1 General: The valve head cover shall make a registered connection with the valve body to assure proper bearing alignment and shall carry the upper valve bearing.

- 14.8.3.2 The valve head cover shall be designed to support the cone valve operating mechanism and applied forces during valve operation.
- 14.8.3.3 Valve head cover shall be ductile iron ASTM A536 65-45-12.
- 14.8.3.4 The head cover shall provide rigid means for supporting the valve operating mechanism without the necessity of additional supports.

14.8.4 Valve Seats:

- 14.8.4.1 General: Shall be located in the body and plug and designed to close off the flow in two directions. The body seats shall be machined, ground, and polished to provide for a matched tapered fit with the plug seats to provide for a positive drop tight upstream and downstream seal at the closed positions of the plug.
- 14.8.4.2 Material: Monel-welded overlaid per AWS ERNiCu-7.
- 14.8.4.3 Shall be uniform in all cross sections and have continuous 360-degree seating.
- 14.8.4.4 The inlet and outlet nominal diameter shall not be less than the valve size.

14.8.5 Valve Bearings:

- 14.8.5.1 General: The valve body, head cover, and plug shall be fitted with sleeve-type bearings contained in the hubs.
- 14.8.5.2 Bearings shall be corrosion resistant and grease lubricated.
- 14.8.5.3 The design bearing load shall not exceed 2,000 psi. Bearings shall be designed for a pressure which shall not exceed the published design bearing loads for the bearing material nor exceed 1/5 of the compressive yield strength of the bearing and shaft materials.
- 14.8.5.4 Material: Body and head cover bearings shall be fabricated from ASTM B505 C95400 bronze. Plug bearings shall be fabricated from ASTM A276, Type 304/304L stainless steel.
- 14.8.5.5 Valve body/head trunnions and bushings shall be equipped with grease lubrication. Valve body/head bushings shall have spiral generated grease grooves and grease fittings accessible on top of the valve head cover.

14.8.6 Shaft Seals

- 14.8.6.1 General: Shaft seals shall be provided where the shaft protrudes from the valve assembly.
- 14.8.6.2 Shaft seals shall be designed for use of mechanically adjustable, split-v-type packing and shall be located in the trunnion of the valve head.
- 14.8.6.3 Material: Split VEE packing set of cotton fabric nitrile elastomer Garlock 432/435 for shaft seals. Stainless steel ASTM A276, Type 304 or 316 for packing gland follower and fasteners.
- 14.8.6.4 Shall be held replaceable without removing the valve operating mechanism housing.

14.8.7 Torque Unit/Valve Operating Mechanism

- 14.8.7.1 The torque unit (valve operating mechanism) shall be the product of the valve manufacturer. The assembly shall be mounted and attached to the valve body. Moving parts shall be totally enclosed in a lubricated, quickly removed ductile iron housing. The torque unit shall be designed to accept the electro-hydraulic actuator. The torque unit shall employ a traveling crosshead and intermediate link, suitable for the lift and turn operation.
- 14.8.7.2 Self-locking at all locations of travel.
- 14.8.7.3 The traveling crosshead shall be of bronze ASTM B584 C86300 and shall be confined and supported by two parallel precisely ground and polished guide rods to permit linear motion only and to prevent it from any tendency to rotate due to linkage reaction. Guide rods shall be ASTM A564 (17-4), Type 630, Condition H1150.
- 14.8.7.4 Shall employ an axial motion to lift the plug from its seat followed by a rotary movement of plug to open valve and an axial movement at the open position to reseat the valve. Valve closing shall be in the reversed order.
- 14.8.7.5 Shall be capable of being inspected, grease lubricated, adjusted and repaired without interfering with or removing the valve from pipeline.
- 14.8.7.6 The lift nut and crosshead shall be bronze. Rollers and thrust rings shall be steel.
- 14.8.7.7 The cover housing shall have a bronze bushing at the shaft extension and shall have provision for external lubrication. Two covered access holes shall be provided for access to lube fittings on the crosshead. An indicator shall be provided on the end of the valve shaft for local position indication.

14.8.8 Anti-Cavitation or Cavitation Resistant Trim:

- 14.8.8.1 General: Cone valve shall have anti-cavitation on the downstream waterways as described below:
- 14.8.8.2 Body: Downstream body waterways shall be lined with stainless steel.
- 14.8.8.3 End of plug: Downstream end waterways opening of plug shall be overlaid with Monel adjacent to plug seats in two locations 180 degrees apart at the centerline perpendicular to operating shaft forming a "half-moon" elliptical shape of approximate width of 15% of the valve diameter.
- 14.8.8.4 End of body: Downstream end of body waterways opening shall be overlaid with Monel adjacent to body seats in two locations 180 degrees apart at centerline perpendicular to the opening shaft forming "half-moon" elliptical shape of approximate width of 15% of the valve diameter.

14.8.9 Rotary Cone Valve Installation:

- 14.8.9.1 Install valves at their appropriate locations in each of the pump stations or pipelines as requested by the City.
- 14.8.9.1 Furnish and install flange gaskets, stainless steel bolts, nuts and washers for watertight pipe connections. Do not stress the valve when tightening the flange bolts.
- 14.8.9.2 Conduct an acceptance test for proper valve function and correct interlock with the motor controller, and submit a report of satisfactory valve installation and operation.
- 14.8.9.3 Touch-up all damage to painting of the equipment with extra paint furnished by the Vendor.

15.0 GATE VALVES

- 15.1 Gate valves 3 inches and larger shall be resilient wedge type with non-rising stem in strict accordance with AWWA C509/C515. Valves 16 inches and larger shall be provided with gearing to reduce the maximum required opening and closing torque to 80 ft-lb
- 15.2 Gate valves smaller than 3 inches shall be bronze, union bonnet, non-rising stem with solid wedge disc and screwed ends for 300-psi water, oil and gas (cold working pressure) and rated for 150-psi SWP.
 - 15.2.1 Use rising stem gate valves when piping is to be insulated.
- 15.3 Gate valves oriented horizontally shall include legs or a pad cast into the valve for support of the valve bonnet on a concrete foundation.
- 15.4 Gate for resilient seated valves shall be ductile iron with rubber-seat compound bonded to the valve gate.
- 15.5 Manual Operators: Operators sized to operate valve for full range of pressures and velocities, shall turn counter clockwise to open the valve. Exposed valves shall have hand wheel operators unless otherwise designated. A directional arrow and the word "open" shall be cast on the hand wheel. Valves for buried service shall have a 2-inch square nut operator.
- 15.6 Stem and Seal - The non-rising stem shall be bronze or stainless steel with inside screw. Shaft seal shall employ O-rings or V-type packing.
- 15.7 Bell Ends - Where designated, valves shall be mechanical joint or have rubber gasket push on joints in accordance with the applicable requirements of AWWA C111/A21.11.
- 15.8 Tapping Sleeves & Valve Assembly - Tapping sleeves shall have a ductile iron body, mechanical joint, with a Class 125 flanged outlet. All sleeves and valves shall be ductile iron and have a minimum of 150 psi working pressure. All taps shall be machine drilled; no burned taps will be allowed. Furnish Mueller, American Flow Control, Kennedy, or equal.
- 15.9 Tapping valves shall be AWWA C515 resilient seat gate valves with a Class 125 flange Inlet with a mechanical joint outlet. Furnish American Flow Control Series 2500, Mueller T-2360 or equal.

16.0 PLUG VALVES

- 16.1 Delivery, Storage & Handling

- 16.1.1 Prepare valves for shipping as follows – protect internal parts against rust and corrosion as well as protect threads, flange faces, grooves, and weld ends. Set ball and plug valves open to minimize exposure of functional surfaces as well as block valves in either closed or open position.
- 16.1.2 Use the following precautions during storage – Maintain valve end protection, store valves indoors and maintain at higher than ambient dew-point temperature. If outdoor storage is necessary, store valves off the ground in watertight enclosures. Use sling to handle large valves; rig sling to avoid damage to exposed parts. Do not use hand wheels or stems as lifting or rigging points.

16.2 General

- 16.2.1 Valve to include operator, actuator, hand wheel, chain wheel, extension stem, floor stand, worm and gear operator, operating nut, chain, wrench, valve boxes, and all accessories and related equipment for a complete operating system as required. Comply with the following:
 - 6.2.1.1 Suitable for intended service. Renewable parts not to be of a lower quality than specified.
 - 6.2.1.2 Same size as adjacent piping. Ends to suit adjacent piping.
 - 6.2.1.3 Operator sized to operate valve for full range of pressures and velocities. Open by turning counterclockwise, unless otherwise specified.
 - 6.2.1.4 Factory mount operator, actuator, and accessories.

16.3 3 inches and smaller:

- 16.3.1 Description: Non-lubricated type, cast body, flanged (ANSI B16.1 Class 125 and ANSI B16.5 Class 150) or threaded ends (NPT requirements of ANSI B1.20.1) for rigid joints and mechanical joints for buried valves. No grease fittings will be allowed. Design similar to MSS SP-108.
- 16.3.2 Body:
 - 16.3.2.1 Cast iron, ASTM A126, Class B, ductile iron ASTM A536, Grade 65-45-12, or carbon steel, ASTM A216, Grade WCB, with bolted bonnet of same material.
 - 16.3.2.2 Body receives a coating of corrosion-resistant nickel seat.
 - 16.3.2.3 Provide a grit seal for upper and lower journal.
- 16.3.3 Plug:
 - 16.3.3.1 Plug with upper and lower shaft in a one-piece casting, with round or rectangular port.
 - 16.3.3.2 Material: NBR face, ductile iron for cast iron or ductile iron body, for carbon steel body plug to be Type 316 stainless steel
 - 16.3.3.3 Plug must be fully encapsulated
 - 16.3.3.4 Stem Seal: NBR or PTFE

- 16.3.3.5 Body and Bonnet Bearing: Type 316L stainless steel. Valve must have upper and lower bearing seals.
- 16.3.3.6 Bonnet Screws and Nuts: Stainless steel
- 16.3.3.7 Port Area: 100% of connecting pipe area
 - 16.3.3.7.1 Pressure Ratings: Cast iron: 175-psi CWP
 - 16.3.3.7.2 Ductile iron: 175-psi CWP
 - 16.3.3.7.3 Carbon Steel: 285-psi CWP
- 16.3.3.8 Interior and exterior of the valve shall be fusion boned epoxy coated
- 16.3.4 Four (4) inches and larger:
 - 16.3.4.1 Description: Non-lubricated type, cast body, flanged (ANSI B16.1 Class 125 and ANSI B16.5 Class 150) for rigid joints and mechanical joints for buried valves. Design similar to MSS SP-108.
 - 16.3.4.2 Body:
 - 16.3.4.2.1 Cast iron, ASTM A126, Class B, or ductile iron, ASTM A536, Grade 65-45-12, with bolted bonnet of same material.
 - 16.3.4.2.2 Body receives a welded overlay of corrosion-resistant nickel seat machined to a smooth finish
 - 16.3.4.3 Plug:
 - 16.3.4.3.1 Plug with upper and lower shaft in a one-piece casting, with round or rectangular port. Plug shall be fully encapsulated.
 - 16.3.4.3.2 Material: Ductile iron with resilient facing of NBR.
 - 16.3.4.4 Body and Bonnet Bearing: Type 316L or Type 316 stainless steel. Valve must have upper and lower bearing seals.
 - 16.3.4.5 Packing: NBR or PTFE V-Type
 - 16.3.4.6 Bonnet Screws and Nuts: Stainless steel
 - 16.3.4.7 Port Area: 100% of connecting pipe area valves 4-inches and smaller, 85% on 16-inch and smaller, 80% on 18-inch through 24-inch, 75% on 30-inch and larger.
 - 16.3.4.8 Pressure Ratings:
 - 16.3.4.8.1 4-inch to 12-inch: 175-psi CWP
 - 16.3.4.8.2 14-inch and Larger: 150-psi CWP
 - 16.3.4.9 Interior and exterior of valve must be fusion bonded epoxy coated.
- 16.3.5 Operators
 - 16.3.5.1 Buried Service

16.3.5.1.1 3 inch and Larger (not installed in Valve Vault):

16.3.5.1.2 Non-rising stem with stainless steel shaft extension and wrench nut. Minimum extension stem diameter shall be 1-inch or diameter of valve shaft, whichever is larger.

16.3.5.1.3 Provide valve box, bonnet and cover.

16.3.5.2 Above Ground Service

16.3.5.2.1 4 inch and Smaller: Lever

16.3.5.2.2 6-inches and Larger: Totally enclosed, geared, manual operator with hand wheel, wrench nut, or chain wheel as required.

16.3.5.2.3 Chain Wheel Operator: Provide for valves having a centerline six feet or more above the floor, unless otherwise noted.

17.0 PRESSURE-REDUCING VALVE, 3 INCHES AND LARGER

17.1 Function

17.1.1 Automatically reduces a higher inlet pressure to a steady lower downstream pressure, regardless of changing flow rate and/or varying inlet pressure.

17.1.2 Pilot-operated regulator capable of holding downstream pressure to a pre-determined limit. When downstream pressure exceeds the pressure setting of the control pilot, the main valve and pilot valve close bubble-tight.

17.2 Main Valve: Hydraulically operated, single diaphragm-actuated, pilot controlled, globe valve, consisting of:

17.2.1 Ductile iron, ASTM A536, or cast steel, ASTM A216-WCB, body and bolted cover. All working parts shall be accessible without removal of the valve from the line.

17.2.2 Disc Retainer and Diaphragm Washer: Cast Iron.

17.2.3 Trim: Disc guide, seat and cover bearing, bronze or stainless steel.

17.2.4 Disc: Buna-N rubber.

17.2.5 Stem, Nut and Spring: Stainless steel.

17.2.6 End Connections: Flange, 150 ANSI.

17.2.7 Flows: Will depend upon valve schedule

17.3 Pilot Control System: Direct-acting, adjustable, spring-loaded, normally open, diaphragm valve, designed to permit flow when pressure is less than the spring setting.

17.3.1 Pilot Control: Bronze, ASTM B62.

17.3.2 Trim: Type 303 stainless steel.

17.3.3 Disc: Buna-N rubber.

17.3.4 Adjustment Ranges: Will depend on valve schedule

17.4 Manufacturers and Products:

- 17.4.1 Ross Valve
- 17.4.2 GA Industries
- 17.4.3 Cla-val

18.0 VALVES FOR FLOW CONTROL AND CHECK SERVICE

18.1 Delivery, Storage & Handling

18.1.1 Prepare valves for shipping as follows – protect internal parts against rust and corrosion as well as protect threads, flange faces, grooves, and weld ends. Set angle, gate, and globe valves closed to prevent rattling. Set ball and plug valves open to minimize exposure of functional surfaces, set butterfly valves closed or slightly open as well as block valves in either closed or open position.

18.1.2 Use the following precautions during storage – Maintain valve end protection, store valves indoors and maintain at higher than ambient dew-point temperature. If outdoor storage is necessary, store valves off the ground in watertight enclosures. Use sling to handle large valves; rig sling to avoid damage to exposed parts. Do not use hand wheels or stems as lifting or rigging points.

18.2 General Check Valves - For 2 inches and smaller provide 300-lb bronze. For 2-1/2 inches and 3 inches, provide non-slam wafer type.

18.3 CLASS 125 SWING CHECK VALVE

18.3.1 Class 125 Iron Body Check Valve, 2-inch through 12-inch:

18.3.2 Cast Iron body, bolted bonnet, horizontal swing, renewable seat and disc, threaded or flange ends, outside lever and spring, rated 125-psi SWP and 200-psi CWP. Conforms to MSS SP-71 Type 1.

18.3.3 Non -Acceptable Manufacturers: J&S Valve, Diamond Valves

18.4 AWWA Swing Check Valves

18.4.1 AWWA Swing Check Valve, 2-inches through 30-inches:

18.4.1.1 AWWA C508, flanged end, cast iron body, bronze mounted, full opening swing type, solid bronze hinges, Type 316 stainless steel hinge shaft, fitted with adjustable outside lever and weight.

18.4.1.2 Disc constructed of bronze with a rubber seal recessed or cast iron, rubber faced. Valve construction shall permit removal of internal components without removal from the pipeline.

18.4.1.3 Valve, 2-inches through 12-inches rated 175-psi CWP and 14-inches and larger, 150 psi CWP.

18.5 Ball Check Valves

18.5.1 Ball Check Valve, 3-inches and Larger:

18.5.1.1 Flanged end, iron body, with cleanout and hollow steel ball, vulcanized nitrile rubber exterior, suitable for vertical up or horizontal flow, rated 150-psi CWP.

18.6 Double Disc Check Valves

- 18.6.1 Double Disc Check Valve, 2-Inches through 54-Inches:
 - 18.6.1.1 Wafer style, spring loaded, two piece Type 316 stainless steel disc, Type 316 stainless steel shaft, Type 316 stainless steel torsion spring and have an integrally molded elastomer seat vulcanized to the body.
 - 18.6.1.2 Valve body shall be cast iron for 125-psi rating and cast steel for 150-psi rating, of the lugged wafer style.
 - 18.6.1.3 Valve shall be designed to fit between ANSI flanges and valves, 5-inches and larger, shall be fitted with a lifting eye bolt for installation purposes.
 - 18.6.1.4 Valve, 2-inches through 12-inches, rated 250-psi CWP, and 14-inches through 54- inches, rated 150-psi CWP.
- 18.7 Rubber Flapper Check Valves
 - 18.7.1 Rubber flapper Check Valve, 2-inch through 36-inches:
 - 18.7.1.1 Iron body and cover, steel-reinforced Buna-N disc, seat constructed at 45 degree angle, flanged ends, rated for 150-psi CWP.
- 18.8 Spring Assisted Rubber Flapper Swing Check Valves
 - 18.8.1 2-inch through 36-inches ; Class 125, ANSI/ASME B16.1
 - 18.8.1.1 Materials:
 - 18.8.1.2 Body and cover: ductile iron
 - 18.8.1.2 Flapper: Buna-N, steel reinforced
 - 18.8.1.3 Disc accelerator: stainless steel; Shall require no internal bolting/hardware to be retained
 - 18.8.1.4 Seat must be welded nickel
 - 18.8.1.5 Testing of valve must be performed with the disc accelerator installed.
- 18.9 "Duckbill" Elastomeric Check Valve
 - 18.9.1 "Duckbill" Elastomeric Check Valve, 2-Inches through 84-Inches:
 - 18.9.1.1 Type: All rubber and flow operated check type with either a flanged end connection or a slip-on end connection as indicated. The port area shall contour down to a duckbill, which allows the passage of flow in one direction.
 - 18.9.1.2 Material:
 - 18.9.1.3 The flange and flexible duckbill sleeve shall be one piece Buna-N rubber construction with nylon reinforcement. The bill portion shall be thinner and more flexible to form into a curve of 180 degree.
 - 18.9.1.4 Flange drilling shall conform to ANSI B16.1 Class 125/ANSI B16.5 Class 150 standards.
 - 18.9.1.5 Slip-on check valves shall be secured to the pipe using stainless steel clamps.

18.9.1.6 Opening Requirements: 2-inches of water.

18.9.2 "Duckbill" Elastomeric Inline Check Valve, Fits Inside Pipe, 2-Inches through 72-Inches:

18.9.2.1 Type: All rubber and flow operated check type which fits inside pipe and fastened with internal expansion clamp. The port area shall contour into a circumferential sealing area that is concentric with the pipe which shall allow passage of flow in one direction while preventing reverse flow.

18.9.2.2 Material: Flexible duckbill sleeve shall be one piece Buna-N rubber construction with nylon reinforcement. Provide stainless steel expansion clamp for securing valve to inside of pipe.

18.10 Silent Check Valve

18.10.1 Silent Check Valve, Wafer Style, 10-Inch and Smaller:

18.10.1.1 Type: Class 125 cast iron body, ASTM A-126, Class B, bronze seat and plug, ASTM B584, stainless steel spring, wafer style.

18.10.1.2 Spring shall be helical or conical, seat and plug field replaceable, flow area through the body equal to or greater than the cross section area of the equivalent pipe size.

18.10.1.3 Capable of silent operation when installed in the vertical or horizontal position.

18.10.2 Silent Check Valve, Globe Style, Flanged Ends, 3-Inch through 42-Inch:

18.10.2.1 Type: Class 125 and 150 cast iron body, ASTM A-126, Class B, or ductile iron body, ASTM A536, 65-45-12; bronze seat and plug, ASTM B584, stainless steel spring, flanged ends.

18.10.2.2 Plug shall be center guided at both ends with a through integral valve shaft and spring loaded.

18.10.2.3 Spring shall be helical or conical, seat and plug field replaceable, flow area through the body equal to or greater than the cross section area of the equivalent pipe size.

18.10.2.4 Capable of silent operation when installed in the vertical or horizontal position.

19.0 **MISCELLANEOUS VALVES AND COMMON REQUIREMENTS FOR PROCESS VALVES**

19.1 Valve Installation:

19.1.1 Install valves with unions or flanges at each piece of equipment arranged to allow service, maintenance, and equipment removal without system shutdown.

19.1.2 Locate valves for easy access and provide separate support where necessary. Provide access doors in finished walls and plaster ceilings for valve access.

19.1.3 Install valves in horizontal piping with stem at or above center of pipe.

19.1.4 Butterfly valves will be installed with stem horizontal to allow support for the disc and the cleaning action of the disc.

- 19.1.5 Unless otherwise noted, install operating stem vertical in horizontal runs of pipe having centerline elevations 4 feet 6 inches or less above finished floor.
- 19.1.6 Unless otherwise noted, install operating stem horizontal in horizontal runs of pipe having centerline elevation between 4 feet 6 inches and 7 feet above finish floor.
- 19.1.7 Install valves in position to allow full stem movement.
- 19.1.8 Install check valves for proper direction of flow and as follows:
 - 19.1.8.1 Swing Check Valves: In horizontal position with hinge pin level.
 - 19.1.8.2 Dual-Plate Check Valves: In horizontal or vertical position, between flanges.
 - 19.1.8.3 Lift Check Valves: With stem upright and plumb.
- 19.1.9 If a plug valve seat position is not shown, locate as follows:
 - 19.1.9.1 Horizontal low: The flow shall produce an “unseating” pressure; the plug shall open into the top half of valve.
 - 19.1.8.2 Vertical Flow: Install seat in the highest portion of the valve.
- 19.1.10 Install line size ball valve and union upstream of each solenoid valve, in-line flow switch, or other in-line electrical device, excluding magnetic flowmeters for isolation during maintenance.
- 19.1.11 Provide union or flanged connection within two feet of each threaded end valve unless valve can be otherwise easily removed from piping.
- 19.1.12 Install safety isolation valves on compressed air lines which have stored energy in accordance with latest OSHA requirements.

20.0 INVOICING REQUIREMENTS

- 20.1 The City of Fort Worth has begun implementing an automated invoicing system. The Contractor shall send invoices electronically to our centralized Accounts Payable department invoice email address: supplierinvoices@fortworthtexas.gov. This email address is not monitored so please do not send correspondence to this email address. The sole purpose of the supplier invoices email address is to receipt and process supplier invoices.
- 20.2 Please include the following on the subject line of your e-mail: vendor name, invoice number, and PO number, separated by an underscore (ex: Example, Inc._123456_FW013-0000001234)
- 20.3 To ensure the system can successfully process your invoice in an expedient manner, please adhere to the following requirements:
 - All invoices must be either a PDF or TIFF format.
 - Image quality must be at least 300 DPI (dots per inch).
 - Invoices must be sent as an attachment (i.e. no invoice in the body of the email).
 - One invoice per attachment (includes PDFs). Multiple attachments per email is acceptable but each invoice must be a separate attachment.
 - Please do not send handwritten invoices or invoices that contain handwritten notes.
 - Dot matrix invoice format is not accepted.
 - The invoice must contain the following information:
 - Supplier Name and Address;
 - Remit to Supplier Name and Address, if different;

- Applicable City Department business unit# (i.e. FW013)
 - Complete City of Fort Worth PO number (i.e. the PO number must contain all preceding zeros);
 - Invoice number;
 - Invoice date;
 - Unit and total cost; and
- Invoices should be submitted after delivery of the goods or services.
- 20.4 To prevent invoice processing delays, please do not send invoices by mail and email and please do not send the same invoice more than once by email to supplierinvoices@fortworthtexas.gov. To check on the status of an invoice, please contact the City Department ordering the goods/services or the Central Accounts Payable Department by email at: ZZ_FIN_AccountsPayable@fortworthtexas.gov.
- 20.5 If you are unable to send your invoice as outlined above at this time, please send your invoice to our centralized Accounts Payable department instead of directly to the individual city department. This will allow the city staff to digitize the invoice for faster processing.
- 20.6 If electronic invoicing is not possible, you may send your paper invoice to:
- City of Fort Worth
Attn: FMS Central Accounts Payable
200 Texas Street
Fort Worth, Texas, 76102
- 20.7 The City's goal is to receive 100% of invoices electronically so that all supplier payments are processed efficiently. To achieve this goal, we need the Contractor's support.
- If Contractor has any questions, please contact the Accounts Payable team at (817) 392-2451 or by email to ZZ_FIN_AccountsPayable@fortworthtexas.gov.
- 20.8 Contractor shall not include Federal, State of City sales tax in its invoices. City shall furnish a tax exemption certificate upon Vendor's request.

21.0 UNIT PRICE ADJUSTMENT

- 21.1 Vendor may request a Price Adjustment based on Price Adjustment Verification up to one time Quarterly. Price Adjustment means an unplanned or unanticipated change, upward or downward, from the established contract price that is supported by demonstrated Price Adjustment Justification. A request for a Price Adjustment must be initiated by the Vendor. Price Adjustments shall not be allowed more frequently than once Quarterly. It is within the sole discretion of the City to determine whether an adjustment is necessary and/or acceptable.
- 21.2 Quarterly means the City's Fiscal year quarters, being each of the three (3) month periods the first of which begins October 1. Quarter (Q) 1: October 1 – December 31; Q2: Jan 1 – March 31; Q3P: April 1 – June 30; Q4: July 1 – September 30.
- 21.3 Price Adjustment Justification means documentation supporting a requested Price Adjustment and showing an objectively verifiable basis for a change in price due to the documented impact of economic conditions on labor, equipment, or materials. Examples of possible Price Adjustment Justification include, but are not limited to, cost indexes, and/or updated supplier price sheets. It is within the sole discretion of the City to determine whether Price Adjustment Justification is sufficient and/or acceptable.

- 21.4 The Vendor must submit its Price Adjustment request, in writing, at least 60 days before the effective period (1st day of a new quarter). The Vendor must provide all Price Adjustment Justification, as defined above, at the time of its request for a Price Adjustment.
- 21.5 If the City, in its sole discretion, concludes that the requested Price Adjustment is unreasonable or not fully supported by adequate Price Adjustment Justification, the City reserves the right to adjust the rate increase, or reject the requested Price Adjustment in its entirety and allow the contract to expire at the end of the contract term. If the City elects not to accept a requested Price Adjustment, the Purchasing Division may issue a new solicitation.
- 21.6 Prices offered shall be used for bid analysis and for Agreement pricing. In cases of errors in extensions or totals, the unit prices offered will govern.
- 21.7 Upon expiration of the Agreement term the successful bidder, agrees to hold over under the terms and conditions of this Agreement for a reasonable period of time to allow the City to re-bid an Agreement, not to exceed ninety (90) days. Vendor will be reimbursed for this service at the prior Agreement rate(s). Vendor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extends beyond and survives the expiration or termination of this Agreement.
- 21.8 Delivery of goods and/or services shall not be suspended by the Vendor without a 30-day prior written notice to the Sr. Purchasing Manager.
- 21.9 Only Published price changes will be accepted. Prices that were in effect at the time of

EXHIBIT B
PAYMENT SCHEDULE

See next page.



PRICE SUBMITTAL

Event ID	Page
CFW01-23-0063	3
Event Round	Version
1	1
Event Name	
ITB Valve Actuators, Cones, Parts, Repair and Services	
Start Time	Finish Time
05/03/2023 08:00:00 CDT	05/18/2023 13:30:00 CDT

Invited: EVENT DETAILS

Submit To: City of Fort Worth
 FINANCIAL MANAGEMENT SERVICES
 FINANCE - City Hall Purchasing
 200 Texas St. (Lower Level Rm 1501)
 Fort Worth TX 76102-6314
 United States

Email: FMSPurchasingResponses@fortworthtexas.gov

Line:	Description:	Qty	Unit	UnitPrice	Total
Line: 1	10" pressure reducing valve, class 125 flanged, with anti cavitation device, pressure from 100-Opsi Brand: _____	5.00	EA		No Bid
Line: 2	12" Check valve, class 125 flanged, with external air dampened arm, suitable for sewer applications Brand: <u>Pratt</u>	5.00	EA	\$9,366	\$46,830
Line: 3	54" Butterfly valve, class 125 flanged, with hand wheel operator, right hand open Brand: <u>Pratt</u>	5.00	EA	\$89,103	\$445,515
Line: 4	10" butterfly valve, class 125 flanged, with 2" operating nut, right hand open Brand: <u>Pratt</u>	5.00	EA	\$2,678	\$13,390
Line: 5	6" resilient gate valve, class 125 flanged, with hand wheel, right hand open Brand: <u>Clow</u>	5.00	EA	\$1,703	\$8,515
Line: 6	30" resilient gate valve, class 125 flanged, with 2" operating nut, right hand open, with bypass valve Brand: <u>Clow</u>	5.00	EA	\$81,470	\$407,350
Line: 7	6" pressure sustaining valve with flow control, class 125 flanged, 50-5psi, 250 gpm Brand: _____	5.00	EA		No Bid
Line: 8	24" duck bill valve, Class 125 flanged Brand: <u>Red Valve</u>	5.00	EA	\$9,682	\$48,410



PRICE SUBMITTAL

Event ID CFW01-23-0063	Page 4
Event Round 1	Version 1
Event Name ITB Valve Actuators, Cones, Parts, Repair and Services	
Start Time 05/03/2023 08:00:00 CDT	Finish Time 05/18/2023 13:30:00 CDT

Invited: EVENT DETAILS

Submit To: City of Fort Worth
FINANCIAL MANAGEMENT SERVICES
FINANCE - City Hall Purchasing
200 Texas St. (Lower Level Rm 1501)
Fort Worth TX 76102-6314
United States

Email: FMSPurchasingResponses@fortworthtexas.gov

Line:	Description:	Qty	Unit	UnitPrice	Total
9	8" Plug Valve, class 125 flanged, with gearbox and handwheel operator Brand: Pratt	5.00	EA	\$2,323	\$11,615
10	4" check valve, class 125 flanged, with weighted arm, suitable for sewer applications Brand: Pratt	5.00	EA	\$1,480	\$7,400
11	2" air release valve, flanged connection, non metallic body, suitable for sewer application on a lift station, with non slam device Brand: DeZurik	5.00	EA	\$677	\$3,385
12	Field Service Regular Hours, Monday - Friday, 7:00 am to 4:00 pm	2000.00	HR	\$125	\$250,000
13	Field Service Overtime Hours, Mon- Fri 4:01 pm to 6:59 am	400.00	HR	\$187.50	\$75,000
14	Shop Service Regular Hours, Monday - Friday, 7:00 am to 4:00 pm	2000.00	HR	\$125	\$250,000
15	Shop Service Overtime Hours, Mon- Fri 4:01 pm to 6:59 am	430.00	HR	\$187.50	\$80,625
16	Parts-Cost Plus(+) 15 percent of Manufacturers List Price' (Apply Mark Up Percentage Bid to \$1,000 to Obtain Correct Sum. Example 100X10%=100;1000 +100=1,100)	1.00	EA		15%



PRICE SUBMITTAL

Event ID CFW01-23-0063	Page 5
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Fort Worth TX 76102-6314
United States

Email: FMSPurchasingResponses@fortworthtexas.gov

Line:	Description:	Qty	Unit	UnitPrice	Total
17	Ross 18" Rotory Cone Valve with water hydraulic cylinder, Model # RCVWH,125# flanged, DI body, head & plug. 2 seats, stainless steel water hydraulic cylinder operator, NSF61 approved epoxy coating on all interior and exterior ferrous surfaces. The water hydraulic controls to be valve mounted and consist of a 4-way solenoid, 2-2 ways, strainer, open/close speed controls, isolation valves & 2 limit switches.	1.00	EA		No Bid
18	Ross 24" Rotory Cone Valve with water hydraulic cylinder, Model # RCVWH,125# flanged, DI body, head & plug. 2 seats, stainless steel water hydraulic cylinder operator, NSF61 approved epoxy coating on all interior and exterior ferrous surfaces. The water hydraulic controls to be valve mounted and consist of a 4-way solenoid, 2-2 ways, strainer, open/close speed controls, isolation valves & 2 limit switches.	1.00	EA		No Bid
Total Bid Amount:					\$1,648,035.00

Prompt Payment Discount Terms: _____ Percent _____ Days (i.e. 3% Net 15, etc.)"

A bid of "0" (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of "no bid" or no response (space left blank) will be interpreted by the City that the Bidder does not wish to bid on that item.

CITY COUNCIL AGENDA



[Create New From This M&C](#)

DATE: 8/8/2023 **REFERENCE NO.:** **M&C 23-0626 **LOG NAME:** 13PITB 23-0063 VALVE ACTUATORS, PARTS AND SERVICES LSJ WATER

CODE: P **TYPE:** CONSENT **PUBLIC HEARING:** NO

SUBJECT: (ALL) Authorize Execution of Agreements with Rexa, Inc., Machining & Valve Automation Services LLC and Municipal Valve & Equipment Company Inc. for Valve Actuators, Parts and Services in a Total Annual Amount Up to \$2,500,000.00 for the Water Department

RECOMMENDATION:

It is recommended that the City Council authorize execution of agreements with Rexa, Inc., Machining & Valve Automation Services, LLC and Municipal Valve & Equipment Company Inc., for valve actuators, parts and services in a total annual amount up to \$2,500,000.00 for the initial term and authorize four one-year renewal options for the Water Department.

DISCUSSION:

The Water Department approached the Purchasing Division to establish an annual agreement for new valves, appurtenances, actuators, replacement parts, on-site or shop repairs, startup services and field troubleshooting. Purchasing issued Invitation to Bid (ITB) No. 23-0063 describing the requirements for the new equipment and the maintenance for all existing motorized valve actuators and manual valve actuators that are used to regulate and control flow through the pipelines throughout the City. The bid was advertised in the *Fort Worth Star-Telegram* on May 3, 2023, May 10, 2023, and May 17, 2023. The City received four bids. However, upon evaluation, Vector Controls did not score at least 50% or more of the total available points for technical criteria; therefore, they were not qualified to receive points for pricing.

An evaluation panel consisting of representatives from the Transportation and Public Works and Water Departments reviewed and scored the submission using Best Value criteria. The individual scores were averaged for each of the criteria and the final scores are listed in the table below.

Bidders	Evaluation				
	a	b	c	d	Total
Rexa, Inc.	13	10	10	35	68
Machining & Valve Automation Services LLC	13	10	10.5	18	51
Municipal Valve & Equipment Company Inc.	14	11.5	10	7	43

Best Value Criteria:

- a) Bidders' qualification, experience and references
- b) Availability of resources and personnel to provide services
- c) Bidders' ability to meet the City's needs
- d) Cost of service

After evaluation, the panel concluded that Rexa, Inc., Machining & Valve Automation Services LLC, and Municipal Valve & Equipment Company Inc. presented the best value for the City. Therefore, the panel recommends that Council authorize annual agreements with Rexa, Inc., Machining & Valve Automation Services LLC and Municipal Valve & Equipment Company Inc. No guarantee was made

that a specific amount of services would be purchased. Staff certifies that the recommended vendor's bids meet specification.

Funding is budgeted in the Wastewater Department within the Water and Sewer Fund. The maximum amount allowed under these agreements collectively will be \$2,500,000.00; however, the actual amount used will be based on the need of the department and available budget.

DIVERSITY AND INCLUSION (DVIN): A waiver of the goal for Business Equity subcontracting requirement is approved by the DVIN-BE, in accordance with the Business Equity Ordinance, because the purchase of goods or services is from sources where subcontracting or supplier opportunities are negligible.

AGREEMENT TERMS: Upon City Council approval, the agreements shall begin upon execution and expire one year from that date.

RENEWAL OPTIONS: The contracts may be renewed for up to four (4) one-year terms at the City's option. This action does not require specific City Council approval provided that City Council has appropriated sufficient funds to satisfy the City's obligations during the renewal term.

ADMINISTRATIVE CHANGE ORDER: An administrative change order or increase may be made by the City Manager up to the amount allowed by relevant law and the Fort Worth City Code and does not require specific City Council approval as long as sufficient funds have been appropriated.

FISCAL INFORMATION/CERTIFICATION:

The Director of Finance certifies that upon approval of the recommendation, funds are available in the current operating budget, as previously appropriated, in the Water and Sewer Fund. Prior to an expenditure being incurred, the Water Department has the responsibility to validate the availability of funds.

BQN\

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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Submitted for City Manager's Office by:

Reginald Zeno (8517)
Dana Burghdoff (8018)

Originating Department Head:

Reginald Zeno (8517)
Chris Harder (5020)

Additional Information Contact:

Jo Ann Gunn (8525)
La'Kita Slack-Johnson (8314)

ATTACHMENTS

- [13PITB 23-0063 Valve Actuators, Parts and Services.docx](#) (Public)
- [Approved Waiver of Business Equity Goal 4.7.23.pdf](#) (CFW Internal)
- [FID_TABLE - Valves.xlsx](#) (CFW Internal)
- [Machining & Valve 1295.pdf](#) (CFW Internal)
- [Machining & Valve Automation Services, LLC Sams.pdf](#) (CFW Internal)

[Municipal Valve & Equipment Company Inc. Sams.pdf](#) (CFW Internal)

[MVE Form 1295.pdf](#) (CFW Internal)

[Rexa Form 1295.pdf](#) (CFW Internal)

[Rexa Sams.pdf](#) (CFW Internal)

City Council (FY24)

4. i.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider action on a Resolution approving a Professional Services Agreement between the Town of Addison and RJN Group for sanitary flow monitoring and authorizing the City Manager to execute the agreement in an amount not to exceed \$63,340.

BACKGROUND:

The purpose of this item is to approve a Professional Services Agreement (PSA) with RJN Group (RJN) to perform sanitary flow monitoring services to gather data for the Town's water and wastewater master plan.

Sanitary sewer flow monitoring serves as a crucial guide for shaping future infrastructure decisions. Its insights play a pivotal role in steering the Town's Water and Wastewater Master Plan. The Water and Wastewater Plan is being revised along with the development of the Town's Comprehensive Plan. This synchronized approach ensures a united strategy between the two plans.

RJN was selected for these services based on their specialization in condition assessments and underground infrastructure solutions. The Town has worked with RJN in the past to help identify the location of water main leaks and was very satisfied with their service.

The funding for these services will come out of the fiscal year 2024 utility budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - RJN Group

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH RJN GROUP FOR SANITARY SEWER FLOW MONITORING IN AN AMOUNT NOT TO EXCEED \$63,340.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with RJN Group for Sanitary Sewer Flow Monitoring 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 RJN Group in an amount not-to-exceed of \$63,340.00, 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 **9th** day of **JANUARY**, 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT SANITARY SEWER FLOW MONITORING

This Professional Services Agreement ("Agreement") is made by and between the **Town of Addison, Texas** ("City"), and **RJN Group** ("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 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, 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

Upon written notice to proceed by City, Professional agrees to provide to City Sanitary Sewer Flow Monitoring ("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 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 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 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.

(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 (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 SIXTY-THREE THOUSAND, THREE HUNDRED AND FOURTY DOLLARS (\$63,340.00).

(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 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 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 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 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 NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. 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 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 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 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 investigation 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:

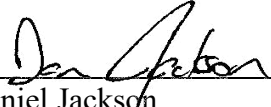
TOWN OF ADDISON, TEXAS

RJN GROUP

By: _____

David Gaines
City Manager

By: _____


Daniel Jackson
Senior Vice President

Date: _____

Date: December 5, 2023

Notice Address:

Notice Address:

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

RJN Group
Attn: Jason Maldonado, Client Manager
14755 Preston Rd
Dallas, Texas 75254
E: jmaldonado@rjnmail.com

Addison Contract ID:
PSA_STW_November 29, 2023_v1.20220427

EXHIBIT "A"
SCOPE OF SERVICES

(attached)



October 31, 2023

Mr. Jason Sutton
Utilities Manager Line Maintenance
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

Subject: Town of Addison Sanitary Sewer Flow Monitoring 2023

Dear Mr. Sutton:

Thank you for the opportunity to present you with this proposal for sanitary sewer flow monitoring services for the Town of Addison. We are passing this proposal along to you for your review. We understand the purpose is to analyze the sanitary flows for hydraulic modeling purposes. The flow monitoring involves installing six gravity flow meters and two rain gauges for a period of sixty (60) days with the option for a 30-day extension in the referenced locations. The meters will be placed in the manhole recommended by you. If that manhole is not suitable due to hydraulics or structural integrity, up to two manholes from original location will be investigated as alternatives. Upon completion of the flow monitoring period, finalized flow data will be provided.

Price and Schedule Summary

This project will be invoiced on a lump sum and unit basis for a total not-to-exceed fee of \$63,340.00. Complete Scope of Services, Pricing, and Project Map are provided in the following Exhibit A.

We are looking forward to the opportunity to work with Town of Addison on this important project. It is our pleasure to submit this proposal to you. Please feel free to contact us if you would like to discuss this proposal or have any questions.

Sincerely,

Stephen H. Jeffus, PE
Regional Client Services Director

Daniel Jackson, PE
Senior Vice President

EXHIBIT A

SCOPE OF SERVICES AND FEE

RJN is proposing the following scope of services:

1. Site Investigation

RJN shall perform a site investigation at the location selected by the Town for the purpose of determining the viability of the targeted location. The investigation includes an evaluation of the hydraulic conditions, access, safety, and other issues that may affect the data quality or sensor survival. If the location is identified as unsuitable, RJN shall investigate up to two alternate sites (upstream or downstream) for consideration. Site investigation reports shall include a general site location map, a sketch of the installation, and the physical characteristics including the pipe diameter, pipe material, manhole depth and other attribute information.

2. Flow Monitoring Equipment

After conducting a site visit and evaluating the proposed meter sites, a flow meter will be chosen that is fit for this purpose. In most applications, the equipment will be redundant depth-velocity meters outfitted with a pressure transducer, ultrasonic depth sensors, and Doppler velocity sensor. This equipment will be activated to record the depth and velocity at five-minute intervals.

3. Wireless Telemetry

Remote Terminal Units (RTU) shall be provided to remotely collect the data. On a daily basis, the data stored in the remote RTU will be collected by the host system.

4. Installation

With a depth-velocity meter, the sensors will be mounted on a thin metal ring inserted on the upstream pipe. The cabling will be secured to the manhole walls and attached to a data logger at the top of the manhole for easy access. Prior to leaving the site, the flow monitor will be configured and activated. Finally, the equipment will undergo a series of diagnostic tests and calibrations to validate and confirm the meter data.

5. Hydraulic Calibrations

The monitored location will be calibrated at installation, meter pull, and one additional calibration during the flow monitoring period. Calibration involves comparing the returned sensor values against independent devices to ensure that the hydraulic characteristics and various flow regimes will support the accuracy level desired. A velocity profile will also be obtained during each calibration by measuring the instantaneous velocity at pre-defined depths, and then integrated to derive an average for comparison to the meters' calculated average velocity.

6. Data Management and Maintenance

The flow meters will be collected by the Host System daily, depending on the signal strength at the selected location, and the data shall be reviewed by the Data Analyst twice per week. During each review, data will be graphed to check for inconsistencies. A field crew will be dispatched to diagnose the problem and make necessary adjustments or repairs. Equipment found to be working improperly will either be repaired at the site or replaced with a spare unit to minimize the data downtime. Service visits will be conducted as necessary.

7. Meter Removals

Field crew shall remove the temporary flow meters at the completion of the flow monitoring period. If the Town believes further data is necessary, the Town will inform RJN if an extended period for flow monitoring will be needed at least two weeks in advance of removal of the temporary flow meters. If the flow monitoring period is extended, then the project schedule will be extended by the same amount of time.

8. Data Analysis and Quality Control

RJN analysts will analyze data from the monitoring site using various analytical tools, such as hydrographs, scattergraphs, and, if applicable, flow balancing methods to verify the accuracy and precision of the equipment. The data shall be processed and edited in accordance with the field confirmations to produce final data sets for each site. Data processing efforts shall ensure that the raw data is preserved.

9. Data Delivery

Four weeks after the meter removal RJN will submit site reports, hydrographs, and scattergraphs, and depth, velocity, and flow quality data in electronic format in Excel or .csv format as you prefer.

RJN’s fee is broken out in the following services:

Service	Quantity	Unit	Unit Cost	Fee
Project Administration and Management	1	LS	\$3,550	\$3,550
Meter Investigations	6	EA	\$800	\$4,800
Meter Installations	6	EA	\$1,030	\$6,180
Rain Gauge Investigation and Installation	2	EA	\$290	\$580
Meter Maintenance	360	MD	\$65	\$23,400
Rain Gauge Maintenance	120	MD	\$9	\$1,080
Data Processing and Deliverables	1	LS	\$11,510	\$11,510
<i>Subtotal</i>				<i>\$51,100</i>

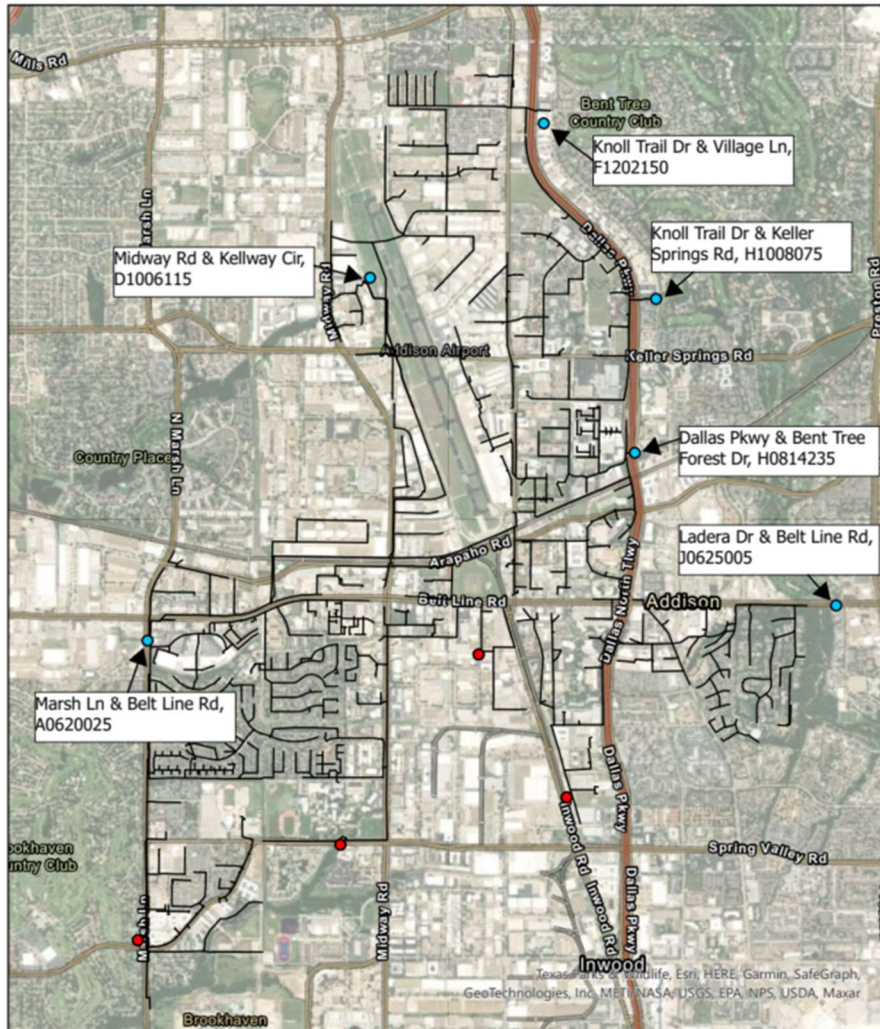
Meter 30-Day Extension ^{1/}	180	MD	\$65	\$11,700
Rain Gauge 30-Day Extension ^{1/}	60	MD	\$9	\$540
<i>Subtotal</i>				<i>\$12,240</i>
Total				\$63,340

1/ If needed, with Town of Addison's approval

6 meters and 2 rain gauges for 60 days with 30-day extension

Not-To-Exceed Total Cost: \$63,340

The following map is the location of the proposed flow meters.



City Council (FY24)

4. j.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider action on a Resolution approving an agreement between the Town of Addison and Fuquay Inc. for Manhole Rehabilitation Services and authorizing the City Manager to execute the agreement in an amount not to exceed \$60,000.

BACKGROUND:

As part of the wastewater system maintenance program, the Utilities Division of the Public Works and Engineering Services Department annually contracts for manhole rehabilitation services.

These services will be purchased through BuyBoard. This state-wide collective purchasing agency bids out services and products for its members to provide the leverage needed for better pricing on products, equipment, and services.

The attached resolution includes the unit price proposal, which reflects the cost of the planned purchase items. This purchase is within the amount approved in the Fiscal Year 2024 Utility Operations and Maintenance Budget.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - Fuquay

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, APPROVING AN AGREEMENT WITH FUQUAY, INC. FOR MANHOLE REHABILITATION SERVICES IN CONFORMANCE WITH PROPOSAL NO. 635-21; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement for annual manhole rehabilitation services in conformance with Proposal No. 635-21 submitted by Fuquay, Inc.

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

SECTION 1. The City Council hereby approves the contractor agreement between the Town of Addison and Fuquay, Inc. for annual manhole rehabilitation services in conformance with Proposal No. 635-21, in an amount not-to-exceed of \$60,000, a copy of which is attached to this Resolution as **Exhibit A**. The City Manager is hereby authorized to execute the agreement.

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

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **9th** day of **January 2024**.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

CONTRACTOR AGREEMENT

Annual Manhole Rehabilitation Services

Proposal #635-21

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

RECITALS

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

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

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

Section 1. Scope of Services

Upon issuance of one more written notice(s) to proceed by CITY, CONTRACTOR agrees to provide to CITY the necessary services, labor, materials, equipment and supplies related to the annual manhole rehabilitation services project (the "Project") as set forth in Exhibit "A" (Scope of Services) and as more particularly described in the Contract Documents.

Section 2. Term of Agreement

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

Section 3. Contract Documents

- A. This Agreement is a part of the Contract Documents, which include:
- 1) This Agreement, including any exhibits or addenda hereto;
 - 2) CITY'S request for proposals for the Project (the "Bid") together with all applicable performance standards and regulations applicable to the services (including all specifications and warranties applicable to the materials for the Project);
 - 3) CITY'S written notice(s) to proceed to the CONTRACTOR;
 - 4) CONTRACTOR's proposal dated December 13 2023, attached hereto as "Exhibit A" (the "Proposal" or "Response");
 - 5) Properly authorized change orders; 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, or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this Section 3. If discrepancies are found that may impact CONTRACTOR's work or services related to the Project, it shall be the CONTRACTOR's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the Project. Should CONTRACTOR fail or refuse to seek a

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

Section 4. Contractor Obligations

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

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

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

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

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

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

Section 5. Payment

A. CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in conformance with the Contract Documents in a total amount not to exceed SIXTY THOUSAND AND NO/1 00 DOLLARS (\$60,000) ("Contract Price"), subject to additions or deletions for changes or extras agreed upon in

writing. Unless otherwise provided herein, payment to CONTRACTOR shall be monthly based on the CONTRACTOR'S monthly progress report and detailed monthly itemized statement for services that shows the names of the CONTRACTOR'S employees, agents, contractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form reasonably acceptable to CITY. CITY shall pay such monthly statements within thirty (30) days after receipt and CITY verification of the services.

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

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

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

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

Section 6. Responsibilities

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

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

Section 7. Time for Performance

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with CITY's requirements. CONTRACTOR shall have completed the work in conformance with the schedule(s) established by CITY, subject to any extension(s) approved by CITY in conformance with this Section 7.

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

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

D. CONTRACTOR understands and agrees that time is of the essence of this contract, and that for each day of delay beyond the scheduled provided for the completion of any component of the work or services herein specified and contracted for (after due allowance for such extension of time as may otherwise be provided for extension of time herein), CITY may withhold permanently from the Contract Price an amount equal to \$250 per day, which the parties mutually agree is the amount reasonably necessary to mitigate the effect upon CITY of CONTRACTOR's delay in performance for this particular Project.

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

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

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

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

Section 8. Ownership of Project; Bill of Sale

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

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

Section 9. Termination

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

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

Section 10. Insurance

A. CONTRACTOR shall during the term hereof maintain in full force and effect all insurance policies required by the CITY, which shall strictly comply with CITY's adopted insurance requirements for projects of this nature and scope, including, at a minimum: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONTRACTOR's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence (\$2,000,00.00 aggregate) for injury to persons (including death), and for property damage; (ii) policy of automobile liability insurance covering any vehicles owned and/or operated by CONTRACTOR, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of CONTRACTOR's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00.

B. All insurance and certificate(s) of insurance shall contain the following provisions: (1) name CITY, its officers, and employees as additional insureds as to all applicable coverage with the exception of

Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against CITY for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to CITY of any material change of or to the insurance required herein.

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

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

Section 11. Indemnification.

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

Section 12. Assignment

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

Section 13. Applicable Laws

CONTRACTOR shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the state of Texas shall govern this Agreement; and venue for any action

concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

Section 14. Default of CONTRACTOR

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

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

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

Section 15. Adjustments in Services

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

Section 16. Execution Becomes Effective

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

Section 17. Agreement Amendments

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

Section 18. Severability.

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

Section 19. Independent Contractor.

In satisfying the conditions of and providing the services under this Agreement, CONTRACTOR is acting independently, and CITY assumes no responsibility or liabilities to any third party in connection with

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

Section 20. Right-Of-Access.

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

Section 21. Notice.

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

If to CITY: David Gaines, City Manager
City of Town of Addison
5300 Belt Line Road
Town of Addison, Texas 75254

With copy to: Whitt L. Wyatt, City Attorney
Wyatt Hamilton Findlay, PLLC
923 Roslyn Ct.
Denver, CO 80230

If to CONTRACTOR: Fuquay, Inc.
4861 Old Hwy 81
New Braunfels, Texas 78132

Section 22. Counterparts

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

Section 23. Recitals; Exhibits.

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

Section 24. Survival of Obligations.

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

Section 25. Sales and Use Taxes

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

Section 26. Audits and Records.

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

Section 27. Conflicts of Interests.

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

Section 28. Hazardous Materials.

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

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

Pursuant to Texas Government Code Chapter 2270, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, the CONTRACTOR's execution of this Agreement shall serve as verification that the Organization does not current discriminate against firearm and ammunition industries and will not for the term of the contract. Discriminating means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.

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

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

FOR CITY:

Town of Addison, Texas

By: _____
David Gaines, City Manager

Date: _____

ATTEST:

By: _____
Irma Parker, City Secretary

FOR CONTRACTOR:

Fuquay, Inc.

By: Dauphen Jackson
Name: DAUPHEN JACKSON

Title: CEO

Date: 12/14/2023

EXHIBIT A

Scope of Services
Proposal #635-21

(attached)



PROPOSAL

DATE: December 13, 2023
PROJECT: ADDISON 2024 MANHOLE REHABILITATION

Cured In Place Pipe CIPP for Pipeline Rehabilitation #635-21

					LIST PRICING	MEMBER PRICING	PROJECT SPECIFIC DISCOUNTED PRICING
<u>SECTION II: UV CURED PRODUCT</u>							
ITEM 22	Structure (Manhole) Rehabilitation and Corrosion Protection and Related Items						
Section II Item 22	22100	Condition Standards and Repair Methods -- New Construction	SQFT	1	\$15.00	\$15.00	\$13.00
Section II Item 22	22101	Condition Standards and Repair Methods -- Condition 1	SQFT	1	\$19.50	\$19.50	\$16.00
Section II Item 22	22102	Condition Standards and Repair Methods -- Condition 2	SQFT	1	\$31.00	\$31.00	\$26.00
Section II Item 22	22103	Condition Standards and Repair Methods -- Condition 3	SQFT	1	\$45.00	\$45.00	\$41.00
Section II Item 22	22104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	1	\$267.50	\$267.50	\$240.00
Section II Item 22	22105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material-Labor & Equipment	HR	1	\$203.50	\$203.50	\$185.00
Section II Item 22	22106	Manhole Bench and Invert Repair 4' Diameter Base	EA	1	\$669.00	\$669.00	\$600.00
Section II Item 22	22107	Manhole Bench and Invert Repair 5' Diameter Base	EA	1	\$776.00	\$776.00	\$675.00
Section II Item 22	22108	Manhole Bench and Invert Repair 6' Diameter Base	EA	1	\$909.50	\$909.50	\$775.00
Section II Item 22	22109	Manhole Bench and Invert Repair 8' Diameter Base	EA	1	\$1,193.00	\$1,193.00	\$1,050.00
Section II Item 22	22110	Structure Repair (any size)	SQFT	1	\$48.00	\$48.00	\$41.00
Section II Item 22	22111	Sand Blasting	SQFT	1	\$13.00	\$13.00	\$12.00
Section II Item 22	22112	All Sizes Installation of Manhole Chimney Seal	EA	1	\$802.50	\$802.50	\$725.00
Section II Item 22	22113	New manhole frame and cover	EA	1	\$1,872.50	\$1,872.50	\$1,700.00
Section II Item 22	22114	Premium Manhole frame and cover	EA	1	\$2,675.00	\$2,675.00	\$2,450.00
Section II Item 22	22115	Adjust manhole frame and cover	EA	1	\$856.00	\$856.00	\$725.00
Section II Item 22	22116	Manhole Rehabilitation - Cementitious (CRM) only -- 1/2 inch thickness	SQFT	1	\$18.00	\$18.00	\$15.00
Section II Item 22	22117	Manhole Rehabilitation - Cementitious (CRM) only -- 1 inch thickness	SQFT	1	\$24.50	\$24.50	\$19.00
Section II Item 22	22118	Manhole Rehabilitation - Polyurethane (PCM) only -- 250 mils thickness	SQFT	1	\$27.00	\$27.00	\$25.00
Section II Item 22	22119	Manhole Rehabilitation - Polyurethane (PCM) - Additional 1 mil thickness	SQFT	1	\$0.25	\$0.25	\$0.21
Section II Item 22	22120	Remove and/or Abrade Existing Coatings within Manhole or Structure	SQFT	1	\$13.00	\$13.00	\$10.00
Section II Item 22	22121	Provide and Install Internal Drop Assembly, up to 12"	EA	1	\$1,872.50	\$1,872.50	\$1,700.00
Section II Item 22	22122	Provide and Install Internal Slide	EA	1	\$856.00	\$856.00	\$725.00
Section II Item 22	22123	Provide and Install Stainless Steel Insert Dish-24"	EA	1	\$241.00	\$241.00	\$200.00
Section II Item 22	22124	Provide and Install HDPE Insert Dish-24"	EA	1	\$80.50	\$80.50	\$65.00
Section II Item 22	22125	Provide and Install Carbon Fiber Insert Dish-24"	EA	1	\$123.00	\$123.00	\$105.00
Section II Item 22	22126	Provide and Install Stainless Steel Insert Dish-32"	EA	1	\$315.50	\$315.50	\$280.00

Section II	Item	22127	Provide and Install HDPE Insert Dish-32"	EA	1	\$107.00	\$107.00						\$95.00
Section II	Item	22128	Provide and Install Carbon Fiber Insert Dish-32"	EA	1	\$230.00	\$230.00						\$205.00
Section II	Item	22129	Install Ring Encasement	EA	1	\$856.00	\$856.00						\$750.00
Section II	Item	22130	Travel and Mobilization- Manhole Rehabilitation Crew from New Braunfels, TX	MILE	1	\$16.00	\$16.00						\$0.50

****TOTAL QUANTITIES OF MH REHAB NOT TO EXCEED \$60,000.00
**QUANTITIES AND TYPE OF WORK IS UNKNOWN
QUANTITIES AS MEASURED AT INSTALL WILL BE INVOICED AT UNIT PRICES LISTED.

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE WORK TO BE PERFORMED IN ACCORDANCE WITH THE DRAWING AND SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER. ANY ALTERATION OR DEVIATION FROM SPECIFICATIONS AND DRAWINGS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE QUOTATION. WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE ON ABOVE WORK TO BE FURNISHED BY FUQUAY, INC. **THERE MAY BE AN ADDITIONAL CHARGE FOR PROVIDING A WAIVER OF SUBROGATION AND/OR BEING LISTED AS AN ADDITIONAL INSURED ON FUQUAY'S INSURANCE. THE CHARGE SHALL BE EQUAL TO THE AMOUNT CHARGED TO FUQUAY FOR SAID SERVICE.**

EXCLUSIONS:

**BOND, SALES TAX, AND OCP
PERMITS, BURDENS, FEES
WASTE HAUL-OFF
SURVEYING
SITE CLEARING**

**BARRICADES, SIGNS, TRAFFIC HANDLING
INFILTRATION REPAIR
DEWATERING
ALL BYPASS PUMPING AND PIPE PLUGGING
PROVIDING AND/OR PERFORMING ANY TESTING**

TERMS:

PAYMENT FOR SERVICES SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF THE DATE/MONTH THE WORK IS PERFORMED. THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN THIRTY DAYS.

RESPECTFULLY SUBMITTED,

FUQUAY, INC.

ACCEPTED BY:

COMPANY:

NAME:

TITLE:

City Council (FY24)

4. k.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management

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

AGENDA CAPTION:

Consider action on Change Order #1 for the Fiscal Year 2024 (FY24) to the contract with Jim Bowman Construction Company LP (Bowman) for concrete and asphalt repairs and authorize the City Manager to execute the Change Order in an amount not to exceed \$300,000.

BACKGROUND:

The purpose of this item is to approve a change order with Bowman for the FY24.

As a part of the FY24 budget process, City Council approved a decision package with a one-time expenditure of \$300,000 for the replacement of damaged brick pavers along Arapaho Road with stained, stamped concrete.

On May 28, 2019, the City Council sanctioned an Indefinite Quantity Indefinite Duration (IDIQ) contract with Bowman. This contract was approved for an amount not to exceed \$600,000 and was dedicated to annual concrete and asphalt repairs.

This change order will bring the total contract amount up to a total of \$900,000 for FY24. Funding for this project was approved as a decision package in the FY24 budget from the Streets Self-Funded Projects Fund.

RECOMMENDATION:

Administration recommends approval.

Attachments

Change Order - Jim Bowman Construction



TOWN OF ADDISON CHANGE ORDER FORM

Change Order Number 1
Contract: FY24 Annual Pavement IDIQ
Project Manager: Juan Gutierrez Date:
12/14/2023

A. INTENT OF CHANGE ORDER

Addition of \$300,000 to Jim Bowman’s Pavement IDIQ Contract for the Fiscal Year 2024.

B. REASON FOR CHANGE

A decision package was approved as a part of the FY24 budget process. This was a one-time increase of \$300,000 for replacing damaged pavers along Arapaho Road with stamped concrete.

C. EFFECT OF CHANGE ON CONTRACT PRICE

This change order will have the following effect on the cost on this contract:

Description	Amount
Original Contract Amount	\$600,000
Amount of this Change Order	\$300,000
Revised Contract Amount	\$900,000

D. AGREEMENT

By the signatures below, duly authorized agent of the Town of Addison, Texas and Jim Bowman Construction LP. do hereby agree to append this Change Order Number 1 to the fiscal year 2024 between themselves, for the contract dated 5/28/2019.

Contractor Information:
Jim Bowman Construction Company, LP.
2716 S Rigsbee Drive
Plano, Texas 75074

Adrian Bowman
General Manager

Date

Shannon Hicks, P.E.
Director, Public Works and Engineering

Date

David Gaines
City Manager

Date

City Council (FY24)

4. I.

Meeting Date: 01/09/2024

Department: Public Works

Pillars: Excellence in Asset Management
Excellence in Transportation Systems
Gold Standard in Financial Health

Milestones: Implement the Asset Management Plan in accordance with the Asset Management Policy, utilizing information systems
Improve all modes of transportation with infrastructure in an acceptable condition and well maintained

AGENDA CAPTION:

Consider action on a Resolution for an Advanced Funding Agreement for Highway Safety Improvement Off System (AFA CSJ 0918-47-441) between the Texas Department of Transportation and the Town of Addison regarding traffic signal improvements at Belt Line Road and Business Avenue and authorize the City Manager to execute the agreement.

BACKGROUND:

The purpose of this item is to enter into an Advanced Funding Agreement for a Highway Safety Improvement (HSIP) Grant from the Texas Department of Transportation (TxDOT) for the construction of replacement traffic signals at the Belt Line Road and Business Avenue intersection in an amount not to exceed \$591,757.

In November 2022, the Town staff collaborated with Kimley-Horn and Associates to pursue HSIP grant funding from TxDOT for traffic signal upgrades at the intersection of Belt Line Road and Business Avenue. The decision to upgrade this intersection was made by reviewing comprehensive crash data. This grant positions the Town to access \$591,757 in construction funds. The Town is obligated to cover the design costs and an estimated \$55,270 for direct state expenses totaling approximately \$104,770 in addition to any construction cost overruns. This project will bring this intersection up to the Town's current traffic signal standards.

Anticipated for TxDOT advertisement in August 2024, the project's construction will be overseen by TxDOT, alongside similar HSIP signal improvement initiatives in the region.

If approved, this project would be budgeted for FY 2025 in the Self-Funded Special Projects Fund.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - TxDOT HSIP Advanced Funding Agreement
Advanced Funding Agreement for HSIP Grant Funding

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADVANCED FUNDING AGREEMENT FOR HIGHWAY SAFETY IMPROVEMENT OFF-SYSTEM (AFA CSJ 0918-47-441) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION REGARDING TRAFFIC SIGNAL IMPROVEMENTS AT BELTLINE ROAD AND BUSINESS AVENUE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes;

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision;

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of state and federal funds;

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects;

WHEREAS, the Town has allocated funding from the Town's Self-Funded Special Projects Fund for this project;

WHEREAS, the Town of Addison is a local government and is authorized to enter into the Advanced Funding Agreement with Texas Department of Transportation for traffic signal improvements and;

WHEREAS, the City Council finds it is in the best interest of the Town of Addison to enter into the Advanced Funding Agreement with the Texas Department of Transportation.

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

SECTION 1. The City Council hereby approves entering into the Advance Funding Agreement for Highway Safety Improvement Project Off-System (AFA CSJ 0918-47-441), and the City Manager, David Gaines, is hereby authorized to execute the same.

SECTION 2. The funding source for the contributions of the Town of Addison has been identified as the Town's Self-Funded Special Projects Fund, and the Town acknowledges and accepts that the Town will be responsible for all overruns, if any.

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

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **9th** day of **JANUARY 2024**.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For
Highway Safety Improvement Project
Off-System**

THIS AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and the **Town of Addison**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **116522** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **traffic signal improvements**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated _____, which is attached to and made a part of this Agreement as Attachment C, Resolution, Ordinance, or Commissioners Court Order (Attachment C). A map showing the Project location appears in Attachment A, Location Map Showing Project (Attachment A), which is attached to and made a part of this Agreement.

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.*	Local Government	Utilities	Article 8
2.*	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	State	Construction Responsibilities	Article 12
5.*	Local Government	Right of Way and Real Property	Article 14

An asterisk next to the party responsible for specific work in the above table indicates that the associated specific work is not anticipated as part of the Project and is therefore not included in the budget; however, the party indicated will be responsible for that specific work if that work is not the subject of another agreement and the State determines that the specific work has become necessary to successful completion of the Project.

2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of **Engineering of traffic signal improvements by Local, improve traffic signals, Install Flashing Yellow Arrow at Beltline Rd. At Business Ave. (0918-47-441).**

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment B, Project Budget (Attachment B) which is attached to and made a part of this Agreement.

A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment B. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment B shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government.
- F. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
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- Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment B. At a minimum, this amount shall equal the Local Government’s funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State’s estimated construction oversight and construction cost.
 - J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
 - K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the “Texas Department of Transportation” or may use the State’s Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT’s Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
 - L. The State will not pay interest on any funds provided by the Local Government.
 - M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
 - N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
 - O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
 - P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
 - Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide

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the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government’s proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government’s failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance

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approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State’s request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem’s mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State’s *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and

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environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

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14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
Town of Addison 16801 Westgrove Dr. Addison, TX 75001	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

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19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government.

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

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25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such

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litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure

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compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).

- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State’s federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State’s DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State’s DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation’s Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State’s DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this*

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Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification

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shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$ _____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the

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AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

Each party is signing this Agreement on the date stated under that party's signature.

THE STATE OF TEXAS

THE LOCAL GOVERNMENT

Signature

Kenneth Stewart
Typed or Printed Name

Director of Contract Services
Typed or Printed Title

Date

Signature

David Gaines
Typed or Printed Name

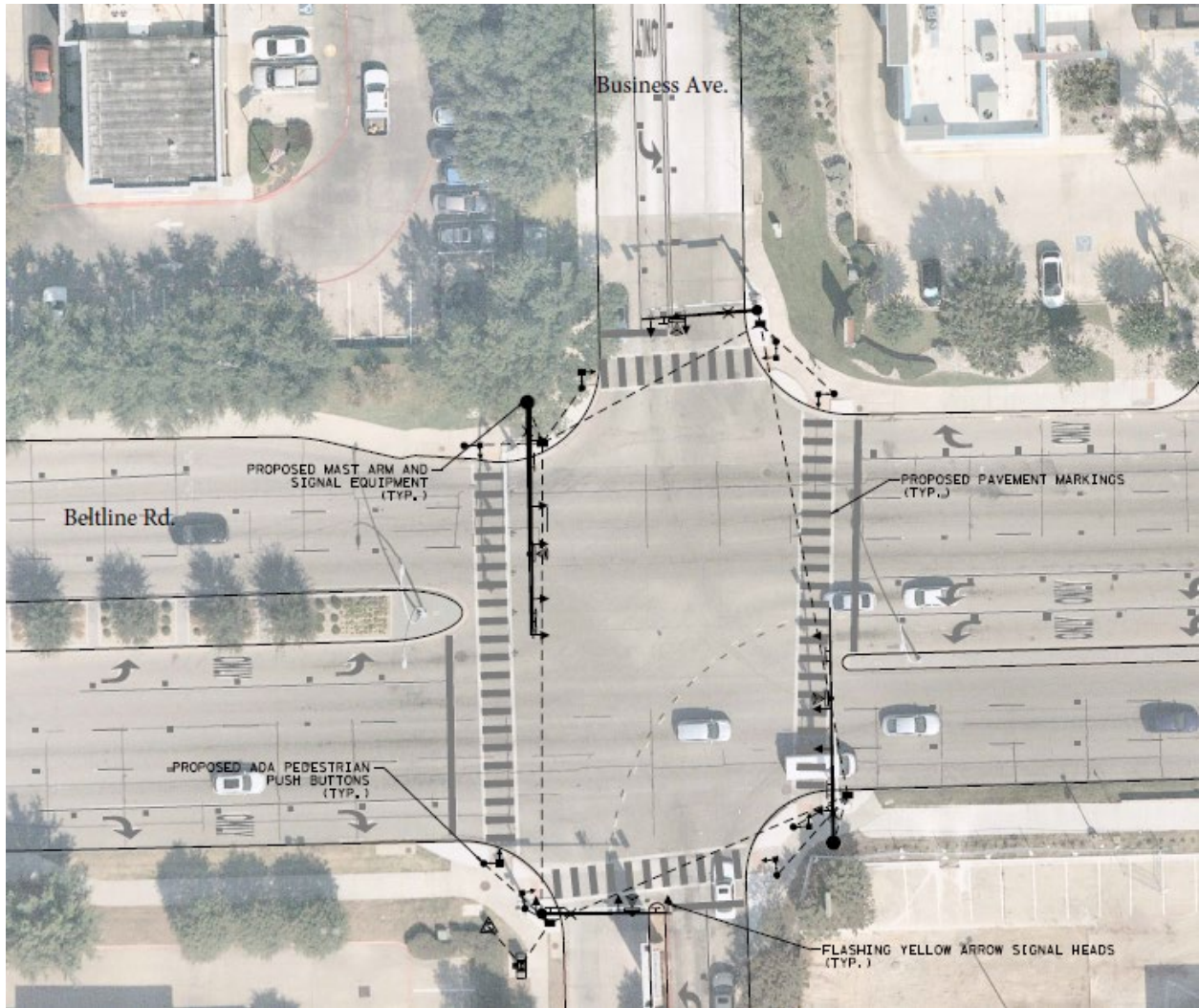
City Manager
Typed or Printed Title

Date

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

**ATTACHMENT A
LOCATION MAP SHOWING PROJECT**

**0918-47-441
Beltline Rd. at Business Ave.**



TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-47-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	00200		
Project Name	Beltline Rd. at Business Ave.			AFA Not Used For Research & Development	

ATTACHMENT B PROJECT BUDGET

Construction costs will be allocated based on 100% Federal funding and 0% Local Government funding until the Federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the costs.

DESCRIPTION	TOTAL ESTIMATED COST	FEDERAL PARTICIPATION		STATE PARTICIPATION		LOCAL PARTICIPATION	
		%	Cost	%	Cost		Cost
Engineering (by Local) 0918-47-441	\$49,500.00	0%	\$0	0%	\$0	100%	\$49,500.00
Construction (by State) 0918-47-441	\$591,757.00	100%	\$591,757.00	0%	\$0	0%	\$0
Subtotal	\$641,257.00		\$591,757.00		\$0.00		\$49,500.00
Environmental Direct State Costs	\$6,908.76	0%	\$0	0%	\$0	100%	\$6,908.76
Right of Way Direct State Costs	\$6,908.76	0%	\$0	0%	\$0	100%	\$6,908.76
Engineering Direct State Costs	\$6,908.76	0%	\$0	0%	\$0	100%	\$6,908.76
Utility Direct State Costs	\$6,908.77	0%	\$0	0%	\$0	100%	\$6,908.77
Construction Direct State Costs	\$27,635.05	0%	\$0	0%	\$0	100%	\$27,635.05
Subtotal	\$55,270.10		\$0		\$0		\$55,270.10
Indirect State Cost – 4.73%	\$30,331.50	0%	\$0	100%	\$30,331.50	0%	\$0
TOTAL	\$726,858.60		\$591,757.00		\$30,331.50		\$104,770.10

Initial Payment by the Local Government to the State: **\$27,635.05**

Payment by the Local Government to the State before Construction: **\$27,635.05**

Estimated total payment by the Local Government to the State: **\$55,270.10**

This is an estimate. The final amount of Local Government participation will be based on actual costs.

TxDOT:				Federal Highway Administration:	
CCSJ #	0918-24-290	AFA ID	Z00008105	CFDA No.	20.205
AFA CSJs	0918-24-441			CFDA Title	Highway Planning and Construction
District #	18/DAL	Code Chart 64#	35200		
Project Name	Beltline Rd. at Business Ave.			<i>AFA Not Used For Research & Development</i>	

ATTACHMENT C
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

City Council (FY24)

5. a.

Meeting Date: 01/09/2024

Department: City Secretary

AGENDA CAPTION:

Consider action on an Ordinance calling and ordering the May 4, 2024 General Election.

BACKGROUND:

A general election is conducted each May to elect representatives to the Addison City Council as necessary. The attached Ordinances (English, Spanish, and Vietnamese) establish the procedures for the May 4, 2024 General Election in accordance with state law and the Town's Home Rule Charter. The election is called to elect three (3) City Council Members.

The first day to file for a place on the May ballot is Wednesday, January 17, 2024. The last day to file is Friday, February 16, 2024.

The Town will enter into a Joint Election Contract with the Dallas County Election Department for the May 4, 2024 General Election. Early Voting begins on April 22 and ends on April 30, 2024. The Addison Conference Centre Lobby will serve as our Early Voting and Election Day Voting location. All election procedures remain the same as in previous years.

Should the election be uncontested and unnecessary, the Town will have the opportunity to cancel the election in accordance with the Election Code.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance - 2024 Election English

Ordinance - 2024 Election Spanish

Ordinance - 2024 Election Vietnamese

ORDINANCE NO. 023-___

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS CITY COUNCIL ORDERING A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 4, 2024, FOR THE PURPOSE OF ELECTING THREE (3) COUNCIL MEMBERS FOR A TERM OF TWO (2) YEARS; DESIGNATING POLLING PLACE WITHIN THE TOWN; ESTABLISHING OTHER PROCEDURES FOR THE CONDUCT OF THE ELECTION, INCLUDING PROVIDING THAT THE ELECTION IS TO BE HELD AS A JOINT ELECTION IN CONJUNCTION WITH DALLAS COUNTY.

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

SECTION 1: In accordance with the general laws and Constitution of the State of Texas, and the Charter of the Town, a General Election is hereby called and ordered for Saturday, May 4, 2024. All resident, qualified voters of the Town of Addison shall be permitted to vote, in said election for the purpose of electing three (3) Council members for a term of two (2) years.

SECTION 2: The presently existing boundaries and territory of the Dallas County election precincts that are wholly or partly within the corporate limits of the Town shall constitute the election precincts for the election. The precinct numbers for the same shall be the corresponding Dallas County precinct numbers. The polling places for the general election shall be as set forth in the Joint Election Agreement (as defined in Section 3, below) with the Town locations designated as Addison Conference Centre Lobby, 15650 Addison Road, Addison, Texas.

SECTION 3: The election shall be held as a joint election with Dallas County and other municipalities and school districts pursuant to a Joint Election Agreement for the conduct of a joint election to be held on May 4, 2024 and the County shall be responsible for appointing all election judges and clerks and shall be responsible for their compensation. Election judges and clerks shall have the qualifications required by law and notice of appointment shall be given to such judges and clerks by the Administrator in accordance with law.

SECTION 4: Applications to have the name of the candidate placed on the ballot may not be filed earlier than thirty (30) days before the deadline prescribed by the Election Code for filing applications with the City Secretary, and that the earliest date for a candidate to file same will be Wednesday, January 17, 2024, at 8:00 a.m., with the last day for filing to be Friday, February 16, 2024 at 5:00 p.m. in accordance with Election Code Sect. 143.006 and 143.007.

SECTION 5: The order in which the names of the candidates are to be printed on the ballot for council members on said Addison City Council shall be determined by a drawing conducted by the City Secretary, as provided by Section 52.094 of the Texas Election Code, on Tuesday, February 20, 2024 at 10:30 a.m. in the Addison Town Hall - Parlor, 5300 Belt Line, Road, Dallas, Texas 75254.

SECTION 6: Heider Garcia, Dallas County Elections Administrator, is hereby appointed as Early Voting Clerk. The period for early voting by personal appearance, as established by provisions of the Texas Election Code, are between the hours of 8:00 a.m. and 5:00 p.m. beginning Monday,

April 22, 2024 and ending on Tuesday, April 30, 2024. Early Voting by personal appearance will be conducted in the Office of the Elections Department, 1520 Round Table Drive, Dallas, Texas 75247 and at other locations so designated by the Dallas Council Elections Administrator.

SECTION 7: The Early Voting Clerk shall process all applications for early voting by mail. Applications for ballot by mail shall be mailed to: Dallas County Elections Department, 1520 Round Table Drive, Dallas, Texas 75247. The last day for unregistered applicants to submit a federal postcard application and be eligible to vote a full ballot is the close of business on Monday, April 15, 2024.

SECTION 8: Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election. Returns of such election shall be made to the City Secretary immediately after the closing of the polls. In addition, the election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English, Spanish and Vietnamese for use at the polling places and for each voting for said election.

SECTION 9: The City Secretary will provide the Statement of Elected Officials to candidates who appear to have won or may win, on Monday, May 6, 2024. Pursuant to Home Rule Charter, Wednesday, May 15, 2024 at 5:00 p.m. has been set as the date of the Official Canvass. Mayor Bruce Arfsten or a designated representative will provide the Oath of Office after the Official Canvass has been conducted. The City Secretary is directed to record results in the Election Register as soon as practical after the Canvass.

SECTION 10: The City Secretary is directed to transmit election results by city precinct in electronic form to the Secretary of State on or before Friday, May 31, 2024.

SECTION 11: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance is held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 12: It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 13. That this Ordinance shall become effective from and after its passage 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 this the **9th day** of **JANUARY** 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma G. Parker, City Secretary

Whitt L. Wyatt, City Attorney

ORDENANZA NRO. 023-__

UNA ORDENANZA DEL CONSEJO MUNICIPAL DEL POBLADO DE ADDISON, TEXAS, QUE ORDENA UNA ELECCIÓN GENERAL A CELEBRARSE EL SÁBADO 4 DE MAYO DE 2024 PARA EL PROPÓSITO DE ELEGIR TRES (3) MIEMBROS DEL CONSEJO PARA UN TÉRMINO DE DOS (2) AÑOS; DESIGNA LUGAR DE VOTACIÓN DENTRO DEL POBLADO; ESTABLECE OTROS PROCEDIMIENTOS PARA LA CELEBRACIÓN DE LA ELECCIÓN, INCLUSO DISPONE QUE LA ELECCIÓN SE CELEBRARÁ COMO UNA ELECCIÓN CONJUNTA CON EL CONDADO DE DALLAS.

AHORA, POR LO TANTO, EL CONSEJO DEL POBLADO DE ADDISON, TEXAS, ORDENA QUE:

SECCIÓN 1: De acuerdo con las leyes generales y la Constitución del Estado de Texas, y la Carta Orgánica del Poblado, por la presente, se convoca y ordena una Elección General para el sábado 4 de mayo de 2024. Todos los votantes habilitados residentes del Poblado de Addison tendrán permitido votar en dicha elección para el propósito de elegir tres (3) miembros del Consejo para un término de dos (2) años.

SECCIÓN 2: Los límites y el territorio existentes actualmente de los precintos electorales del Condado de Dallas que se encuentran parcial o totalmente dentro de los límites corporativos del Poblado constituirán los precintos electorales para la elección. Los números de precinto de los precintos electorales serán los números de precinto correspondientes del Condado de Dallas. Los lugares de votación para la elección general serán los indicados en el Acuerdo de Elección Conjunta (como se define en la Sección 3, más adelante) con las sucursales del Poblado designadas como el Vestíbulo del Centro de Conferencias de Addison sito en 15650 Addison Road, Addison, Texas.

SECCIÓN 3: La elección será celebrada como una elección conjunta con el Condado de Dallas y otras municipalidades y distritos escolares en virtud de un Acuerdo de Elección Conjunta para la celebración de una elección conjunta a celebrarse el 4 de mayo de 2024, y el Condado será responsable de la designación de todos los jueces y funcionarios electorales y será responsable de su remuneración. Los jueces y funcionarios electorales cumplirán con los requisitos indicados por ley y el Administrador dará aviso de la designación a los jueces y funcionarios de ese tipo de acuerdo con la ley.

SECCIÓN 4: Las solicitudes para que se coloque el nombre de un candidato en la boleta de votación no pueden ser presentadas antes de treinta (30) días anteriores al plazo prescrito por el Código Electoral para presentar solicitudes ante la Secretaria de la Ciudad, y la primera fecha para que un candidato presente una solicitud de este tipo será el miércoles 17 de enero de 2024 a las 8:00 a.m., y el último día para la presentación será el viernes 16 de febrero de 2024 a las 5:00 p.m. de acuerdo con las secciones 143.006 y 143.007 del Código Electoral.

SECCIÓN 5: El orden en que los nombres de los candidatos se imprimirán en la boleta para miembros del consejo de dicho Consejo Municipal de Addison será determinado mediante un sorteo que realizará la Secretaria de la Ciudad, según lo dispuesto por la Sección 52.094 del Código

Electoral de Texas, el martes 20 de febrero de 2024 a las 10:30 a.m. en el Salón de la Alcaldía del Poblado de Addison en 5300 Belt Line Road, Dallas, Texas 75254.

SECCIÓN 6: Por la presente, se designa a Heider Garcia, Administrador de Elecciones del Condado de Dallas, como Oficial de Votación Anticipada. El periodo para la votación anticipada en persona, como lo indican las disposiciones del Código Electoral de Texas, es en el horario de 8:00 a.m. a 5:00 p.m. a partir del lunes 22 de abril de 2024 y hasta el martes 30 de abril de 2024. La votación anticipada en persona se realizará en la Oficina del Departamento de Elecciones ubicada en 1520 Round Table Drive, Dallas, Texas 75247 y en otros lugares que el Administrador de Elecciones del Condado de Dallas designe para ese fin.

SECCIÓN 7: El Oficial de Votación Anticipada procesará todas las solicitudes de votación anticipada por correo. Las solicitudes de boletas de votación por correo deberán enviarse por correo postal a: Dallas County Elections Department, 1520 Round Table Drive, Dallas, Texas 75247. El último día para que los solicitantes no registrados envíen una solicitud de postal federal y sean elegibles para votar una boleta completa es al cierre del horario de atención del lunes 15 de abril de 2024.

SECCIÓN 8: Se dará aviso de esta elección de acuerdo con las disposiciones del Código Electoral de Texas y los resultados de dicho aviso se realizarán según lo dispone el mencionado Código. El Alcalde emitirá todas las órdenes y los escritos necesarios para dicha elección. Los resultados de dicha elección serán entregados a la Secretaria de la Ciudad inmediatamente después del cierre de los lugares de votación. Además, los materiales electorales enumerados en la Sección 272.005 del Código Electoral de Texas serán impresos en inglés, español y vietnamita para que sean utilizados en los lugares de votación y para cada votación de dicha elección.

SECCIÓN 9: La Secretaria de la Ciudad entregará la Declaración de funcionarios electos a los candidatos que parezca que hayan ganado o puedan ganar, el lunes 6 de mayo de 2024. En virtud de la Carta Orgánica de Gobierno Autónomo, el miércoles 15 de mayo de 2024 a las 5:00 p.m. ha sido fijado como la fecha del Escrutinio Oficial. El Alcalde Bruce Arfsten o un representante designado tomará el Juramento al cargo después de que se haya realizado el Escrutinio Oficial. Se instruye a la Secretaria de la Ciudad a que registre los resultados en el Registro de la Elección tan pronto como sea práctico después del escrutinio.

SECCIÓN 10: Se instruye a la Secretaria de la Ciudad a transmitir los resultados de la elección por precinto de la ciudad en forma electrónica al Secretario de Estado hasta el viernes 31 de mayo de 2024 inclusive.

SECCIÓN 11: Si alguna parte, sección, subsección, párrafo, oración, cláusula o frase contenido en esta ordenanza fuese determinado inconstitucional o sin validez y vigencia, tal determinación no afectará la validez del resto de esta ordenanza, sino que en todos sus aspectos dichas porciones restantes mantendrán su plena validez y vigencia.

SECCIÓN 12: Por la presente, se halla y se determina oficialmente que la asamblea en la que esta ordenanza es adoptada está abierta al público, como es requerido por ley, y que se dio aviso público de la hora, el lugar y el propósito de dicha asamblea según lo exigido.

SECCIÓN 13. Que esta Ordenanza entrará en vigencia a partir de su adopción según pueda exigir la ley o la Carta Orgánica de la Ciudad o una ordenanza.

ACEPTADA Y APROBADA por el Consejo Municipal del Poblado de Addison, Texas a los **9** días del mes de **ENERO** de **2024**.

POBLADO DE ADDISON, TEXAS

Bruce Arfsten, Alcalde

ATESTIGUA:

APROBADA EN CUANTO A SU FORMA:

Irma G. Parker, Secretaria de la Ciudad

Whitt L. Wyatt, Abogado de la Ciudad

SẮC LỆNH SỐ O23-___

MỘT SẮC LỆNH CỦA HỘI ĐỒNG THÀNH PHỐ THỊ TRẦN ADDISON, TEXAS YÊU CẦU TỔ CHỨC MỘT CUỘC TỔNG TUYỂN CỬ VÀO THỨ BẢY, NGÀY 4 THÁNG NĂM, 2024, VỚI MỤC ĐÍCH BẦU CHỌN BA (3) THÀNH VIÊN HỘI ĐỒNG TRONG NHIỆM KỲ HAI (2) NĂM; THIẾT LẬP ĐỊA ĐIỂM PHÒNG PHIẾU TRONG PHẠM VI THỊ TRẦN; QUY ĐỊNH CÁC THỦ TỤC KHÁC ĐỂ TIẾN HÀNH BẦU CỬ, BAO GỒM QUY ĐỊNH TỔ CHỨC CUỘC BẦU CỬ NÀY THEO HÌNH THỨC BẦU CỬ KẾT HỢP VỚI QUẬN DALLAS.

VÌ VẬY, BÂY GIỜ, HỘI ĐỒNG THÀNH PHỐ CỦA THỊ TRẦN ADDISON, TEXAS RA SẮC LỆNH NHƯ SAU:

MỤC 1: Theo quy định của các điều luật tổng quát và Hiến Pháp Tiểu Bang Texas, và Hiến Chương của Thị Trấn, một Cuộc Tổng Tuyển Cử theo đây được yêu cầu và ra lệnh tổ chức vào ngày thứ Bảy, 4 tháng Năm, 2024. Tất cả các cử tri cư trú, đủ tiêu chuẩn của Thị trấn Addison sẽ được phép bỏ phiếu, trong cuộc bầu cử nói trên với mục đích bầu chọn ba (3) thành viên Hội đồng với nhiệm kỳ hai (2) năm.

MỤC 2: Các ranh giới và địa giới hiện tại của các phân khu bầu cử Quận Dallas nằm toàn bộ hoặc một phần trong các ranh giới hoạt động của Thị trấn theo đây tạo thành các phân khu bỏ phiếu cho cuộc bầu cử. Số phân khu của các phân khu giống nhau sẽ tương ứng với số phân khu của Quận Dallas. Các địa điểm phòng phiếu cho cuộc tổng tuyển cử này sẽ được quy định trong Thỏa Thuận Tổ Chức Bầu Cử Kết Hợp (theo như định nghĩa trong Mục 3 dưới đây) tại các địa điểm của Thị Trấn được chỉ định là Addison Conference Centre Lobby (Đại Sảnh Trung Tâm Hội Nghị Addison), 15650 Addison Road, Addison, Texas.

MỤC 3: Cuộc bầu cử sẽ được tổ chức như một cuộc bầu cử kết hợp với Quận Dallas và các thành phố và khu học chánh khác theo Thỏa Thuận Bầu Cử Kết Hợp để tiến hành một cuộc bầu cử kết hợp vào ngày 4 tháng Năm, 2024, và Quận sẽ chịu trách nhiệm bổ nhiệm tất cả các trưởng ban điều hành và thư ký phụ trách cuộc bầu cử, và có trách nhiệm trả lương cho họ. Các trưởng ban điều hành và thư ký phụ trách cuộc bầu cử phải có đủ trình độ theo quy định của pháp luật và thông báo bổ nhiệm sẽ được Quản trị viên trao cho các trưởng ban điều hành và thư ký đó theo quy định của pháp luật.

MỤC 4: Đơn xin ghi tên của ứng cử viên trên lá phiếu không được nộp sớm hơn ba mươi (30) ngày trước thời hạn chót được quy định theo Bộ Luật Bầu Cử về quy trình nộp đơn cho Thư Ký Hội Đồng Thành Phố, và ngày sớm nhất để một ứng cử viên nộp hồ sơ tương tự sẽ bắt đầu từ 8 giờ sáng thứ Tư, ngày 17 tháng Một, 2024, và ngày cuối cùng có thể nộp đơn là 5 giờ chiều thứ Sáu, ngày 16 tháng Hai, 2024, theo quy định trong các Mục 143.006 và 143.007 của Bộ Luật Bầu Cử.

MỤC 5: Chiếu theo Mục 52.094 của Bộ Luật Bầu Cử Texas, thứ tự ghi tên các ứng cử viên trên lá phiếu bầu các thành viên hội đồng cho Hội Đồng Thành Phố Addison nói trên sẽ được quyết định qua thủ tục rút thăm do Thư Ký Hội Đồng Thành Phố thực hiện, vào 10:30 sáng thứ Ba, 20 tháng Hai, 2024 tại Tòa Đô Chánh Thị Trấn Addison - Phòng Riêng, 5300 Belt Line, Road, Dallas, Texas 75254.

MUC 6: Heider Garcia, Quản Trị Viên phụ trách Bầu Cử Quận Dallas, theo đây được bổ nhiệm làm Thư Ký phụ trách Bỏ Phiếu Sớm. Theo quy định trong Bộ Luật Bầu Cử Texas, khoảng thời gian cử tri có thể đích thân đến bỏ phiếu sớm là từ 8 giờ sáng đến 5 giờ chiều, bắt đầu từ thứ Hai, ngày 22 tháng Tư, 2024 và kết thúc vào thứ Ba, ngày 30 tháng Tư, 2024. Thủ Tục Đích thân tới bỏ phiếu sớm sẽ được tiến hành tại Văn phòng Ban Bầu cử, 1520 Round Table Drive, Dallas, Texas 75247 và tại các địa điểm khác do Quản trị viên Bầu cử của Hội đồng Dallas chỉ định.

MUC 7: Thư Ký phụ trách Bỏ Phiếu Sớm sẽ giải quyết tất cả các đơn xin bỏ phiếu sớm qua thư. Địa chỉ nhận đơn xin lá phiếu bầu qua thư: Dallas County Elections Department, 1520 Round Table Drive, Dallas, Texas 75247. Ngày cuối cùng những người nộp đơn chưa ghi danh có thể nộp đơn xin dạng bưu thiếp liên bang và đủ điều kiện bỏ phiếu toàn bộ là vào cuối giờ hành chính thứ Hai, ngày 15 tháng Tư, 2024.

MUC 8: Thông báo của cuộc bầu cử này sẽ được cung cấp theo như các điều khoản qui định trong Bộ Luật Bầu Cử Texas, và kết quả kiểm phiếu của thông báo đó sẽ được cung cấp theo nhu qui định trong Bộ Luật nói trên. Thị Trưởng sẽ ban hành tất cả các lệnh và văn bản cho cuộc bầu cử này. Kết quả của cuộc bầu cử đó sẽ được gửi cho Thư ký Thành phố ngay sau khi kết thúc các cuộc bỏ phiếu. Ngoài ra, các tài liệu bầu cử được nêu trong Mục 272.005, Bộ Luật Bầu Cử Texas, sẽ được in bằng cả tiếng Anh, tiếng Tây Ban Nha, và tiếng Việt để sử dụng tại các địa điểm phòng phiếu và cho mỗi thủ tục bỏ phiếu cho cuộc bầu cử nói trên.

MUC 9: Thư Ký Hội Đồng Thành Phố sẽ cung cấp Thông Cáo về Các Viên Chức Được Bầu Chọn cho các ứng cử viên đã đắc cử hoặc có thể đắc cử, vào thứ Hai, ngày 6 tháng Năm, 2024. Căn cứ vào Hiến Chương Tự Trị, 5 giờ chiều thứ Tư, ngày 15 tháng Năm, 2024 đã được chỉ định làm ngày Kiểm Phiếu Chính Thức. Thị trưởng Bruce Arfsten hoặc một đại diện được chỉ định sẽ thực hiện Tuyên Thệ Nhậm Chức sau khi tiến hành Cuộc Kiểm Phiếu Chính Thức này. Thư Ký Hội Đồng Thành Phố được ra lệnh ghi kết quả vào Sổ Đăng Ký Bầu Cử sớm nhất có thể ngay sau khi thực hiện Kiểm Phiếu.

MUC 10: Thư Ký Hội Đồng Thành Phố được chỉ đạo chuyển các kết quả bầu cử theo phân khu bầu cử thành phố dưới dạng điện tử cho Tổng Trưởng Tiểu Bang vào hoặc trước thứ Sáu, ngày 31 tháng Năm, 2024.

MUC 11: Nếu bất kỳ phần, mục, tiểu mục, đoạn, câu, khoản hoặc cụm từ nào trong sắc lệnh này bị coi là vi hiến hoặc không có hiệu lực, thì việc giữ lại đó sẽ không ảnh hưởng đến hiệu lực của phần còn lại của sắc lệnh này, nhưng trong mọi trường hợp, phần còn lại đã nói sẽ vẫn còn nguyên hiệu lực.

MUC 12: Theo đây chính thức nhận định và quyết định rằng cuộc họp trong đó sắc lệnh này được thông qua đã diễn ra công khai theo luật pháp quy định, và việc thông báo công khai về ngày giờ, địa điểm, và mục đích của cuộc họp nói trên đã được thực hiện theo quy định.

MUC 13. Rằng Sắc lệnh này sẽ có hiệu lực kể từ và sau khi được thông qua theo yêu cầu của pháp luật hoặc Hiến chương hoặc sắc lệnh của Thành phố.

Hội Đồng Thành Phố của Thị Trấn Addison, Texas **THÔNG QUA VÀ PHÊ CHUẨN** vào hôm nay, **ngày 9 THÁNG MỘT, 2024.**

THỊ TRẦN ADDISON, TEXAS

Bruce Arfsten, Thị Trường

CHỨNG THỰC:

PHÊ CHUẨN ĐỊNH DẠNG:

Irma G. Parker, Thư Ký Hội Đồng Thành Phố

Whitt L. Wyatt, Luật Sư Thành Phố

City Council (FY24)

5. b.

Meeting Date: 01/09/2024

Department: City Secretary

AGENDA CAPTION:

Consider action on a Resolution casting Addison's vote for Michael Hurtt to serve as the fourth member of the Board of Directors of the Dallas Central Appraisal District.

BACKGROUND:

At the December 12, 2023 Council Meeting, the City Council approved Resolution No. R23-110, casting their vote for Mr. Michael Hurtt as their selection for re-appointment as the Suburban Cities Representative to the Dallas Central Appraisal District (DCAD). Mr. Hurtt currently serves in that position and had expressed interest in serving for the 2024-2026 term.

On December 22, 2023, Cheryl Jordan, Director of Community Relations for DCAD, advised that the Suburban Cities Election will require a runoff since there was not a candidate who received 16 votes (the majority of the 30 votes eligible). A runoff election is necessary between the top two finishers. Votes were cast as shown below:

Candidate	Votes Cast
Michael Hurtt	11
Brett Franks	4
Terry Lynn	3
Carrie Gordon	2
Mark Jones	1
Steve Nichols	1
TOTAL VOTES CAST	22

The attached Resolution requires action by the City Council.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution - ACAD Runoff Election

Letter - ACAD Notification of Runoff Election

RESOLUTION NO. R23-_____

**A RESOLUTION OF THE TOWN OF ADDISON, DALLAS COUNTY, TEXAS,
CASTING ITS VOTE FOR THE FOURTH MEMBER OF THE BOARD OF
DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.**

WHEREAS, Dallas County eligible taxing entities have expressed and approved an option which allows for representation to the Appraisal District Board of Directors (in accordance with Section 6.03 of the Texas Property Tax Code) as follows:

1. The City of Dallas shall appoint one (1) member to the Board.
2. The Dallas Independent School District shall appoint one (1) member to the Board.
3. The Dallas County Commissioners Court shall appoint one (1) member to the Board. The member appointed by the Dallas County Commissioners Court shall not be a resident of either the City of Dallas or the Dallas Independent School District.
4. Each of the incorporated cities and towns, except for the City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as the fourth member of the Board of Directors. The said cities and towns shall, from the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, the fourth member of the Board of Directors.
5. Each of the School Districts, and the Dallas County Community College District, except the Dallas Independent School District, shall have the right to nominate by an official resolution one (1) candidate as the fifth member of the Board of Directors. The said school districts shall, from the nominations received, elect by a majority vote, with each school district and the community college district being entitled to one (1) vote, the fifth member of the Board of Directors.

The votes required for election to the Board of Directors in 4 and 5 hereof shall be by a majority of those authorized to vote in 4 and 5 respectively and not by a majority of the quorum, and

WHEREAS, the Town of Addison does hereby cast its vote by marking the ballot below:
(Check one only)

- Michael Hurtt**
- Brett Franks**

NOW, THEREFORE BE IT RESOLVED that the City Council of the Town of Addison does hereby confirm its one (1) vote for the election of Michael Hurtt as the suburban cities' representative to the Board of Directors of the Dallas Central Appraisal District.

PASSED AND APPROVED, this the 9th day of JANUARY 2024

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma G. Parker, City Secretary



Dallas Central Appraisal District

DATE: December 21, 2023
TO: Suburban Cities Mayors, City Managers, City Secretaries and Finance Directors
FROM: W. Kenneth Nolan, Executive Director/Chief Appraiser
RE: Runoff for 2023 Election of Suburban Cities Representative to DCAD Board of Directors

State law requires the Chief Appraiser to conduct an election of representatives to the Board of Directors in odd numbered years. The process outlined in the Texas Property Tax Code requires the election to be conducted and the individual entities notified of the results once the process is complete.

1. Suburban Cities Election

The election process requires a runoff. The following suburban cities participated in the election. Each of their selections is noted below. *The current tally indicates Michael Hurtt of Desoto received 13, Brett Franks of Sachse received 4, Shante L. Allen of Glenn Heights received 2, Diane Cartwright of Irving received 1, and Steve Nichols of Hutchins received 1 of the 21 votes cast.*

The current tally indicates Michael Hurtt of Desoto received 11, Brett Franks of Sachse received 4, Terry Lynne of Farmers Branch received 3, Carrie Gordon received 2, Mark Jones of Desoto received 1, and Steve Nichols of Hutchins received 1 of the 22 votes cast. Since there was no one candidate receiving 16 votes (majority of the 30 votes eligible), a runoff election is necessary between the top two finishers: Michael Hurtt of Desoto and Brett Franks of Sachse.

<u>City</u>	<u>Candidate Selected</u>
1. Addison	Michael Hurtt
2. Balch Springs	Terry Lynne
3. Carrollton	Michael Hurtt
4. Cedar Hill	Abstain
5. Cockrell Hill	Abstain
6. Combine	Abstain
7. Coppell	Abstain
8. DeSoto	Mark Jones
9. Duncanville	Michael Hurtt
10. Farmers Branch	Terry Lynne
11. Ferris	Michael Hurtt
12. Garland	Abstain
13. Glenn Heights	Carrie Gordon
14. Grand Prairie	Abstain

15. Grapevine	Abstain
16. Highland Park	Brett Franks
17. Hutchins	Steve Nichols
18. Irving	Terry Lynne
19. Lancaster	Michael Hurtt
20. Lewisville	Abstain
21. Mesquite	Michael Hurtt
22. Ovilla	Michael Hurtt
23. Richardson	Michael Hurtt
24. Rowlett	Carrie Gordon
25. Sachse	Brett Franks
26. Seagoville	Michael Hurtt
27. Sunnyvale	Brett Franks
28. University Park	Michael Hurtt
29. Wilmer	Michael Hurtt
30. Wylie	Brett Franks

A runoff ballot is enclosed.

Please make plans on your council agenda during January to vote for a Suburban Cities Representative. The person who receives the most votes from the suburban cities in the runoff election is then declared the Fourth member of the DCAD Board of Directors. We appreciate your cooperation in this important process.

Enclosure
Runoff Ballot

Cc w/o Encl:
DCAD Board of Directors

Michael Hurtt
217 South Hampton Rd
Desoto, TX 75115

Brett Franks
4811 West Creek Ln.
Sachse, TX 75048-4301

City Council (FY24)

5. c.

Meeting Date: 01/09/2024

Department: City Manager

Pillars: Gold Standard in Public Safety

Milestones: Promote and protect the Addison Way
Incorporate fiscal analysis in long-range planning
Prepare for the impact of new growth and development in Addison

AGENDA CAPTION:

Consider action on a Resolution regarding a proposal from Matrix Consulting Agreement for a Police and Fire Department staffing study.

BACKGROUND:

In today's world, public safety involves more than just having enough staff. This study will consider the needs of both departments in terms of career development, leadership, support for organizational health and wellness, and assistance for the community. The requirements for public safety are changing, community expectations are evolving, and financial constraints highlight the importance of exploring different ways to deliver services and provide community support. The Town of Addison wants to thoroughly examine its public safety services and receive suggestions on how to meet the expected needs of a growing and evolving diverse community. This assessment will specifically look at the current and future staffing requirements for the police and fire departments.

Matrix will perform the following:

- **Information Gathering.** Important to the success of the project are the methods that we will use to collect, analyze, and present information to formulate findings and develop and assure acceptance of recommendations.
- **Interviews.** Interviews are a staple of our consulting approach. In this study, we will interview the appropriate individuals managing and carrying out the work in the Police and Fire Departments to understand their service needs and expectations.
- **Data Analysis and Performance Metrics.** The Matrix Consulting Group uses “best management practices” against which to assess the services provided in the Town. This approach would be useful in this study to assess the current approaches to service delivery.
- **An Inclusive Stakeholder-Oriented Approach.** Stakeholder involvement is a critical component of this study. We propose to conduct individual interviews with Police and Fire Department managers and supervisors, and many line staff.

- **Project Management.** Project management techniques include defining work, schedules and budgets in advance and working closely with the Town to ensure the successful implementation of our proposed project approach and maintaining the schedule. These project management approaches have resulted in all our projects being delivered at a high level of quality, on time and on budget.

The final report will take approximately 5 months and will include:

- An **executive summary**, which includes an overview of the process used to conduct the study, key results, and a comprehensive list of all recommendations made in the report.
- **Analysis of staffing** resources, operations, and deployment for all Police and Fire Department functions, which includes:
 - Analysis of current police and fire field workloads and staffing needs.
 - Shift configuration and assignment optimization and alternatives.
 - Deployment and staffing needs for specialized resources.
 - Investigative workloads, specialization, and case management practices.
 - Prevention and training opportunities for improvement.
 - Administrative staffing and functionality.
- **Analysis of projected staffing** on a position-by-position basis for a 20-year planning period. The staffing analysis will be tied to analysis and projections of facility needs for both departments.
- **Implementation plans for each recommendation.**

The cost to conduct the Police and Fire Department Staffing Study is a fixed price of \$117,880. The cost breakdown by department is \$64,300 for Police and \$53,580 for Fire.

RECOMMENDATION:

Staff recommends approval

Attachments

Resolution - Matrix

Presentation - Matrix

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A PROPOSAL BETWEEN THE TOWN OF ADDISON AND MATRIX CONSULTING GROUP FOR A POLICE AND FIRE DEPARTMENT STAFFING STUDY IN THE AMOUNT OF \$117,880.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE THE PROPOSAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council desires to approve a proposal with Matrix Consulting Group for providing consulting services for a police and fire department staffing study.

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

SECTION 1. The City Council hereby approves the proposal with Matrix Consulting Group in an amount of \$117,880.00, a copy of which is attached to this Resolution as **Exhibit A.** The City Manager is hereby authorized to execute 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 **2nd** day of **JANUARY, 2024.**

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

Proposal to Conduct a Police and Fire Department
Staffing Study

ADDISON, TEXAS

November 6, 2023



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November 5, 2023

Ashley Shroyer
Deputy City Manager
Town of Addison
5300 Beltline Road
Addison, TX 75254

Dear Ms. Shroyer:

The Matrix Consulting Group is pleased to submit our proposal to conduct a Police and Fire Department Staffing Study for the Town of Addison. We are comprised of highly experienced management consultants, specializing in public safety services, having provided a wide range of services to over 400 police and over 400 fire agencies in Texas and across the country as well as internationally for over 20 years.

The following examples of recent work shows the diversity of our police study client base in Texas alone:

Austin, TX	Denton, TX	Lewisville, TX
Buda, TX	Fair Oaks Ranch, TX	San Antonio, TX
Boerne, TX	Fort Worth, TX	Sunnyvale, TX
Burleson, TX	Glenn Heights, TX	Texas City, TX
Cedar Hill, TX	Kyle, TX	Travis County, TX

In addition, we are currently working with Cedar Park, TX and Broken Arrow, OK on staffing and strategic planning studies.

We have also worked extensively to provide a wide range of services to fire agencies across the country. The following table provides a partial list of recent fire studies:

Aspen, CO	Dinuba, CA	Sandwich, MA
Bellingham, WA	Dixon, CA	Sebastopol, CA
Berlin, NH	Grants Pass, OR	Valley Center, KS
Big Bear, CA	Gresham, OR	Westport, CT
Desoto, TX	Los Banos, CA	Yarmouth, MA

Exhibit A

In addition, we are currently working with Cedar Park, Georgetown, and Round Rock, TX on a staffing and strategic planning study.

The following points characterize our approach to conducting police fire assessments:

- All staff for our proposed team are extremely experienced, having themselves conducted up to hundreds of police and fire service studies.
 - The President of the firm, with 40 years of fire service analytical experience would manage the project. He has led all of the firms public safety studies since founding the Matrix Consulting Group 20 years ago.
 - Our lead police analyst, Ian Brady, leads our police practice having been a key member or lead on over 100 studies in the past 11 years. He has created our deployment and projection models for police and fire.
 - Our lead fire analyst, Robert Finn, has also led the analysis of over 100 fire department staffing studies across the country. He also has been with the firm for over 12 years.
 - Other staff assigned to this project have between 10 and 35 years of public safety and/or consulting experience.
- We are a 'fact based' firm providing detailed data collection and analysis.
- We obtain extensive input from stakeholders in all our studies, including municipal managers and elected officials, police and fire service managers and staff.
- We work closely with our clients through interim reports and review meetings.

If you have any questions, please do not hesitate to contact me either at the letterhead headquarters' address, by phone at 650.858.0507 (and 650.397.4050 fax) and by email at rbrady@matrixcg.net



Richard Brady, President
Matrix Consulting Group, Ltd

1 Scope of Services and Schedule

This section of our proposal includes a description of our approach and the specific steps to be provided in the scope of services.

1.1 Approach

We want to stress several aspects of our overall management plan for this assignment. Our intent here is to demonstrate how we will produce results that are accurate and concrete, substantive, defensible and can be implemented. These aspects include:

- **Information Gathering.** Important to the success of the project are the methods that we will use to collect, analyze, and present information to formulate findings and develop and assure acceptance of recommendations.
- **Interviews.** Interviews are a staple of our consulting approach. In this study, we will interview the appropriate individuals managing and carrying out the work in the Police and Fire Departments to understand their service needs and expectations.
- **Data Analysis and Performance Metrics.** The Matrix Consulting Group uses “best management practices” against which to assess the services provided in the Town. This approach would be useful in this study to assess the current approaches to service delivery.
- **An Inclusive Stakeholder-Oriented Approach.** Stakeholder involvement is a critical component of this study. We propose to conduct individual interviews with Police and Fire Department managers and supervisors, and many line staff..
- **Project Management.** Project management techniques include defining work, schedules and budgets in advance and working closely with the Town to ensure the successful implementation of our proposed project approach and maintaining the schedule. These project management approaches have resulted in all our projects being delivered at a high level of quality, on time and on budget.

We would prepare progress reports periodically throughout the study to report progress to date, problems or obstacles encountered, and planned project activities over the next several weeks.

1.2 Scope of Work

The Town of Addison is seeking a comprehensive assessment of its public safety services, seeking recommendations to address the anticipated needs of a still growing

and changing diverse community. This study will evaluate its police and fire current and projected staffing needs.

In today's environment, public safety is more than staff resources. The Town and the scope of work for this study recognizes this. More holistically, this study needs to address the needs of the two departments relating to career development, leadership, support for organizational health and wellness, as well as support for the community. Public safety needs are changing, community expectations are changing, and fiscal realities underscore the need to evaluate alternative service delivery approaches and forms of community support.

1.3 Task Plan

The following task plan outlines our plan to conduct the study, including each interim deliverable leading to the final report.

Task 1 | Project Kickoff and Initial Interviews

In order to conduct the study of the Addison Police and Fire Departments, the project team will first develop an initial understanding of the departments and their service environments, as well as seek input on existing service levels and potential issues from department managers and key stakeholders. This task, which involves significant number of interviews by the project team, allows for an opportunity to learn about the unique characteristics, programs, and services provided by the departments. This process includes the following elements:

- Interviews with the Town Manager and Council in order to obtain their views on police and fire service issues and improvement opportunities.
- These initial interviews will lead to interviews of community leaders who have a public safety interest or connection.
- Interviews with the chiefs and command staffs in Police and Fire in order to obtain their views on public safety service issues and improvement opportunities, as well to confirm the goals and objectives of the study.
- Conduct a kickoff meeting with the project review committee, including a review of project objectives, approach, interim deliverables, and schedule.
- Conduct one-on-one interviews with Addison Police Department and Fire Department personnel in order to develop our understanding of the organization, service demands, service levels, and issues.

- Augment employee interviews with an anonymous employee survey in order for everyone to provide input to the study at its outset.
- Interview contacts within the departments to start the data collection process in that area and identify other key contacts within the organization.
- Interviews with key community leaders who can provide context for service delivery and potential improvements.

These initial interviews will focus on determining individual attitudes toward current public safety services and organizational considerations, including the following topics:

- Adequacy of existing service levels.
- Management systems.
- Responsiveness to community priorities and other service needs.
- Resource constraints and contributing factors.
- Coverage concerns and shift scheduling issues.
- Growth prospects for the Town.

The project team will also begin to collect various documents, including departmental goals, vision, and objectives statements, as well as other organizational materials and budgetary documents.

We will also initiate contact with the Town's Department of Development Services to understand growth prospects and development in Addison.

TASK RESULT

Based on the results of these interviews and initial data collection, the project team will prepare an issues list that will provide the basis for subsequent analytical steps. The project team will also finalize the project work plan project deliverable schedule.

Task 2 | Receive Employee Input

This study is a critical component in providing a forum for the consultants to hear feedback from employees and develop constructive strategies around this feedback. Input from within the Police and Fire Department is critical to understanding issues regarding service delivery and alternatives. Additionally, their views are instrumental in helping to understand the greater context of public safety-community relations.

While many employees will be individually interviewed, the project team will develop and administer an online employee survey to obtain input on key issues directly within the scope of this study.

TASK RESULT

The project team will gather employee input to better understand their views on Police and Fire Department response and alternatives.

Task 3 | Descriptive Profiles of the Police and Fire Departments

The project team will document its initial understanding of the departments, their service levels, staffing, and service environments in descriptive profiles. The profiles will also present workload data, preliminary analysis, organizational charts, deployment schedules, and a summary of key characteristics and dynamics of the community.

A primary aim of developing the descriptive is to provide a foundation for subsequent analysis by ensuring the accuracy of our assumptions and understanding of key details.

For each department, divisions and units, the descriptive profile will detail:

- Current (filled) and authorized staffing levels by classification.
- Key responsibilities and duties for each unit, command staff, and unique role within the department, including all administrative and support units.
- Organizational structures and reporting relationships.
- Deployment structures of field services, including for suppression and patrol:
 - Detailed visualization and tables showing the current shift schedule, including personnel assigned to each, start times, and workday rotations.
 - Areas of geographic responsibility.
- For investigative units, total caseloads, a description of case management practices, and case assignment processes.
- Numbers of staff and roles for support and administrative staff (e.g., training, prevention, programs, finance, etc.).
- Document recruitment and training dedicated to staff.
- Deployment of stations and apparatus in use by the Fire Department as well as Police Department facilities.

The draft document will be reviewed with the departments and with the project steering committee, with corrections and revisions being made thereafter. This meeting will also provide an opportunity to discuss initial observations and findings, coordinate any remaining data collection needs, and discuss the next steps of the project.

This task in the study will also document crime and fire protection risks in the Town and what steps are in place to mitigate these risks through community partnerships and/or the Town's resource allocation.

TASK RESULT

Descriptive profiles will be detail the organizational structure, staffing, and operations, of the departments, as well as key characteristics of the service environments. This would be reviewed with the departments and the project committee.

Task 4 | Analysis of Police Department Workloads, Staffing, and Deployments

The project team will develop a comprehensive analysis of staffing needs for every function of the department, as well as strategies achieving the best use of existing resources. While different analytical factors and processes are used to determine staffing needs for each function, the project team will examine strategies for deploying, allocating, and managing the operations of personnel around a number of key considerations:

For every function, the analysis will focus on the ability of staffing levels to achieve targeted service levels and support effective operations management, such as review of the following:

- Key workload drivers and processes for administrative and support functions.
- Are spans of control within targeted ranges for individual functions?
- Are controls for overtime usage adequate, and what are the key drivers of overtime by type (e.g., to backfill, staff special events, etc.)?

(1) Patrol Workload, Proactivity, and Staffing

Analysis of community-generated calls for service using computer aided dispatch data is central to this effort. project team will determine current service levels through the following:

- Analysis of patrol workload, including at the following levels:
 - Calls for service by hour and weekday, month, area, priority level.

- Response and travel times by priority level and call classification.
- Total spent handling calls by primary and backup units by time and area.
- Factors and assumptions for other workload factors, such as report writing.
- Patrol self-initiated activities and community engagement strategies, including:
 - Self-Initiated activities by hour and weekday.
 - Trends in types and frequency of self-initiated activities.
 - Relationship between uncommitted time and officer-generated activity.
- Determine patrol staffing needs, both overall and at the level of each patrol division and shift, based on workloads and targets for proactivity.
- Develop an understanding of the growth factors that will impact patrol.
- Analyze patrol supervisory staffing needs based on span of control and the impact of the administrative workloads handled by sergeants and ability to be in the field.
- The project team will evaluate the interactions of Patrol with investigations, specialized units, and regional assets. This will be accomplished through:
 - Evaluate how data-driven techniques support coordinating field resources.
 - Develop an assessment of how staffing in these functions compare to performance goals and objectives for meeting certain service level targets.
- Critically especially for field services, how is the community's perceptions and needs identified and prioritized?

(2) Patrol Shift Schedules and Deployment

The project team will utilize the firm's patrol resource allocation model to determine the most optimal and effective deployment of personnel, including the development of alternative shift configurations. This incorporates:

- **Net availability factors**, including leave, training, vacation, FMLA, military, sick, and other categories that result in employees not being on duty on a particular day. This is tied to all staffing calculations and stratified into different functionality categories, such as patrol officers, who have unique factors shaping their availability.
- **Unallocated (proactive) time capabilities**: The schedule must ensure that officers are optimally deployed in relation to times and days when workload is greatest, ensuring that proactive time capabilities are consistently and equitably distributed by shift.

- **Current staffing constraints and future needs:** Shift schedules must not only incorporate current limitations, but also be designed to be scalable and reflect the changing service environment, as well as adaptability to future staffing scenarios.
- **Overtime usage:** Shift schedules and minimum staffing considerations are central to the question of overtime usage, as shift schedules guide the probability that overtime must be used to backfill needed positions. As a result, the requirements for deploying staff and targets for minimizing overtime must be set to specific thresholds that feed into coverage requirement calculations from a standpoint of probability – i.e., the likelihood of there being insufficient staff available on duty on a particular day.
- **Qualitative factors** are also critical to consider in developing new deployment schedules, such as employee quality of life factors, fatigue, and other concerns. These issues drive rates of retention and the ability to attract candidates.

The analysis of shift schedules will examine opportunities to optimize the current configuration as well as the feasibility and effects of implementing alternative schedules, including the allocation of personnel by squad, watches, start times, and other factors.

(3) Call Diversion

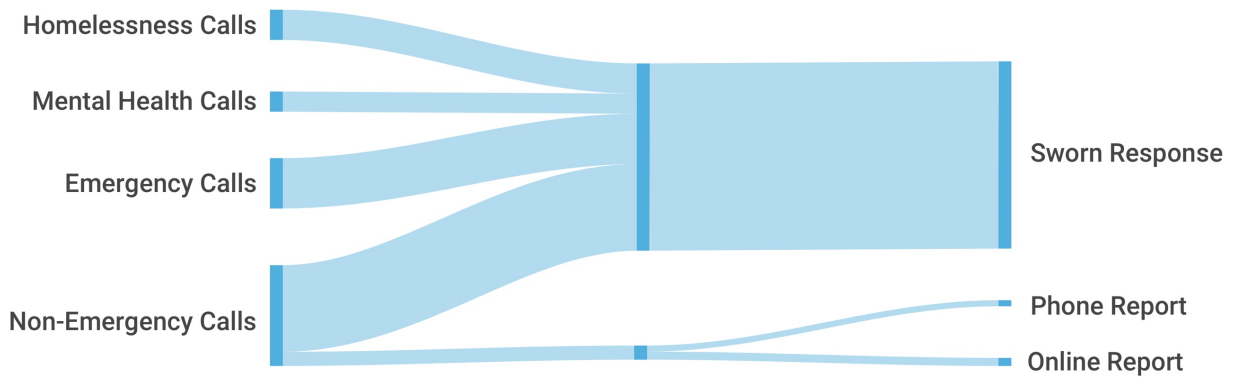
Over time, and particularly over the past decade, more and more has been asked of law enforcement personnel. They have been asked to function as social services staff in responding to issues of homelessness, intervene in situations involving persons experiencing mental health crisis, and serve numerous other roles beyond what was expected in the past.

At the same time, service level expectations have not diminished. Perhaps more than ever, law enforcement personnel have been asked to respond to minor, non-emergency calls such as non-injury accidents, and calls that simply do not need to be law enforcement matters.

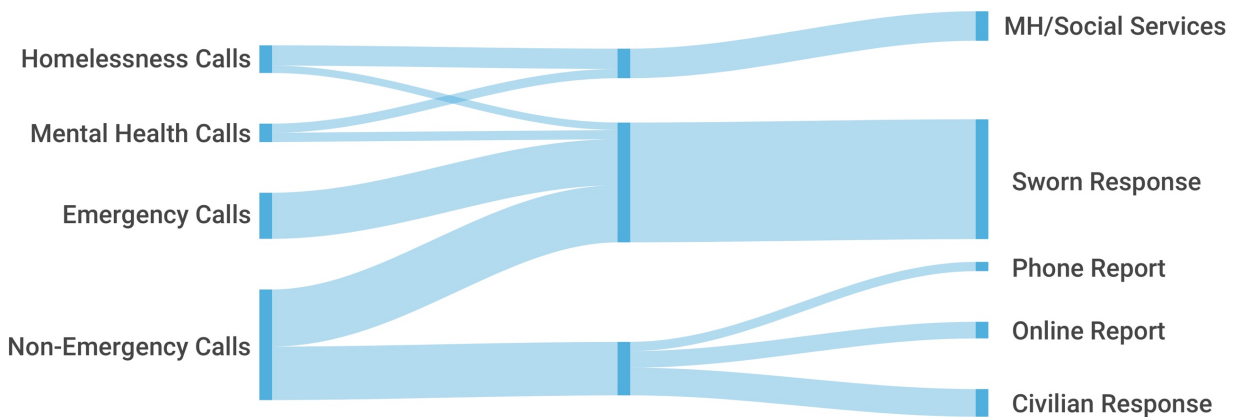
Call diversion provides an opportunity to re-imagine and reconfigure these responsibilities, allowing departments to balance workload between field patrol personnel and other types of specialized resources.

The following charts provide a visual illustration of the framework for call handling before and after implementing call diversion for certain types of calls:

Before Implementing Call Diversion Approaches



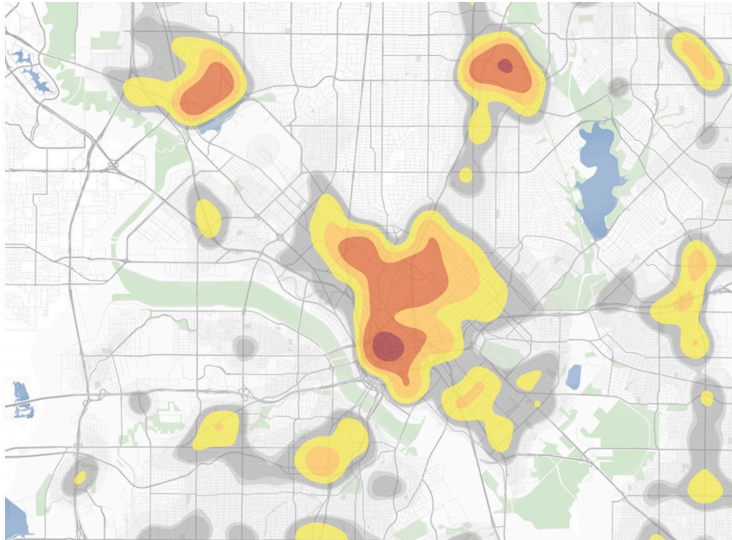
After Implementing Call Diversion Approaches



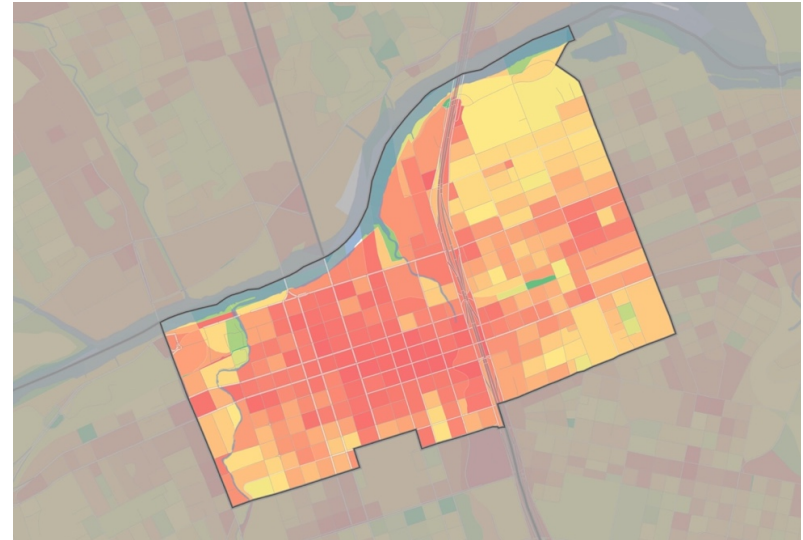
The following pages provide additional examples of the firm’s approaches to analyzing crime, calls for service, and patrol proactivity/unallocated time:

Time	# Units	S	M	T	W	Th	F	Sa	Overall
2am-6am	31 . 4	15%	59%	55%	58%	57%	46%	26%	45%
6am-10am	37 . 0	57%	47%	46%	46%	49%	47%	52%	48%
10am-2pm	38 . 9	19%	-1%	3%	5%	5%	1%	8%	6%
2pm-6pm	73 . 6	46%	38%	36%	34%	33%	37%	41%	43%
6pm-10pm	52 . 3	15%	8%	14%	10%	14%	7%	17%	16%
10pm-2am	53 . 6	8%	35%	29%	37%	34%	28%	9%	35%
Overall	47 . 8	32%	33%	33%	34%	34%	30%	30%	32%

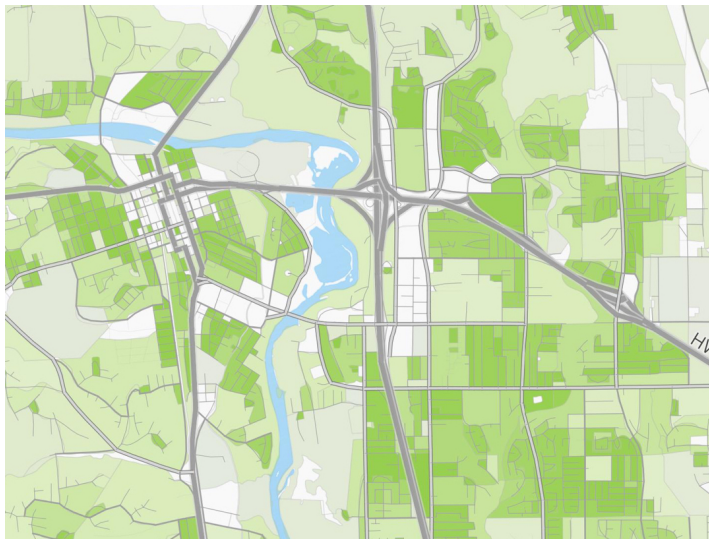
Exhibit A



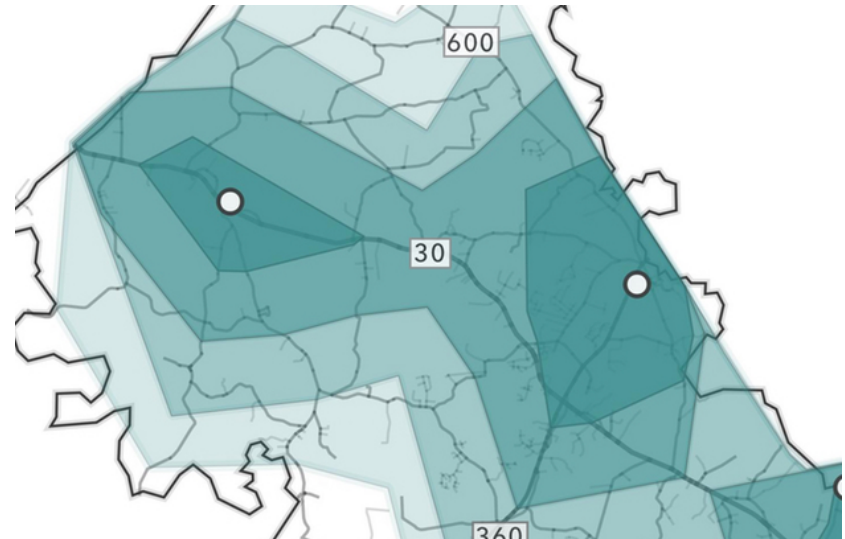
Identification of call hotspots to determine emerging service needs



Block-by-block analysis of patrol resource needs



Analysis of population density throughout the jurisdiction



Response time analysis for emergency incidents

(4) Investigations

The analysis of investigations workload and staffing needs incorporates input received from the interviews conducted with supervisors and line level detectives, comprehensive collection of data to examine caseloads and associated workloads, as well as a review of participation in specialized regional task forces. Through this process, the project team will develop an analysis of staffing needs for all investigative functions, including:

- Case assignment and screening.
- Management of versus inactive cases.
- Average workloads by detective in each investigative unit.
- Coordination with patrol and records.
- Average time from initial report, assignment of the case, and start of work.
- Solvability factors and work priority management.
- Division of case types by unit – are investigations too generalized or specialized given workloads, service levels, and investigative outcomes?

(5) Other Functional Areas and Organizational Structure

In **records and support services**, the analysis will focus on hours of coverage, scheduling, and technology.

In **recruitment and training**, how does the APD identify strong candidates to reflect not only technical abilities but also ethical and engagement needs with the community?

How does academy and in service training in reinforce skills and community needs? Initial and ongoing training of sworn and civilian personnel will be evaluated, including facilities.

In functions such as **animal services**, the relationship between coverage and workloads is critical, including desired levels of proactivity.

The **organizational structure** will also be examined from the perspectives of:

- Gaps and duplication in responsibility
- Rank structure
- Spans of control
- Functional alignments
- Opportunities to civilianize administrative functions or their supervision.

TASK RESULT

The project team will develop an interim deliverable report that provides a comprehensive analysis of the workload and staffing in each unit in the Police Department. This will be reviewed with the Police Department and project committee.

Task 5 | Analysis of Fire Department Workloads, Staffing, and Deployments

The project team will develop a comprehensive analysis of staffing needs for every function of the Fire Department, as well as strategies achieving the best use of existing resources. While different analytical factors and processes are used to determine staffing needs for each function, the project team will examine strategies for deploying, allocating, and managing the operations of personnel.

For every function, the analysis will focus on the ability of staffing levels to achieve targeted service levels and support effective operations management, such as review of:

- Key workload drivers and processes for administrative and support functions.
- Are spans of control within targeted ranges for individual functions?
- Are controls for overtime usage adequate, and what are the key drivers of overtime by type (e.g., to backfill, staff special events, etc.)?

(1) Assessment of Fire Stations and Apparatus

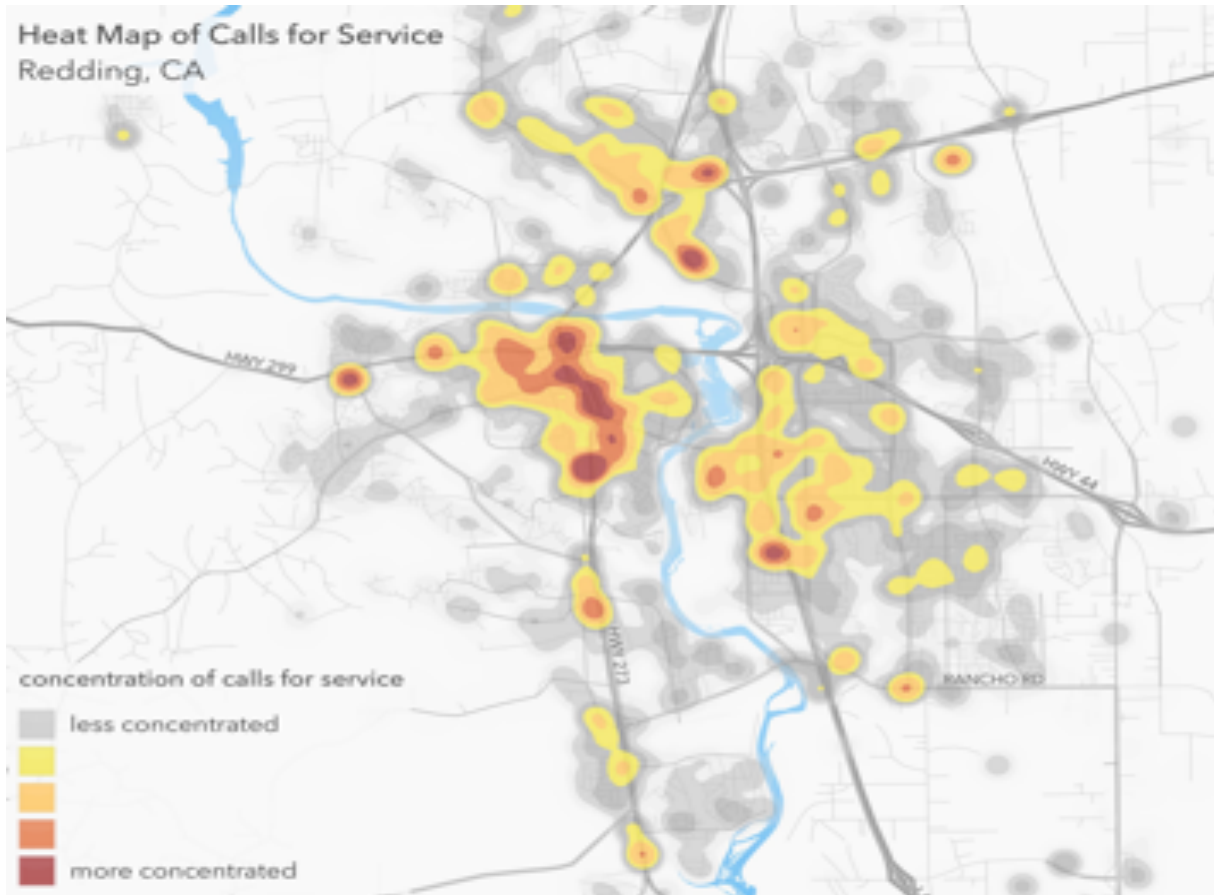
The existing stations will be toured to ensure they provides an appropriate and safe location for employees to work and operate from. The project team will tour the facility utilized by the Fire Department to review the following:

- **Complete a detailed facilities inventory.** We will meet with facility management personnel to review maintenance histories for the two fire stations.
- **Conduct a functional analysis of the station.** We will tour the fire stations to analyze the building condition, efficiency, square footage, and adjacencies. We will identify underutilized and crowded spaces/conditions. What is the access/egress from the facility? Can it accommodate other amenities? Are there immediate maintenance or improvements needed? Is there proper ingress and egress at the facility? What is the long-term projection for the station life cycle?
- **Apparatus Assessment.** During the station tours an assessment of the apparatus housed at the station to ensure it meets the current and projected needs of the response area will be conducted with the age, condition and serviceability of the

apparatus documented. This will allow the development of an appropriate apparatus replacement schedule during the development of the study.

(2) Analysis of Responses

The project team will evaluate the workloads of the AFD and how it relates to risks. The first step will be a demand study that will analyze and geographically display the current service demand by incident type and temporal variation.

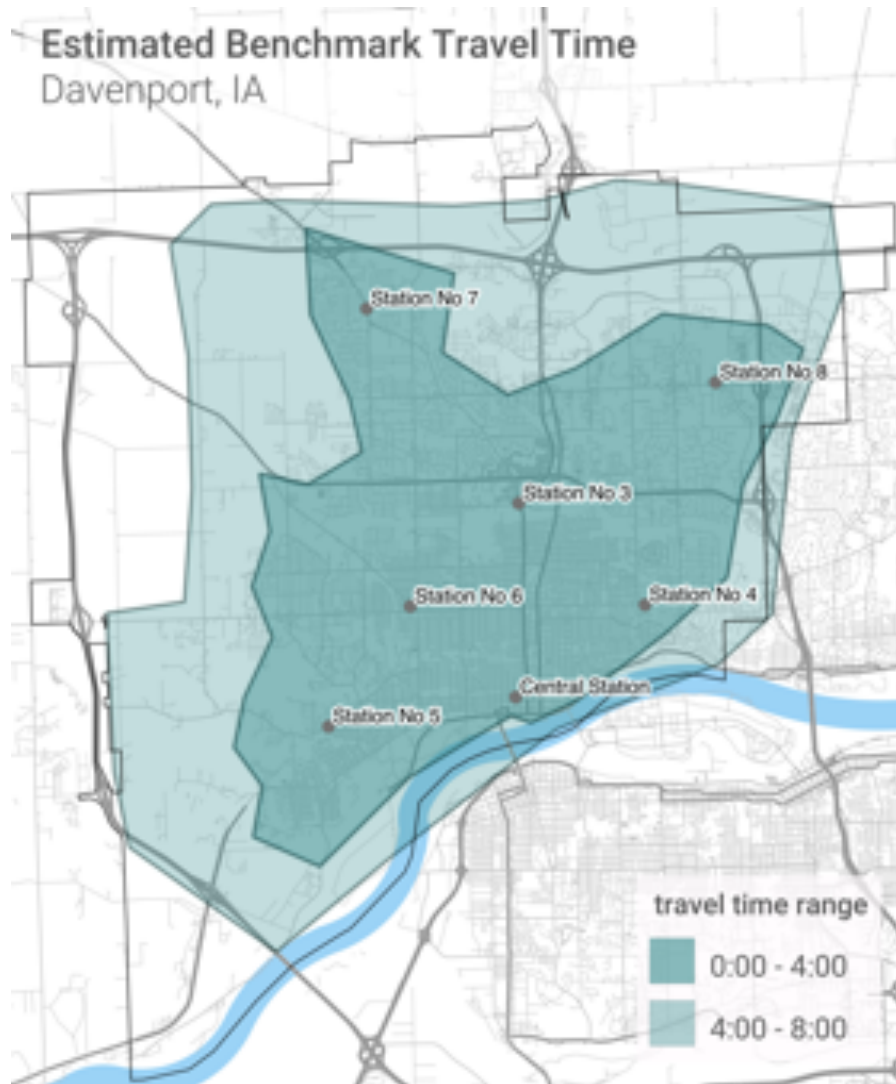


We will develop a matrix for the common and predictable risk types and corresponding staffing, resource needs and time standards to mitigate these types of emergencies. This will allow comparison of the current deployment capabilities against community risks, call demand and community expectations. A summary of the current available resources and how they correspond to the community risk profile will be developed.

At the same time, we will evaluate the current facility and apparatus deployment strategy, analyzed through GIS software, with identification of service gaps and redundancies in initial unit arrival.

The project team will then review and evaluate responses in areas specifically involved in, or affecting, service levels and performance. Key areas to be reviewed will include:

- Analysis of response time capability to achieve a full effective response force
- Analysis of company and staff distribution as it relates to the assembly of an effective response force.



- Analysis of current workloads, including unit hour utilization of individual companies
- Analysis of call concurrency and the impact on the ability to assemble an effective response force an impact on resource exhaustion, including reflex and travel times

- Review of current automatic and mutual aid documents to determine the ability of outside agencies to assist in the delivery of emergency services and development of an effective response force
- Development of an optimal station placement and staffing plan to address current needs and future planned growth.

This task will be focused on evaluating the staffing and deployment of personnel associated with emergency service delivery. This evaluation will focus on the following types of issues:

- How is leave managed to minimize the impacts of overtime?
- What are the utilization rates of suppression and EMS personnel? Are there opportunities to increase their utilization in non-emergency activities?
- Does the Fire Department track and manage key personnel indicators such as use of sick leave, workers compensation, etc.?
- Are there issues with utilization and results of special assignments in the Department?

(3) Fire Prevention Services

Through interviews with Department staff, analysis of existing codes and ordinances and discussion with Planning and Zoning representatives in the Town, we will gain a full understanding of the current approach to providing fire prevention related services. This will include:

- Understanding the organization and responsibilities of fire prevention services to include staff time allocation and assigned responsibilities for plan reviews, inspections, public education, and other fire prevention activities.
- How are development services coordinated in the Town?
- What are the requirements for built in fire protection in the Town?
- How are fire suppression and EMS personnel used to assist in fire prevention efforts?
- How does fire prevention fit into the overall Town risk management programs?
- How are fire investigations handled in the Town?

(4) Internal Support Services

This task will examine the various management roles and support services of the Fire Department to include training, fitness and wellness and administrative support. This information will provide a base to assess issues associated with:

- Recruitment, hiring and retention practices to attract and keep a quality workforce
- Initial and ongoing training of sworn and civilian personnel including facilities
- Career development plans and how personnel are prepared for promotion
- Roles of administrative personnel (e.g., finance, human resources, IT).
- Roles of civilian personnel and opportunities to improve the use of civilians
- Evaluation of Emergency Management practices including how plans are reviewed, updated and trained on regularly?

TASK RESULT

The project team will develop an interim deliverable report that provides a comprehensive analysis of the workload and staffing needs of each unit in the Fire Department. This will be reviewed with the Fire Department and project committee.

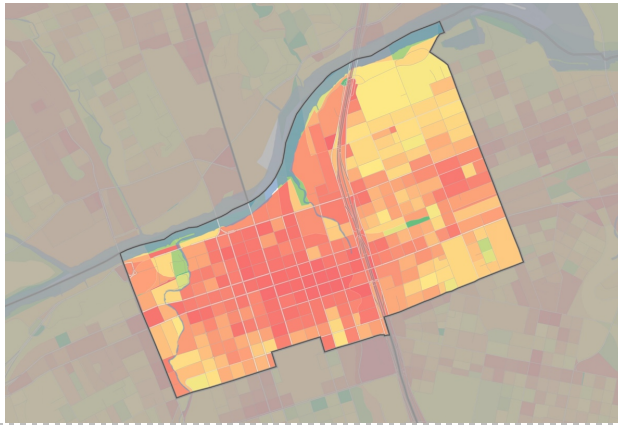
Task 6 | Projection of Police and Fire Department Service Demands and Personnel Resource Needs.

The unique factors of a community shape the service environment that public safety personnel operate in, and as a result, there is not a one-size-fits-all approach to identifying strategic planning.

The modeling system we have developed to determine the impacts of development and growth on fire service demands is the combined product of using advanced technical capabilities and our experience in working with local government clients.

Key aspects of the model employed to create an accurate and defensive model for planning service and personnel needs while factoring future demands created by growth, new turnpike, urban expansion, and the expansion of the airport. These will include the following:

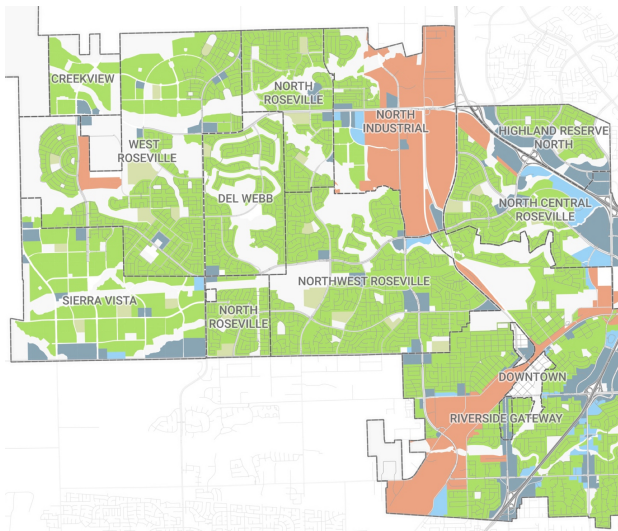
Illustrative Factors Considered to Project Future Staffing Needs



Geographic Analysis of Service Needs

In order to model the effects of the anticipated development project in Addison, it is critical to understand the rates at which existing and similar developments generate workloads and other public safety service needs.

Our analysis will utilize a GIS-centered approach to examine geospatial trends in service demand.

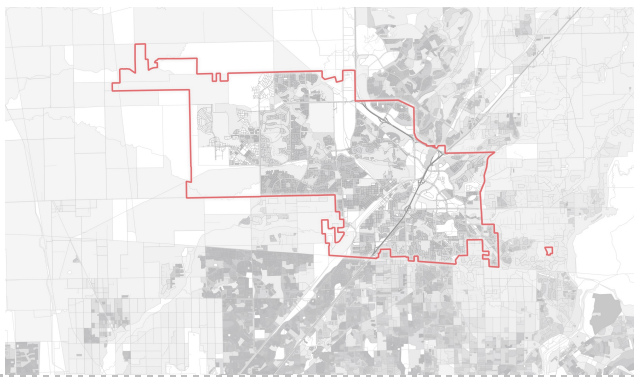


Land Use and Redevelopment

Different types of residential, commercial, and industrial zoning spaces have unique impacts on public safety service needs.

We will meet with Addison’s Planning and Zoning staff to understand how land is used currently, as well as the configurations of the anticipated development project, in order to accurately model how these needs will evolve.

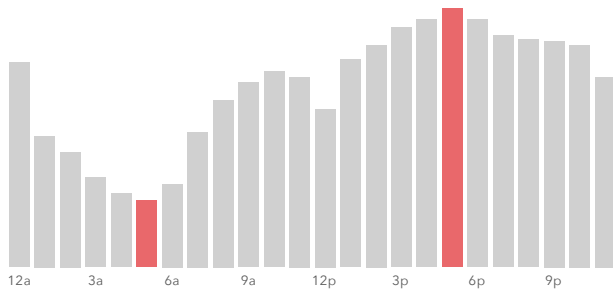
The data collected from Planning and other resources will form the basis of our GIS model of how fire service needs will evolve over the projection timeframe.



Regional Interactions

Understanding the context of the community within its surrounding region is essential to forecasting its planning needs.

This includes developing an understanding of factors such as the daytime working population and effects on field resource demands in the mixed-use environment of this proposed project.



Workload-Based Projections

Rather than base projections for future staffing needs on a simple ratio such as officers per capita, our analysis builds staffing needs from how workload is changes – whether driven by calls for service, inspection workload, or reports and administrative workloads for other staff.

Data collected for the analysis of projected service and personnel needs includes the following:

- CAD data (up to the past three years if current CAD system has been in place for that timeframe).
- Supporting information for CAD analysis (e.g., unit code and incident type lists, incident report totals).
- Planning and land use GIS shapefiles (preferably including information such as commercial space, housing unit counts, and other key target hazard data)
- Information on planned developments, including expected timeframes for completion when possible

The project team will collect other publicly available data used for the analysis, such as current and proposed road networks, census data, and geographical features.

The results of the service need and staffing projections will be developed into an interim deliverable that provides comprehensive projections for service and staffing needs for every fire department function to meet current services and provide services to the Town and contract entities. The projections will be provided at multiple timeframes in order to provide for a more accurate planning process.

TASK RESULT

The analysis will result in an interim deliverable that comprehensively projects public safety service and staffing needs related to the planned development for each function in the Police and Fire Departments. The project team will review the draft deliverable with the steering committee on site and make revisions as needed.

Task 7 | Final Report

Following the gap analysis, the project team will develop the draft final report. The report includes a comprehensive analysis of all items in the scope of work, along with timelines, impacts, and targets for implementing changes. It is comprised of the following:

- An **executive summary**, which includes an overview of the process used to conduct the study, key results, and a comprehensive list of all recommendations made in the report.
- **Analysis of staffing** resources, operations, and deployment for all Police and Fire Department functions, which includes:
 - Analysis of current police and fire field workloads and staffing needs.
 - Shift configuration and assignment optimization and alternatives.
 - Deployment and staffing needs for specialized resources.
 - Investigative workloads, specialization, and case management practices.
 - Prevention and training opportunities for improvement.
 - Administrative staffing and functionality.
- **Analysis of projected staffing** on a position by position basis for a 20 year planning period. The staffing analysis will be tied to analysis and projections of facility needs for both departments
- Implementation plans for each recommendation.

Following completion of the draft final report, the document will be reviewed with the project steering committee, and revisions will be made thereafter. Upon finalization of the report, the project team will be available to present the results of the study to the Addison Council.

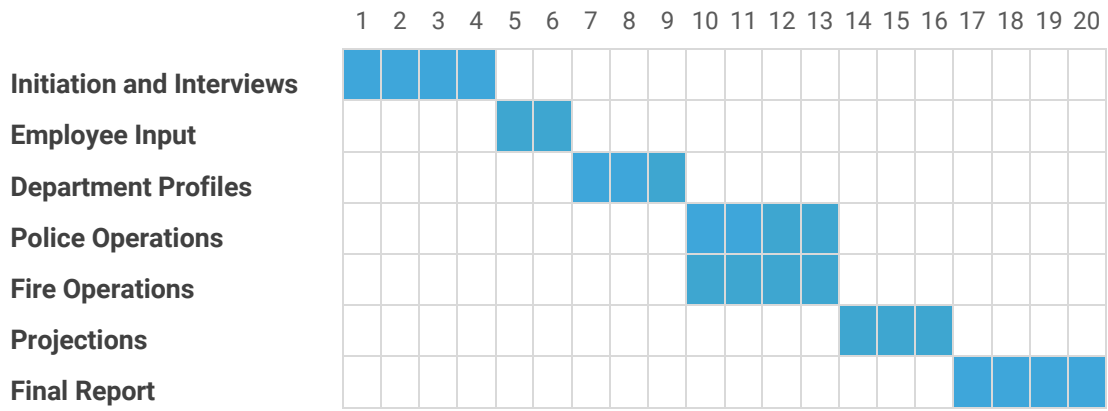
TASK RESULT

The project team will complete a draft report, which will be reviewed with the project steering committee. After revisions and any modifications have been made, the project team will be available as to present the final report to the Council.

1.4 Proposed Project Schedule

The following presents our proposed timeline to complete the study on a week-by-week basis for a projected 5-month duration from project initiation to completion of the draft report.

Exhibit A



2 Experience of the Firm and Project Team

This section of our proposal provides a brief introduction describing our firm's organization and services.

2.1 Introduction to the Matrix Consulting Group

Founded in 2002, the Matrix Consulting Group was formed by senior government consultants who created it to provide the depth of analysis needed to help our clients solve problems and prepare for the future. Our only business focus is the provision of organization and management analytical services to local government. Since being founded 20 years ago we have served our clients in over 1,600 consulting projects providing support to the efficiency of operations and better plan for the future.

We provide a wide range of service to our local government clients – including management, staffing and operations audits, feasibility studies, and cost of service studies for every local government service area. However, as later sections demonstrate, public safety is our largest service area.

Our firm is incorporated in California and has two offices there; we are also registered as a foreign corporation in Texas. As a national firm, we also have offices in the Dallas Metroplex, Portland (OR), Southern Illinois, Tampa / Fort Myers (FL), and Charlotte / Raleigh (NC). We also have an office in Nova Scotia, Canada. We currently have 27 full-time and 7 part-time staff.

2.2 Law Enforcement Consulting

While we provide a variety of services to local government our most significant service area is public safety. The Matrix Consulting Group project team has conducted studies of more than 400 law enforcement agencies in Texas and throughout the United States and in Canada. Our services in police consulting are varied and include:

- Community-centered policing.
- Staffing, deployment and scheduling.
- Organization and management of services.
- Strategic, resource and management planning.

The following examples of recent work shows the diversity of our police study client base in Texas alone:

Austin, TX	Denton, TX	Lewisville, TX
Buda, TX	Fair Oaks Ranch, TX	San Antonio, TX
Boerne, TX	Fort Worth, TX	Sunnyvale, TX
Burleson, TX	Glenn Heights, TX	Texas City, TX
Cedar Hill, TX	Kyle, TX	Travis County, TX

In addition, we are currently working with Cedar Park, TX and Broken Arrow, OK on staffing and strategic planning studies.

2.3 Fire and EMS Consulting

The Matrix Consulting Group project team has conducted studies of more than 400 fire and emergency medical service agencies in the region and throughout the United States and in Canada. Our services in police consulting are varied and include:

- Fire service staffing and deployment studies.
- Master planning and strategic planning.
- Standard of cover studies.
- Feasibility assessments.

We have worked extensively to provide a wide range of services to fire agencies across the country. The following table provides a partial list of recent fire studies:

Aspen, CO	Dinuba, CA	Sandwich, MA
Bellingham, WA	Dixon, CA	Sebastopol, CA
Berlin, NH	Grants Pass, OR	Valley Center, KS
Big Bear, CA	Gresham, OR	Westport, CT
Desoto, TX	Los Banos, CA	Yarmouth, MA

In addition, we are currently working with Cedar Park, Georgetown, and Round Rock, TX on a staffing and strategic planning study.

2.4 Project Team

We are assigning a very experienced project team to conduct this study. The following points provide brief synopses of who our team members are, followed by detailed resumes.

- **Richard Brady**, the President of Matrix Consulting Group, with 40 years of police analytical experience, I would manage the project and be involved in all phases of its conduct.
- **Ian Brady**, a Vice President with Matrix Consulting Group, with 11 years of experience in law enforcement consulting; his expertise lies in creating deployments and statistical models.
- **Robert Finn**, a Senior Manager with Matrix Consulting Group, with 25 years of experience in public safety (Southlake, TX) and 12 years of consulting experience leading our fire practice.
- **Devon Clunis**, a Director with Matrix Consulting Group, with over 30 years of experience as a consultant and transformational chief in Winnipeg (MB) and Ontario's Policing Inspectorate.
- **John Scruggs**, a Manager with Matrix Consulting Group, with over 26 years of law enforcement experience and over 6 as a police consultant. He co-authored legislation on body cameras.
- **Terry Lewis**, a Senior Consultant with Matrix Consulting Group, with 26 years of experience in the fire service and 5 as a fire consultant.
- **Tim Donohoe**, a Senior Consultant with Matrix Consulting Group, with over 25 years of police experience and recent consulting experience, including internationally.
- **Philip Berry**, a Senior Consultant with Matrix Consulting Group, with over 6 years of experience serving as an analyst for law enforcement and criminal justice agencies.
- **Nick Heuertz**, a Senior Consultant with Matrix Consulting Group, with over 6 years of experience service as a police officer across a variety of law enforcement functions.
- **Ryan Peterson**, a Consultant with Matrix Consulting Group, specializes in GIS capabilities and has over five years of experience in conducting geospatial analysis for local government.

It needs to be stressed that this team of police and fire consultants are all staff of the Matrix Consulting Group. Our team does not include subcontractors. Staffing a project in this way has a positive impact on quality, depth, and consistency of our work.

RICHARD BRADY

PRESIDENT, MATRIX CONSULTING GROUP

Richard Brady founded Matrix Consulting Group in 2002 and our Canadian firm, MCG Consulting Solutions in 2017. He leads our Public Safety Practice which includes law enforcement and justice studies. He has served as the Project Manager or Lead Analyst on hundreds of public safety studies in his 40-year career. His subject matter expertise includes staffing and deployment, management effectiveness, and governance and transparency. Prior to his founding of these two firms, he served for over 20 years as a practice leader in two other firms, including Maximus.

Experience Highlights

Austin, TX: Richard led a consulting team to assist the APD recreate its approach to community policing to involve everyone, not just those with specialty assignments. While the study supported the addition of staff, the study also found that there were significant opportunities to support community policing in leadership, policies, recruitment, training, supervision, and use of data.

Columbus, OH: Richard led this recent project that identified the need for new positions, but more importantly, identified a number of areas which would improve the quality of service and integrity, including:

- Steps to improve upon building trust in the community.
- Changes to use of force policies and biased policing.
- Increase training on de-escalation and procedural justice.
- Increase the use of civilians in the field and in administration.

There was a ‘disconnect’ between the policies and management.

Ossining, NY: Richard led this just-completed engagement evaluating opportunities to reform policing consistent with 21st Century Policing concepts. Key recommendations included:

- Improve the functioning, transparency and objectivity of the Citizen / Police Complaint Review Board.
- Work with other agencies to create a mental health response unit.
- Expand training in the areas of racism, bias, de-escalation.

Role on This Engagement:

Richard will serve as an overall project executive and advisor.

He will be involved in all project stages, including interviews and review meetings. He will lead product design and quality control.

Relevant Clients:

MB Winnipeg
 ON Kawartha Lakes
 AB Edmonton
 AZ Phoenix
 CA Los Angeles
 CA San Francisco
 CO Aurora
 IA Davenport
 TX Austin
 TX Fort Worth
 MO Kansas Town
 OH Columbus
 OR Portland
 NY Ossining
 NY Albany
 VA East Greenwich
 NC Raleigh
 NC Asheville
 WA Tacoma
 WI Glendale
 WI Oshkosh
 OR Portland

Years of Consulting: 40

Education:

BA, California State University, East Bay.

PhD, Oxford University, U.K.

Notable Accomplishments:

Ohio Commission on Juvenile Justice

Massachusetts Governor’s Committee on Local Government

Professional Association:

Association of Local Government Auditors

International Town-County Management Association

IAN BRADY

VICE PRESIDENT, MATRIX CONSULTING GROUP

Ian Brady is a Vice President with Matrix Consulting Group in our Police Services Practice. He leads our data analytics unit and has over 10 years of consulting experience. Specializing in public safety, he works on all of our police, fire, corrections, and emergency communications studies.

Mr. Brady is the lead developer on all of our statistical modeling and data analytics efforts, and has created standalone models in support of our studies' analytical efforts, including for:

- New agency formation feasibility, financial and service delivery (For nine municipalities in Riverside County, CA).
- Growth forecasting using GIS-based projections for population, service needs, and staffing requirements.
- Comprehensive workload and staffing analytics.
- Interactive scheduling configuration, forecasting effects on service levels and overtime usage.

Experience Highlights

Los Angeles, CA: LAPD Basic Car Area Boundary Study

- Led a comprehensive staffing study of LAPD field services.
- Recreated the patrol geographic deployment structure from the granular level, resulting in 202 new patrol areas, up from the 168 that existed previously.
- Analyzed patrol resource allocation strategies, recommending improved methods in order to better equalize service levels.

San Francisco, CA: Police Department Staffing Analysis

- Lead analyst on a comprehensive staffing study of the department.
- The project was designed to create defensible methodologies for determining the staffing needs of all 600+ assignments in the department based on service needs and other factors. These methodologies were then used to recommend appropriate staffing levels in every position.
- Developed and designed an interactive analytical tool for SFPD to use in the future to recreate the analysis in its entirety.

Role on This Engagement:

Ian will serve as the lead analyst on the police project, especially in field services and development of the projection model..

Relevant Clients:

- AZ Peoria
- AL Birmingham
- CA Berkeley
- CA Los Angeles
- CA Roseville
- CA Sacramento
- CA San Francisco
- CA San Jose
- CO Adams County
- FL Miami Beach
- FL Orange County
- GA DeKalb County
- HI Kauai County
- IL Lansing
- IL Rockford
- KS Wichita
- MB Winnipeg
- MD Harford County
- MD Howard County
- MN Hennepin County
- MO Columbia
- MO Kansas Town
- OK Midwest Town
- NC Raleigh
- NJ Mahwah
- NM Rio Rancho
- NY Newburgh
- OH Columbus
- OR Portland
- PA Carlisle
- TX Austin
- TX Fort Worth
- TX Travis County
- VA Suffolk
- WA Tacoma
- WI Oshkosh

Years of Experience: 10

Education:

BS in Politics, Willamette University.

ROBERT FINN

SENIOR MANAGER, MATRIX CONSULTING GROUP

Robert Finn is a Senior Manager with the Matrix Consulting Group and previously served as the Chief of the Southlake (TX) Department of Public Safety. Mr. Finn has a strong educational background coupled with a successful track record that includes strategic planning, budgeting, change management, community relations, and building collaborative partnerships. Robert has over 30 years of fire service and consulting experience covering all aspects of the fire service industry.

Robert's relevant experience includes serving the Town of Southlake, Texas for 25 years in the following roles:

- Chief of Police (2008 to 2011)
- Chief of Fire Services (2004 to 2008)
- Lieutenant of Professional Standards (1999 to 2004)
- Lieutenant of Training (1995 to 1999) – Level II Instructor
- Coordinator of Emergency Medical Services (1993 to 1995)
- Firefighter / Driver / Paramedic (1987 to 1993)

Experience Highlights

Billerica, MA: Robert was the lead analyst on this project aimed at an assessment of the Fire Department. Key findings/ achievements of the project:

- Increasing minimum staffing on engine companies to 3 personnel.
- Relocation of a station to improve response times and reduce risk of flooding.
- Elimination of a redundant Captain position.

Westport, CT: Robert was the lead analyst on this study develop a strategic plan for the Fire Department. Key findings/achievements include:

- Changes to the deployment model to improve services.
- Improvements to the record keeping and data reporting systems
- Relocating Fire Prevention to centralize the service in the Town.
- Implementing electronic inspection and plan review processes.

Role on This Engagement: Robert will be the lead analyst on the fire portion of this project.

Relevant Clients:

AK	Anchorage
CA	Big Bear
CA	Huntington Beach
CA	Mercer County
CA	Monterey
CO	Mesa County
CO	Steamboat Springs
CT	Greenwich
CT	Westport
GA	DeKalb County
IA	Davenport
MA	Billerica
MA	Boston
MA	Chelsea
MA	Yarmouth
MI	Sterling Heights
NC	Raleigh
NY	Bedford
NY	New Rochelle
OH	Cleveland
TX	Possum Kingdom
TX	San Antonio
WA	Bellingham
WI	Oshkosh

Years of Experience: 30

Education:

MBA, and BS, Public Safety Administration, Grand Canyon University

Professional Association:

National Fire Protection Association (NFA)

International Association of Fire Chiefs (IAFC)

Center for Public Safety Excellence (CPSE)

DEVON CLUNIS

DIRECTOR, MATRIX CONSULTING GROUP

Devon Clunis served as Chief of Police of the Winnipeg Police Service and was the first Black police chief in Canada. He is a highly regarded policing professional, with 35 years of combined policing and consulting experience. He is recognized internationally as a thought leader in advancing policing excellence through a collaborative, community-centered approach.

Mr. Clunis served 29 years with The Winnipeg Police Service in Manitoba, Canada, retiring as Chief of Police in 2016. Most recently, he undertook the role of Inspector General of Policing in Ontario, overseeing the establishment of The Inspectorate of Policing in Canada's largest province, overseeing 45 police agencies and their corresponding Civilian Police Boards.

Experience Highlights

Province of Ontario: Provided strategic oversight of the establishment of the Inspectorate of Policing, ensuring critical collaborative input from relevant stakeholders, including the public, Police Services, Police Boards, Police Unions, and various other bodies within the Justice System framework. Oversaw all aspects of Vision, Mission, and Guiding Principles formation. Established policies, procedures, and SOP guidelines. Led the hiring of staff and created a people-centered, community-focused, continuous pursuit of excellence operational framework. Oversaw the creation of the implementation and operational, strategic plans to guide the establishment and future operations of the Inspectorate.

Town of Winnipeg: Served as Chief of Police and led overarching institutional change. Facilitated the creation of five-year transformational strategic and business plans to lead the organization from 2015 to 2019. Worked with police and the community to develop a collaborative approach to community safety and well-being, resulting in a critical shift in police and community relationships.

Role in This Engagement:

Chief Clunis will utilize his extensive experience in engaging stakeholders to build strategies, focusing particularly on organizational culture and community engagement.

Relevant Clients:

- CA Los Angeles
- OH Columbus
- MO Kansas Town
- AZ San Carlos
- PA Macungie
- WI Madison

- AB Edmonton
- MB Winkler
- MB Modren
- ON Kawartha Lakes

Years of Consulting Experience: 35

Years of Government Experience: 29

Education:

Law degree from Quebec Town's *Université Laval*.

Political science / economics degree from Montreal's McGill University.

JOHN SCRUGGS

MANAGER, MCG CONSULTING SOLUTIONS and MATRIX CONSULTING GROUP

John Scruggs is a manager / analyst on law enforcement, public safety, and criminal justice engagements.

John’s relevant experience include:

- Completed over 50 studies for law enforcement, public safety, and criminal justice clients.
- Analysis focuses on operational and staffing review, workload analysis, net annual work hour determination, and alternative scheduling analysis.
- Expertise also includes the evaluation of administrative, dispatch, investigations, patrol, records, and property and evidence functions.
- Retired Captain with 26 years of Law Enforcement Experience.

Experience Highlights

Kansas Town, MO: This study evaluated the staffing needs of the Police Department. Key findings included:

- Opportunity for greater fiscal savings by transitioning 30 positions from sworn to civilian staff, primarily in administrative areas (e.g., finance, records, fleet maintenance, security, IT, and HR).
- Identified the need for additional positions related to open record requests, reviewing BWC footage, and packaging of officer videos for judicial proceedings.
- Provided insight into alternative organizational structures and span of control in administrative functions.
- Conducting workload analysis to determine staffing needs for non-patrol and investigative units.

Kawartha Lakes, Ontario: John served as the lead analyst of the on this engagement which reviewed the current staffing and developed staffing projections for a facilities study. Key recommendations included:

- Identified two patrol positions needed in the next 4 years and six positions over the next 20 years to better meet adopted proactive policing thresholds.
- Identified a shortage of detectives assigned to investigate crimes committed at the Central East Correctional Center.
- Identified an alternative fixed post staffing plan for the jail and a revised shift schedule to increase supervision in the jail.

Role on This Engagement:

He will be an analyst on the project, focusing on police investigations.

Relevant Clients:

- AL Gulf Shores
- AZ Buckeye
- CA Los Angeles
- CA San Jose
- CA Santa Clara
- FL St. Cloud
- KS Kansas Town
- KS Wyandotte County
- MA Yarmouth
- MN Hennepin County
- MO Kansas Town
- OR Tigard
- PA Lower Saucon
- PA Narberth
- PA Upper Macungie
- NC Waxhaw
- NC Raleigh
- TX Denton
- TX Fort Worth
- TX Glen Heights
- TX Lewisville
- TX Sunnyvale
- WA Monroe
- WA Tacoma
- WI Dodge County

TERRY LEWIS

SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Terry Lewis has over 30 years of fire service and consulting experience. He previously served as the Chief of the Henderson (KY) Fire Department. Terry has a strong educational background coupled with a successful track record of leading an agency of 60 personnel in a community with 30,000 residents. Terry brings a wealth of knowledge and experience evaluating the staffing and operational needs of fire and EMS operations.

Terry’s relevant experience includes serving the Town of Henderson, Kentucky as Fire Chief for 10 years. He began his career with the Loveland-Symmes (OH) Fire Department where he advanced through the ranks until being appointed as Chief of Henderson. He has experience in the following areas:

- Administration
- Fire Prevention
- Financial Management
- Operations
- Hazardous Materials

Experience Highlights

Yarmouth, MA: Terry was a technical analyst on this project aimed at an assessment of internal and shared service improvement opportunities. Key findings/ achievements of the project:

- Identification of consolidation opportunities in Emergency Communication Services.
- Staffing requirements for a peak hour EMS unit.
- Development of service requirements, staffing needs, and costs of operating a during winter and peak summer months.

Oshkosh, WI: Terry was a technical analyst on this study to look at the staffing, operations and deployment of the fire department. Key findings/achievements include:

- Centralizing fleet and facility maintenance in the Town.
- Discontinuing the interfacility EMS transfer program.
- Reorganization to improve reporting relationships in the Department.
- Deployment changes to improve gaps in coverage in the Town.

Role on This Engagement:

Terry will be a technical expert for fire operations.

Relevant Clients:

- CA Atherton
- CA Big Bear
- CA Butte County
- CA Dixon
- CA Huntington Beach
- CA Mercer County
- CA Monterey
- CA Placer County
- CO Steamboat Springs
- CT Greenwich
- CT Westport
- FL Coconut Creek
- GA DeKalb County
- IA Davenport
- MA Billerica
- MA Boston
- MA Chelsea
- MI Sterling Heights
- NC Raleigh
- NH Berlin
- NY New Rochelle
- OH Cleveland
- OR Estacada
- TX San Antonio
- WA Redmond
- WI Oshkosh

Years of Experience: 30+

Education:

BS Fire Technology, AS Accounting, University of Cincinnati

Professional Association:

National Fire Protection Association (NFPA)
 International Association of Fire Chiefs (IAFC)
 Center for Public Safety Excellence (CPSE)

AARON BAGGARLY, AICP

SENIOR MANAGER, MATRIX CONSULTING GROUP

Aaron Baggarly is our lead analyst/facility planner on facility assessment, programming, space needs assessment, and master planning engagements.

Aaron’s relevant experience include:

- Completed over 70 facility studies for all government facilities with an emphasis on public safety and criminal justice facilities.
- Conducted facility condition assessments, space allocation review, architectural space programs, and space projections.
- Develop facility master plans that address current and future spatial needs with a combination of new construction, adaptive re-use, and analysis for centralized and decentralized operations.
- Studies results in determining facility needs based on user’s operational approaches.
- Over 200 staffing and operational studies for all local government operational areas.

Experience Highlights

Stafford County, VA: Aaron served as the facility assessor on this engagement which include assessment of 15 fire and rescue stations in the County. Key findings included:

- Several stations included several operational deficiencies such as a lack of drive through bays, proper vehicle exhaust systems, separate sleeping quarters, backup generators, etc.
- Assessed the facility mechanical systems, building exterior and interior, and site accessibility and security.
- Identified opportunities for consolidation of three volunteer and career stations to reduce future operational and capital cost.

Hennepin County, MN: Aaron was the lead staffing and facility analyst to evaluate the Sheriff’s Office Enforcement Services Division. Key findings and recommendations included:

- Completed a comprehensive staffing analysis to meet current and projected workload.
- Completed an architectural space program that outlined individual space needs for patrol, SWAT, crime lab, and training functions.
- Evaluated the space needs for a new firearms range and training facility.
- Developed options to address several scenarios for the potential inclusion of other Sheriff’s Office units in a new facility.

Role on This Engagement: Aaron will serve as a facility issues.

Relevant Clients:

- AL Gulf Shores
- AZ Buckeye
- CA Bakersfield
- IA Davenport
- KS Valley Center
- KS Wyandotte County
- MN Hennepin County
- NC Durham
- NC Wake County
- ND Red River Dispatch
- NE Fremont
- NY New Rochelle
- SC Oconee County
- SC Richland County
- TX Buda
- TX Burleson
- TX DeSoto
- TX Hays County
- TX Kyle
- TX Lewisville
- TX Prosper
- TX San Marcos
- TX Travis County
- UT Grand County
- WA Redmond

Years of Experience: 16

Education:

BS, Appalachian State University, Community and Regional Planning, Minor in GIS.

Professional Association:

American Institute of Certified Planners (AICP)
 American Planning Association

TIM DONOHOE

SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Tim Donohoe is a 26-year law enforcement veteran with 16 years of command leadership experience with the Reno, Nevada Police Department. Tim has served as the Mission Advisor for the United States Department of Justice’s International Criminal Investigative Assistance Program in the Republic of Armenia and as a Senior Law Enforcement Advisor in Ukraine. He has extensive specialized experience in international police reform, police hiring practices, internal affairs, police use of force, and police training. He is an Adjunct Professor at the University of Nevada, Reno, and is a veteran of the United States Marine Corps.

Experience Highlights

Tim most recently worked for the United States Department of Justice’s International Criminal Investigative Assistance Program in the Republic of Armenia. As the Mission Advisor, he worked closely with officials in developing the country’s new national patrol police force.

- Patrol police admission standards and hiring procedures
- Institutional procedures and instruction
- Training requirements and standards
- Police Training Officer (PTO) Program
- Civilian oversight.

Tim served with the Reno, Nevada Police Department for 25 years and has experience in both police operations and administration. He is a graduate of the Police Executive Research Forum’s Senior Management Institute for Policing and is a National Institute of Justice, Law Enforcement Advancing Data and Science Scholar.

- Operations Division Commander
- Internal Affairs Section Lieutenant
- Training Section Lieutenant
- Recruitment, Hiring, and Backgrounds Section Lieutenant
- Patrol Lieutenant
- Regional Repeat Offender Program Sergeant
- Regional Street Crimes Unit Sergeant
- Regional Police Academy Sergeant
- Internal Affairs Investigator
- K9 Unit Sergeant
- Patrol Team Sergeant
- Regional Street Crimes Unit Detective
- Backgrounds Investigations Detective

Role on This Engagement:

Tim will serve as a lead analyst on police operations support services.

Relevant Clients:

- CA Richmond
- CA Signal Hill
- ID Addison
- NY Monroe County
- TX Cedar Hill
- VA Virginia Beach
- WI Milwaukee

Education:

MA, University of Colorado, Denver

BS, Portland (OR) State University

Professional Association:

International Association of Chiefs of Police (IACP)

Police Executive Research Forum (PERF)

American Society of Evidence Based Policing (ASEBP)

PHILIP BERRY

SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Philip Berry serves in a senior consultant capacity alongside management to provide in depth analysis of relevant topics, as well as providing theoretical background knowledge of criminological principles and spatiotemporal analytics.

Prior to joining Matrix, Philip spent time as a research analyst with the Virginia Criminal Sentencing Commission in Richmond, VA. Philip has also spent time at academic institutions as an instructor throughout the east coast throughout the duration of his graduate-level coursework.

Experience Highlights

Virginia Criminal Sentencing Commission: Led research analyses surrounding the sentencing practices of judges throughout the Commonwealth. Analyses surrounded the effect of changing legislation on prison bed capacity in the state.

Cedar Hill, TX: Led MCG project staff regarding patrol resource analysis, internal employee survey methodologies, and external community survey completion.

Addison, ID: Coordinated all survey methodologies with regards to both internal employee surveys and external comparative surveys, leading to gap analyses to strengthen practices of APD.

Madison, WI: Philip served as a part of the Strategic Plan team to develop a holistic and bifurcated Strategic Plan for the Madison Police Department.

Role on This Engagement:

Philip will lead the analysis of police administrative support functions.

Relevant Clients:

- ID Addison
- WI Madison
- NY Monroe County
- AZ Phoenix
- VA Virginia Beach
- TX Cedar Hill
- FL Hallandale Beach
- CA Signal Hill

Years of Experience: 6

Education:

- B.A., Lebanon Valley College, Sociology
- M.A., Radford University, Criminology
- A.B.D., University of South Carolina, Criminology

Professional Associations:

- International Association of Crime Analysts
- American Society of Criminology
- American Criminal Justice Society
- American Sociological Association

NICK HEUERTZ

SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Nick Heuertz is a Senior Consultant with the Matrix Consulting Group and previously served for six years as a Police Officer with the Palatine (IL) Police Department. During his time with the Palatine Police Department, Nick served as patrol officer, tactical unit officer, investigator, school resource officer, and community relations officer. Additionally, he has experience in threat assessment, officer resilience and wellness programs, public information officer (PIO) strategies, and non-profit partnerships.

Experience Highlights

Nick worked in a variety of capacities within the Palatine Police Department and developed several programs to improve department operations. Principally, Nick developed a comprehensive officer resilience and wellness program. Nick also developed a formal social media strategy and grew the Department’s social media presence.

- Change management
- Policy writing and development
- Social media strategies
- Crisis communications planning

During Nick’s assignment to the Palatine Police Department’s Investigations Division, he applied for and was accepted into the Emergence Program at the United States Naval Postgraduate School. While enrolled in the program, he developed a detailed proposal to create a crime analysis program for the Palatine Police Department. In 2022, Nick was awarded the Rising Shield of Law Enforcement Award from the Illinois Association of Chiefs of Police for his work to strengthen partnerships between the Palatine Police Department and non-profit organizations in the Chicagoland area.

- Community Relations & Crime Prevention Officer
- Investigator & School Resource Officer
- Tactical Unit Officer
- Patrol Officer

Role on This Engagement:

Nick will serve as an analyst on selected functions and assist with data analytics.

Education:

BA, Purdue University

Emergence Program,
United States Naval
Postgraduate School

Awards:

2022 Rising Shield of
Law Enforcement Award,
Illinois Association of
Chiefs of Police

Professional Associations:

International City/County
Management
Association

Police Executive
Research Forum

RYAN PETERSON

CONSULTANT, MATRIX CONSULTING GROUP

Ryan Peterson is a Consultant with the Matrix Consulting Group, specializing in GIS and data analytics.

He has over 5 years of experience conducting geospatial analysis for public safety agencies.

Experience Highlights

Los Angeles, CA: LAPD Basic Car Area Boundary Stud

- Assisted in the recreation the patrol geographic deployment structure from the granular level, resulting in 202 new patrol areas, up from the 168 that existed previously.
- Analyzed patrol resource allocation strategies, recommending improved methods in order to better equalize service levels.

San Francisco, CA: Police Department Staffing Analysis

- Analyst on a comprehensive staffing study of the department.
- The project was designed to create defensible methodologies for determining the staffing needs of all 600+ assignments in the department based on service needs and other factors. These methodologies were then used to recommend appropriate staffing levels in every position.
- Developed and designed an interactive analytical tool for SFPD to use in the future to recreate the analysis in its entirety.

Jefferson County, OR: Fire and EMS Feasibility Study

Ryan was a data and GIS analyst on this project that examined the feasibility of consolidating private EMS with the County Fire District.

- Conducted calls for service and unit utilization analysis.
- Conducted financial analysis related to costs of providing both services now and into the future.
- Developed mapping scenarios to illustrate travel time performance from various station locations

Role on This Engagement:

Ryan will serve as a data analyst.

Relevant Experience:

CA	Los Angeles
CA	San Francisco
CO	Steamboat Springs
FL	Miami Beach
FL	Orange County
HI	Kauai County
IL	Rockford
MD	Harford County
MO	Kansas Town
NC	Raleigh
OH	Columbus
TX	Fort Worth
TX	Travis County
WA	Tacoma
WI	Oshkosh

Years of Experience: 5

Education:

BS in Geography, University of Oregon

3 Cost Proposal

We propose to conduct the Police and Fire Department Staffing Study for a fixed price of **\$117,880**. The table below shows the allocation of costs by task and project team classification.

	PM/VP	Sr. Manager/ Manager	Sr. Consultant/ Consultant	Cost
Initiation / Interviews	16	56	48	\$22,720
Employee Input	4	4	16	\$4,240
Descriptive Profile	8	32	40	\$14,400
Police Staffing Analysis	16	48	56	\$22,240
Fire Staffing Analysis	16	44	40	\$19,200
Projections	8	40	32	\$14,880
Final Report	16	32	32	\$15,680
Total Hours	84	256	264	
Hourly Rate	\$300	\$200	\$140	
Total Professional Fees	\$25,200	\$51,200	\$36,960	\$113,360
Project Expenses				\$4,520
Total Project Cost				\$117,880

The cost breakdown for this by department would be:

Police Department – \$64,300

Fire Department – \$53,580

4 References

The table below provides information for past Police and/or Fire Department Study clients.

Phoenix, Arizona

North Phoenix Infrastructure Pilot Study

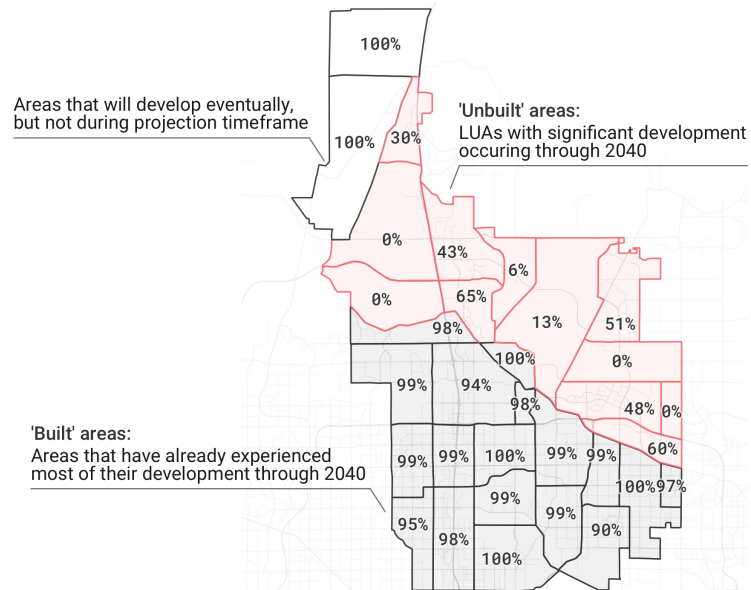
Adam Miller
 Development Team Leader
 City of Phoenix
 (602) 262-3111
adam.miller@phoenix.gov

In this project, the Matrix Consulting Group was retained by the City of Phoenix to conduct the North Phoenix Infrastructure Pilot Study, which sought to determine future public safety needs within the growing northern areas of the city. Objectives included:

- Assess current workload and service needs of the Police and Fire departments, examining the relationships between land use and the geography of public safety service provision.
- Project service demands resulting from growth.
- Identify capital facility needs and requirements.
- Forecast facility costs and locations.

Key findings and conclusions included:

- About 90% of the development over the next 19 years is expected to take place within the area north of the Central Arizona Project canal, which is currently mostly unbuilt.



- An additional Police precinct will be needed by 2036 as a result of development forecasted in the study area.
- Staffing needs that scale with service needs, will require the police department to add 201 sworn and 50 civilian positions by 2040 as a result of growth and development.

Cedar Hill, Texas**Policer and Fire Department Strategic Plans**

Melissa Valadez-Cummings
Deputy City Manager
972-291-5100 x-1030
melissa.valadez@cedarhilltx.com

The Matrix Consulting Group was retained by the City of Cedar Hill to develop a strategic plan for the Fire and Police Departments. The project assessed current and projected staffing, deployment, station location and facility needs over a 10-year planning period.

The fire study found issues in developing an effective response force in the central portion of the City and issues with response time performance to the developing southern portion of the City. The study also identified efficiencies that could be gained by enhancing the current regional service delivery model.

The police study found that redeployment staff with a cover shift included better provided a consistent ability to respond to calls for service as well as to be proactive. Re-organizing a neighborhood service unit under operations provided improved partnerships with the community. Finally, restoring the traffic unit increased proactivity capabilities further still. Staffing projections provided a position by position basis for 10 years.

Denton, Texas**Police Department Staffing Study and Projections**

Frank Dixon, Police Chief
(940) 349-8181
frank.dixon@cityofdenton.com

The firm developed a staffing and deployment plan for current needs as well as to meet growing and changing demands. Handling current and projected workloads also justified greater use of alternative response techniques, including civilian response, telephone and internet reporting. Projection methodologies incorporated city and regional planning on development to forecast workloads for each function and resulting staffing needs.

Of note, detectives were understaffed, resulting in high levels of cases deferred for investigation. However, case management approaches needed to be strengthened.

Fremont, Nebraska**Fire Department Master and Strategic Plan**

Todd Bernt
Fire Chief
(402) 727-2688
todd.bernt@freemontne.gov

The Matrix Consulting Group was retained by the City of Fremont to conduct a long range strategic and master plan for the Fire Department. The project assessed community risk, staffing levels, response capabilities, station locations and the deployment plan of the fire department.

The study found the need for additional administrative staff, improvement opportunities in call processing and turnout times the need for additional operational staff to reduce the reliance on call-back personnel to staff EMS units and the need to formally establish fire prevention programs. Long-term there is the need to replace the current fire station.

Exhibit A

Matrix Public Safety Study

January 9, 2024



ADDISON

- Examine public safety services and receive suggestions on how to meet different needs of a growing, diverse community.
- This study will analyze current and future staffing requirements for the Addison Police and Fire Departments.
- Matrix clients:
 - Austin, TX Denton, TX Lewisville, TX
 - Fair Oaks Ranch, TX
 - Boerne, TX
 - Sunnyvale, TX
 - Glenn Heights,
 - Cedar Hill, TX
 - Travis County, TX
 - Buda, TX
 - San Antonio, TX
 - Fort Worth, TX
 - Burleson, TX
 - TX Texas City, TX
 - Kyle, TX

The study will include:

- **Information gathering** – Matrix will use select methods to collect, analyze, and present information.
- **Interviews** – As a cornerstone of the consultant’s approach, the appropriate individuals will be interviewed to understand service needs and expectations.
- **Data analysis and performance metrics** – Matrix will use best management practices to assess services currently provided.
- **Inclusive stakeholder-oriented approach** – As a critical component of the study, Matrix will conduct an inclusive stakeholder outreach.
- **Project management** – Matrix will work closely with the Town to ensure successful implementation of the project schedule.

The final report will take five months to complete and will include:

- **An executive summary**
- **Staffing analysis:**
 - Analysis of current field workloads and staffing needs
 - Shift configuration, assignment optimization, and alternatives
 - Deployment and staff needs for specialized resources
 - Investigative workloads, specialization, and case management practices
 - Prevention and training opportunities for improvement
 - Administrative staffing and functionality
- **Projected staffing**
- **Implementation plans for each recommendation**

Recommended Action

ADDISON

Administration recommends approval

Questions

City Council (FY24)

5. d.

Meeting Date: 01/09/2024

Department: Parks & Recreation

Pillars: Excellence in Transportation Systems

Milestones: Establish an intentional culture throughout the organization that is based on continuous improvement, excellence, and adherence to our core values

AGENDA CAPTION:

Consider action on a Resolution approving an agreement with Kimley-Horn Associates, Inc. for professional engineering services to perform a feasibility study to review options for providing a pedestrian and bicycle crossing along Belt Line Road over Dallas North Tollway and authorizing the City Manager to execute the agreement for an amount not to exceed \$156,000.

BACKGROUND:

The City-Wide Trails Master Plan (CWTMP) was adopted by Council on May 25, 2021. The CWTMP's Chapter 5, Priority Projects, identifies the Dallas North Tollway (DNT) as presenting the greatest obstacle to providing safe and convenient active transportation access between west and east Addison. Under the subsection, Local Connectivity, page 85 specifically addresses Tollway Crossings. It states, "The Dallas North Tollway is the most challenging barrier to walking and biking in Addison." This section outlines the Belt Line Road Overpass, and suggests that "a shared use-path should be improved along the south side of the overpass of the Tollway along Belt Line Road. The shared-use path should be situated between the southernmost eastbound travel lane and the turnaround lane on the south side of the overpass." Additionally, Section F, Site Conditions of The 2019 Park, Recreation, and Open Space Master Plan (PROS) illustrates the recommendation to provide enhanced pedestrian paths on the north and south sides of Belt Line Road from Marsh Lane to White Rock Creek. The enhanced paths would connect the westernmost limits of Addison with the easternmost limits of Addison along Belt Line Road, therefore closing the pedestrian and bicycle gap over the DNT.

Addison, west of the DNT is experiencing tremendous growth with the Addison Airport, the TOD, DART Silver Line, Cotton Belt Trail, The Quorum Art Walk, and the potential for future redevelopment of Addison Circle Park. Likewise, Addison east of the DNT is seeing substantial redevelopment in Village on the Parkway and Prestonwood Place, while Town Hall Square, Winnwood and Celestial Parks are popular destinations in east Addison. The main purpose of the subject project is to provide safety and comfort for bicyclists and pedestrians crossing the DNT

while reducing barriers and providing access to major destinations in west and east Addison. A secondary goal of the project is to create a landmark that identifies Addison and is visible from the main lanes of the DNT. The North Central Texas Council of Governments and The Texas Department of Transportation fully support and provide funding opportunities for active transportation projects using similar criteria as stated above. This study would provide information necessary for a grant application.

The existing conditions on the south side of Belt Line Road as it crosses the DNT are inadequate to accommodate a pedestrian and bicycle connection that meets the established criteria for this type of project. One of the considerations of this study will be to explore extending the Belt Line Bridge to the south to make room for an enhanced crossing.

This project consists of conceptual design and feasibility study related to intersection, pedestrian, and bicycle crossing improvements along Belt Line Road between the DNT Northbound Frontage Road and Southbound Frontage Road to provide a future pedestrian and bicycle-use crossing. According to terms of this agreement, Kimley-Horn Associates will prepare a pedestrian crossing feasibility study to include Project Management and Administration, Structural Analysis, Roadway Analysis, Preliminary Conceptual Design, and Final Conceptual Design. Final Concept 3D Renderings will also be included to better communicate the concept to the Council, city management, staff and residents. Kimley-Horn Associates was selected for this project due to their direct involvement with a similar project in Plano to provide a canopied walkway and bike path located over the Dallas North Tollway on Legacy Drive, while connecting the Shops at Legacy to Legacy West. Plano municipal staff applied for grant funding with the North Central Council of Governments and received an award by using similar criteria to the Belt Line Road project. Kimley Horn is an approved vendor for Professional Services for Various Projects under RFQ 17-180.

Funding for this project was included in the FY23/24 Budget.

RECOMMENDATION:

Staff recommends approval.

Attachments

Resolution

Contract - Kimley Horn

Presentation - NTTA Pedestrian Crossing

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES INC. FOR NORTH TEXAS TOLLWAY AUTHORITY PEDESTRIAN CROSSING- BELT LINE ROAD IN AN AMOUNT NOT TO EXCEED \$156,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to authorize an agreement with Kimley-Horn and Associates Inc. for North Texas Tollway Authority Pedestrian Crossing- Belt Line Road 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. in an amount not-to-exceed of \$156,000.00, 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 **9th** day of **JANUARY**, 2024.

TOWN OF ADDISON, TEXAS

Bruce Arfsten, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT
NORTH TEXAS TOLLWAY AUTHORITY PEDESTRIAN CROSSING- BELT LINE ROAD

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 to engage Professional 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, 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 Services

Upon written notice to proceed by City, Professional agrees to provide to City North Texas Tollway Authority Pedestrian Crossing- Belt Line Road (“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 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 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 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.

(i) Hazardous Materials. Professional shall report the presence and location of any hazardous materials it notices or which a 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 unless agreed in writing between the parties.

(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 AND FIFTY-SIX THOUSAND DOLLARS (\$156,000.00).

(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 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 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 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 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 NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. 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 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 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 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 investigation 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, Professional's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement;

(c) pursuant to Texas Government Code Chapter 2251, Professional's organization does not currently 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, and;

(d) pursuant to Texas Government Code Chapter 2276, Professional's organization does not currently boycott energy companies and will not boycott energy companies during the term of this Agreement.

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

KIMLEY-HORN AND ASSOCIATES INC.

By: _____

David Gaines
City Manager

By:  _____

Scott R. Arnold, P.E.
Vice President

Date: _____

Date: December 5, 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: Scott R. Arnold, P.E., Vice President
801 Cherry St Unit 11 suite 1300
Fort Worth, Texas 76102
E: scott.arnold@kimley-horn.com

Addison Contract ID:
PSA_JP_November 30, 2023_v1.20220427

EXHIBIT “A”
SCOPE OF SERVICES

(attached)



Exhibit A

November 29, 2023

Janna Tidwell, PLA, LEED AP
Director of Parks and Recreation
Town of Addison
16801 Westgrove Drive
Addison, TX 75001

Re: Letter Agreement for Professional Services for
Dallas North Tollway Pedestrian Improvements
Town of Addison, Texas

Dear Ms. Tidwell:

Kimley-Horn and Associates, Inc. (“Kimley-Horn”) is pleased to submit this Letter Agreement (the “Agreement”) to Town of Addison (“Client” or “Town”) for performing a feasibility study to review options for providing a pedestrian crossing along Belt Line Road over Dallas North Tollway.

Project Understanding

This project consists of conceptual design and feasibility study related to intersection, pedestrian, and bicycle crossing improvements along Belt Line Road between the DNT Northbound Frontage Road and Southbound Frontage Road to provide a future pedestrian and bicycle use crossing, to be noted as “The Pedestrian Crossing”.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

Task 1 Pedestrian Crossing Feasibility Study \$142,200 (LS)

Kimley-Horn will prepare a conceptual design for a Pedestrian Crossing along Belt Line Road that connects the east and west sides of Belt Line Road over the DNT. Kimley-Horn will prepare preliminary rendered concepts illustrating up to two (2) options for the pedestrian crossing, an opinion of probable construction costs (OPCC) for each concept, and present these to the Town, TxDOT, and NTTA for review and comment. Based on comments received at the preliminary design review meeting, Kimley-Horn will prepare one (1) final rendered conceptual plan, and OPCC for the pedestrian crossing. Kimley-Horn will prepare a memo or written document summarizing the final concept recommendation which will be submitted with the final conceptual design. Recommendations in the memo will consist of the location of the pedestrian crossing, the type of crossing, OPCC, and associated site improvements.

Preparation of the feasibility study will consist of the following:

- Project Management and Administration
 - Prepare for and attend one (1) kickoff meeting with the Town
 - One (1) visit the site with up to (3) team members to take pictures and review existing above ground conditions along Belt Line Road at DNT
 - Prepare for and attend one (1) preliminary review meeting with the Town
 - Prepare for and attend one (1) final review meeting with the Town
 - Coordination with the Town, TxDOT, and NTTA
 - Project correspondence and invoicing
 - Quality control and internal plan reviews
 - Construction design plans and details will not be provided with this project
- Record Drawing Analysis
 - Kimley-Horn will review available record drawings for DNT and review options for modifications to accommodate the proposed conceptual connection.
- Structural Analysis
 - Kimley-Horn will coordinate and communicate as required with the Town.
 - Progress and Project Milestone Meetings
 - Kimley-Horn will attend up to two (2) progress meetings with the Town during design
 - Kimley-Horn will attend one (1) comment review meeting with the Town for each the preliminary and final concept stages
 - Kimley-Horn will perform a load capacity analysis based on the alternatives proposed herein. The load analysis will consist of:
 - Load capacity analysis of existing conditions
 - Load capacity analysis of proposed conditions
 - Narrative summary of results
 - Based on the results of the load capacity analyses, Kimley-Horn will develop up to two (2) conceptual (typical) sections reflecting the proposed conditions including any bridge strengthening methods required.
 - Kimley-Horn will provide conceptual opinions of probable construction cost for each alternative described above.
- Roadway Analysis
 - Evaluate bridge geometry and loading needs
 - Evaluate existing retaining walls and foundation options (need NTTA record drawings)
 - Evaluate roadway geometry
 - Develop one (1) exhibit showing horizontal layouts and typical sections at southern bridge portion
 - Develop narrative to accompany layout
 - Provide OPCC for structural and roadway elements

- Preliminary Conceptual Design
 - Establish and document design criteria and project limits
 - Identify significant design constraints
 - Develop up to two (2) preliminary rendered pedestrian crossing concepts along Belt Line Road over DNT
 - Develop a materials board with inspiration images
 - Prepare OPCC for each concept
- Final Conceptual Design
 - Identify significant design constraints
 - Develop one (1) Final rendered pedestrian crossings concept along Belt Line Road over DNT
 - Develop a materials board with inspiration images
 - Prepare final OPCC

Meetings: One (1) site visit with up to three (3) representatives, one (1) kickoff meeting with Client, one (1) Preliminary review meeting with Client, and one (1) Final review meeting with Client.

Deliverables: Up to two (2) Preliminary Conceptual Designs with OPCC; one (1) Final Conceptual Design with OPCC, and one (1) Design Recommendation Memo.

Task 2 Final Concept 3D Renderings \$13,800 (LS)

- 3D Rendering
 - Kimley-Horn will provide a 3D model of the final concept, prepared with Sketchup, and built using available data from the site survey, provided by Kimley-Horn.
 - Kimley-Horn will submit the 3D model to the Client for preliminary review, prior to selection of the viewports for the illustrations
 - Illustrations
 - Kimley-Horn will use the 3D model as a base template and provide up to one (1) aerial illustration (or lower view). Illustrations will be rendered in Photoshop.
 - Kimley-Horn will use the 3D model as a base template and provide up to three (3) eye-level illustrations with a point of view at 15' or lower. Illustrations will be rendered in Photoshop.
 - Deliverables:
 - Kimley-Horn will provide the 3D model in Sketchup format.
 - Kimley-Horn will provide preliminary illustrations for review by Client, prior to preparing the final illustrations. The final illustrations will be provided in digital (TIFF/JPG/PDF) format with a minimum resolution of 7,000 x 3,500 px at 150 dpi.

Deliverables: 3D Rendering Model in SketchUp format and final illustrations in digital format

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. Additional services we can provide include, but are not limited to, the following:

1. Survey
2. Additional color rendered site plans
3. Additional 3D renderings
4. Fly through videos
5. Additional site visits
6. Structural details for structure footings
7. Additional Irrigation plans
8. Changes to site plan due to retro-actively applied town regulations
9. Construction Plans and Details
10. Additional meetings other than the amount specified.
11. Identifying or correcting any deficiencies found in any data provided by others. Kimley-Horn will be entitled to rely upon any information provided by the Client.
12. Expert witness or fact witness services related to any litigation or legal dispute.
13. Additional Bidding phase services
14. Revisions to plans after bidding or value engineering
15. Preparation of three-way contracts
16. Additional easements by separate instrument
17. Additional Project manual and specifications book
18. Lighting plans
19. Additional Construction phase services
20. Any item not specifically included in this scope of services

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

1. 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).
2. Latest exhibits and studies.
3. Any prepared civil and architectural plans.
4. Timely participation by other members of the consultant team.
5. Geotechnical investigation and report, provided by others.
6. Structural design and details, provided by others.
7. Any previously prepared surveys, reports, or documents with bearing on our scope of services
8. Owner to provide as-built details for pavement, landscape, drainage, and hardscape items related to the scope of services.

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting mutually agreed upon schedule.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 and 2 for the total lump sum fee of \$156,000. All permitting, application, and similar project fees will be paid directly by the Client.

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **Town of Addison**.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement. Failure to supply this information could result in delay in starting work on this project.

[Remainder of page intentionally left blank]

We appreciate the opportunity to provide these services. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed:



Printed Name: Scott R. Arnold, P.E.

Title: Vice President

TOWN OF ADDISON, TEXAS
A Municipality

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
 - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
 - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise Kimley-Horn in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - d. If Kimley-Horn initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - e. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of Kimley-Horn to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by Kimley-Horn are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's documents, or any reuse of the documents without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn and shall be provided to the

Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by Kimley-Horn, the hardcopy shall govern.

- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Kimley-Horn's performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO THE CLIENT AND KIMLEY-HORN, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF KIMLEY-HORN AND KIMLEY-HORN'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSES, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR ANY WARRANTY, EXPRESS OR IMPLIED, OF KIMLEY-HORN OR KIMLEY-HORN'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED TWICE THE TOTAL COMPENSATION RECEIVED BY KIMLEY-HORN UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. HIGHER LIMITS OF LIABILITY MAY BE NEGOTIATED FOR ADDITIONAL FEE. THIS SECTION IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION SHALL REQUIRE THE CLIENT TO INDEMNIFY KIMLEY-HORN.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.
- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
 - a. If Kimley-Horn prepares construction documents and Kimley-Horn is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Kimley-Horn in any way connected thereto.
 - b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Kimley-Horn. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c. Kimley-Horn is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of Texas. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

NTTA Pedestrian Crossing at Belt Line Road Professional Services Contract

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

DECISION PACKAGE NTTA Pedestrian Connection & Gateway, Frontage Road Landscaping

Cost Breakdown	Recurring Expenses	One-Time Expenses
Professional Services		\$156,000
Total Expenses*		\$156,000

- Scope consists of conceptual design and a feasibility study related to pedestrian crossing improvements along Belt Line Road over the Dallas North Tollway (DNT).
- Kimley-Horn was selected most qualified due to their experience designing a similar crossing on Legacy Road in Plano.
- Create a landmark that identifies Addison from the DNT.
- Design for frontage road landscaping to be performed in-house.

City Wide Trails Master Plan Recommendations

- Address barrier caused by Dallas North Tollway to create a safe and convenient access between west and east Addison.
- Utilize Belt Line Road overpass on the south side as a shared use path.
- Provide safety and comfort for bicyclists and pedestrians.

Other Supporting Factors

- West and east Addison are both experiencing rapid growth and redevelopment.
- Improve safety for the numerous people using the existing crossing daily.
- These types of projects typically score highly with active transportation grant opportunities.
- Previous studies have been performed for this crossing.

Background- PROS Plan Supports Belt Line Crossing



Enhanced Pedestrian Path on both sides of Belt Line Road recommended by the PROS plan, but not a part of this project.

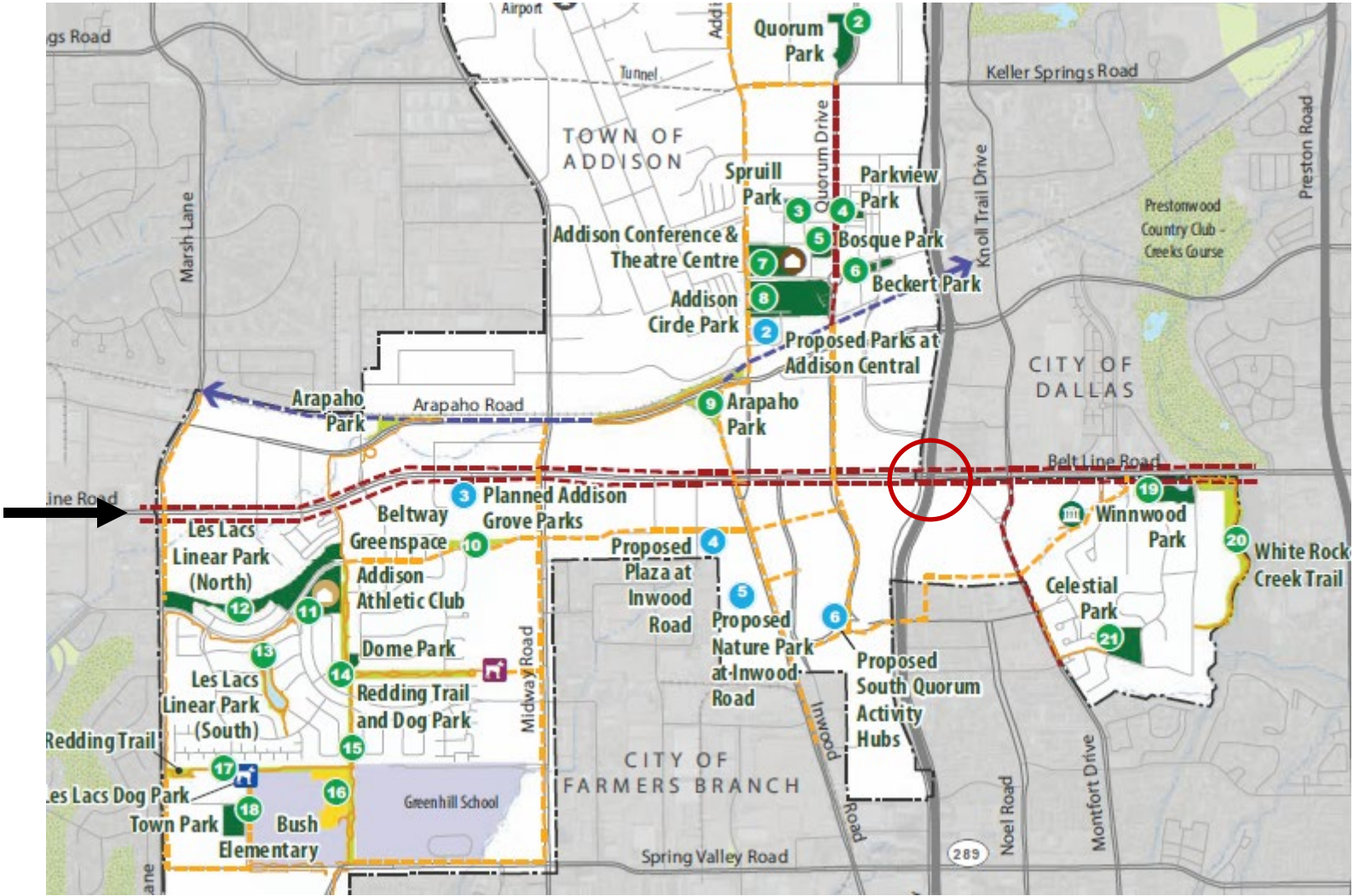


Exhibit F-3 PROS Master Plan

Services Performed by Kimley-Horn Associates. Several options will be analyzed for feasibility of crossing DNT.

- Prepare pedestrian and bicycle crossing feasibility study including pedestrian and bicycle counts.
- Structural and roadway analysis of the existing Belt Line Bridge
- Preliminary Conceptual Design with two concepts and cost opinions
- Final conceptual design with rendering and final cost opinion
- Four meetings with clients
- 3D renderings
- 3 professional illustrations

Schedule

- To be determined once full scope of services is agreed upon

Pedestrian Crossing Examples

ADDISON

Chicago, IL



Plano, TX



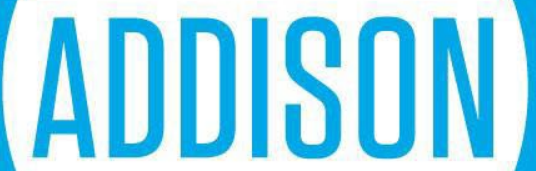
Dublin, OH



Recommendation

Staff recommends approval of Resolution authorizing the City Manager to execute the agreement for an amount not to exceed \$156,000.

Questions

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ADDISON