

## ORDINANCE NO. 22-898

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., FOR REGULATORY PERMITTING/APPROVAL SUPPORT, PROCESS EVALUATION, DESIGN SERVICES, BIDDING ASSISTANCE, CONSTRUCTION PHASE SERVICES, AND EASEMENT ACQUISITION FOR THE I-35 TO MILAM CREEK PHASE II PROJECT FOR THE WATER UTILITIES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-010 – PROFESSIONAL SERVICES AGREEMENT FOR DESIGN AND CONSTRUCTION PHASE SERVICES AWARDED TO KIMLEY-HORN AND ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$751,100.00).

WHEREAS, on March 23, 2021, the City Council approved a pre-qualified engineer list for Water and Wastewater (Ordinance 21-546), and the professional services provider (the “Provider”) mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, the fees under the proposed contract are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees published by the professional associations applicable to the Provider’s profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is hereby authorized to enter into an agreement with to Kimley-Horn and Associates, Inc., to provide professional design and construction phase services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

SECTION 2. The City Manager, or their designee, is authorized to expend funds as required by the attached contract.

SECTION 3. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 4. The findings in the preamble of this ordinance are incorporated herein by reference.

SECTION 5. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Alison Maguire and seconded by Brian Beck. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vicki Byrd, District 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Beck, District 2:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jesse Davis, District 3:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alison Maguire, District 4:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brandon Chase McGee, At Large Place 5:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Watts, At Large Place 6:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PASSED AND APPROVED this the 17<sup>th</sup> day of May, 2022.

  
 \_\_\_\_\_  
 GERARD HUDSPETH, MAYOR

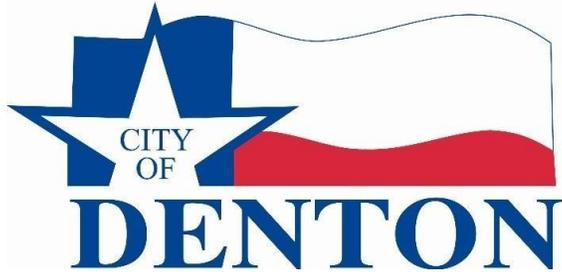
ATTEST:  
 ROSA RIOS, CITY SECRETARY

BY: Rosa Rios

APPROVED AS TO LEGAL FORM:  
 MACK REINWAND, CITY ATTORNEY



BY: Marcella Lunn  
 Digitally signed by Marcella Lunn  
 DN: cn=Marcella Lunn, o,  
 ou=City of Denton,  
 email=marcella.lunn@cityofdent  
 on.com, c=US  
 Date: 2022.05.10 10:51:44 -05'00'



## DocuSign City Council Transmittal Coversheet

PSA	7574-010
File Name	I35 SPLIT TO MILAM PHASE II
Purchasing Contact	Crystal westbrook
City Council Target Date	MAY 17, 2022
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	22-898

## **CITY OF DENTON, TEXAS**

### **STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES**

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and **KIMLEY-HORN AND ASSOCIATES, INC.**, with its corporate office at 421 Fayetteville Street, Suite 600, Raleigh, NC 27601 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: I35 Split to Milam Phase II (the "PROJECT").

#### **SECTION 1** **Scope of Services**

- A.** The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment A. These services shall be performed in connection with the PROJECT.
- B.** Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

#### **SECTION 2** **Compensation and Term of Agreement**

- A.** The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed \$751,100 in the manner and in accordance with the fee schedule as set forth in Attachment A. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.
- B.** Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

#### **SECTION 3** **Terms of Payment**

Payments to the ENGINEER will be made as follows:

## **A. Invoice and Payment**

- (1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.
- (2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.
- (3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.
- (4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.
- (5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

## **SECTION 4 Obligations of the Engineer**

Amendments to Section 4, if any, are included in Attachment B.

### **A. General**

The ENGINEER will serve as the CITY's professional engineering representative under this AGREEMENT, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

### **B. Standard of Care**

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and

- (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

### **C. Subsurface Investigations**

- (1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.
- (2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

### **D. Preparation of Engineering Drawings**

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

### **E. Engineer's Personnel at Construction Site**

- (1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the AGREEMENT Documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.
- (2) Except to the extent of specific site visits expressly detailed and set forth in

Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the AGREEMENT Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.

- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the AGREEMENT Documents.

#### **F. Opinions of Probable Cost, Financial Considerations, and Schedules**

- (1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.
- (2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

#### **G. Construction Progress Payments**

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the

AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

## **H. Record Drawings**

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

## **I. Right to Audit**

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.
- (3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

## J. INSURANCE

### (1) ENGINEER'S INSURANCE

- a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 per each occurrence with a \$2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.
  - i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.
  - ii. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.
- b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of “any auto”, including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.
  - i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.
- c. Workers' Compensation – ENGINEER shall maintain workers

compensation and employers liability insurance and, if necessary, commercial umbrella liability insurance with a limit of not less than \$100,000.00 each accident for bodily injury by accident or \$100,000.00 each employee for bodily injury by disease, with \$500,000.00 policy limit.

- i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.
- d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of \$1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

## (2) GENERAL INSURANCE REQUIREMENTS

- a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.
- b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.
- c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.
- d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.
- e. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.

- f. Insurers for all policies must be authorized to do business in the State of Texas and have a minimum rating of A:V or greater, in the current A.M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management.
- g. Any deductible or self insured retention in excess of \$25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at its sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.
- h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.
- i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.
- j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.
- k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.
- l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.
- m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

## **K. Independent Consultant**

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

#### **L. Disclosure**

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

#### **M. Asbestos or Hazardous Substances**

- (1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.
- (2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

#### **N. Permitting Authorities - Design Changes**

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this AGREEMENT was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this AGREEMENT which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

#### **O. Schedule**

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment A to this AGREEMENT.

#### **P. Equal Opportunity**

- (1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic

testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.

- (2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and ENGINEER's agents shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

## **SECTION 5** **Obligations of the City**

Amendments to Section 5, if any, are included in Attachment B.

### **A. City-Furnished Data**

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

### **B. Access to Facilities and Property**

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

### **C. Advertisements, Permits, and Access**

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

### **D. Timely Review**

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the PROJECT schedule prepared in accordance with Attachment A.

### **E. Prompt Notice**

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or

becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

#### **F. Asbestos or Hazardous Substances Release.**

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.
- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

#### **G. Contractor Indemnification and Claims**

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at Construction Site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

#### **H. Contractor Claims and Third-Party Beneficiaries**

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."
- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

## **I. CITY's Insurance**

- (1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.
- (2) The CITY may secure Builders Risk/Installation insurance at the replacement cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

## **J. Litigation Assistance**

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

## **K. Changes**

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

## **SECTION 6** **General Legal Provisions**

Amendments to Section 6, if any, are included in Attachment B.

### **A. Authorization to Proceed**

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

### **B. Reuse of Project Documents**

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

### **C. Force Majeure**

The ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the ENGINEER that prevent ENGINEER's performance of its obligations hereunder.

### **D. Termination**

(1) This AGREEMENT may be terminated:

- a. by the City for its convenience upon 30 days' written notice to ENGINEER.
- b. by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

- a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;
- b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;
- c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

(3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all termination expenses. The CITY'S approval will be obtained in writing prior to proceeding with termination services.

### **E. Suspension, Delay, or Interruption to Work**

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

### **F. Indemnification**

**IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, THE ENGINEER SHALL INDEMNIFY OR HOLD HARMLESS THE CITY AGAINST LIABILITY FOR ANY DAMAGE COMMITTED BY THE ENGINEER OR ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. CITY IS ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE ENGINEER'S LIABILITY.**

### **G. Assignment**

Neither party shall assign all or any part of this AGREEMENT without the prior written consent of the other party.

### **H. Jurisdiction**

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Denton County, Texas.

### **I. Severability and Survival**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Sections 5.F., 6.B., 6.D., 6.F., 6.H., and 6.I. shall survive termination of this AGREEMENT for any cause.

### **J. Observe and Comply**

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS OR LIABILITY ARISING OUT OF THE VIOLATION OF ANY SUCH ORDER, LAW, ORDINANCE, OR REGULATION, WHETHER IT BE BY ITSELF OR ITS EMPLOYEES.**

### **K. Immigration Nationality Act**

ENGINEER shall 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, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this AGREEMENT. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the right to immediately terminate this AGREEMENT for violations of this provision by ENGINEER.

#### **L. Prohibition On Contracts With Companies Boycotting Israel**

ENGINEER acknowledges that in accordance with Chapter 2270 of the Texas Government Code, 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" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the AGREEMENT.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

#### **M. Prohibition On Contracts With Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization**

Section 2252 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER, pursuant to Chapter 2252, is not ineligible to enter into this AGREEMENT and will not become ineligible to receive payments under this AGREEMENT by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

#### **N. Certificate of Interested Parties Electronic Filing**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City

at the time the Engineer submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Engineer will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at :  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

#### **O. Prohibition Against Personal Interest In Contracts**

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Engineer shall complete and submit the City's Conflict of Interest Questionnaire.

#### **P. Agreement Documents**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A - Scope of Services, Compensation, Project Schedule  
Attachment B - Amendments to Standard Agreement for Engineering Services

These documents make up the AGREEMENT documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the AGREEMENT documents, the inconsistency or conflict shall be resolved by giving precedence first to the written AGREEMENT then to the AGREEMENT documents in the order in which they are listed above.

Duly executed by each party's designated representative to be effective on the date subscribed by the City Manager.

**ENGINEER**  
KIMLEY-HORN AND ASSOCIATES, INC

DocuSigned by:  
*John Atkins*  
BY: \_\_\_\_\_  
25D7303EA77E421

AUTHORIZED SIGNATURE

Printed Name: John Atkins

Title: Vice President

817-339-2272

PHONE NUMBER

john.atkins@kimley-horn.com

EMAIL ADDRESS

2022-873387

TEXAS ETHICS COMMISSION  
1295 CERTIFICATE NUMBER

**CITY OF DENTON, TEXAS**  
SARA HENSLEY, CITY MANAGER

DocuSigned by:  
*Sara Hensley*  
BY: \_\_\_\_\_  
5236DB296270423...

ATTEST:  
ROSA RIOS, CITY SECRETARY

DocuSigned by:  
*Rosa Rios*  
BY: \_\_\_\_\_  
1C5CA8C6E175493...

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

DocuSigned by:  
*Marcella Lunn*  
BY: \_\_\_\_\_  
4B070831B4AA438...

THIS AGREEMENT HAS BEEN  
BOTH REVIEWED AND APPROVED  
as to financial and operational obligations and  
business terms.

DocuSigned by:  
*Stephen D. Gay* Stephen D. Gay  
\_\_\_\_\_  
FEB48BB9726E4A9...

SIGNATURE PRINTED NAME

Director

TITLE

water utilities

DEPARTMENT

**ATTACHEMENT A**

**PROFESSIONAL SERVICES AGREEMENT**

Professional Services Agreement:  
**I-35 – SPLIT TO MILAM PHASE 2**  
**Scope of Services**

The ENGINEER will perform its services pursuant to the requirements delineated below. Services under this attachment include engineering services for the design and construction phase services for the I-35 – SPLIT TO MILAM PHASE 2 project under the Professional Service Agreement (7574-010).

**Project Understanding**

Under the first phase of the IH-35 utility Relocation contract, The CITY requested that the ENGINEER perform additional services to analyze the sewer basin projected flows for potential development in the Milam Creek to Loop 288 area to evaluate and determine the appropriate size of sewer infrastructure needed to meet peak flows for the proposed developments. This analysis indicated that the existing sewer infrastructure is undersized and would need to be upsized and rerouted to allow for several current proposed developments.

**Scope of Services**

The CITY has requested that the ENGINEER perform additional services to provide a design for an approximately Three-Million Gallon per Day (3.27-MGD) regional sanitary sewer lift station, force main, and gravity sewer mains in order to promote the future development planned for the I-35 north west corridor and clear the conflicts identified with the I-35 TxDOT project. This lift station will be designed to allow for the abandonment of the Border-Cowboy and TA lift stations and be phased to allow for initial flows of 1,200 gallons per minute (gpm) up to 2,300 gpm.

The task descriptions listed below are in addition to the previously authorized items.

**Task 1 Design Management**

ENGINEER will provide the following additional services in accordance with the Original Contract:

**A. Project Management**

1. Attend up to one additional meeting with City.
2. Prepare and execute up to two (2) additional subconsultant amendments.

**Task 2 – ALIGNMENT STUDY**

**A. Preliminary Investigation**

1. Site Investigation
  - a. Walk general alignment.

- b. Document alignment corridor with photographs.
  - c. Note visible potential alignment, conflicts and issues.
2. Data Review with City
- a. Meet with City to review accuracy of record information.
  - b. Interview City staff concerning historical, existing and future City plans along the alignment.

**B. Prepare Alignment Technical Memorandum.**

1. Analysis of alignments indicating merits and challenges for each, and including the following considerations:
- a. Easement acquisition schedule and cost impacts.
  - b. Existing development impacts.
  - c. Existing potential horizontal and vertical conflicts.
  - d. Accessibility for maintenance.
  - e. Revise roll plot maps to include full project limits
  - f. Prepare opinions of probable construction cost for each alignment. The ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to ENGINEER at this time and represent only the ENGINEER's judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

**C. Deliverables**

1. Digital .PDF copy of draft and final technical memorandum.

**D. Meetings**

1. Conduct one (1) review meeting with City.
2. Revise memorandum based on City comments.

**Task 3 – PRELIMINARY DESIGN**

**A. Geotechnical Engineering**

1. Perform a geotechnical analysis of the alignment utilizing a qualified geotechnical laboratory to determine subsurface conditions and make recommendations regarding design parameters. The analysis shall include the following:
- a. Subsurface exploration including up to six (6) sample bores varying 10 to 40 feet depending upon location.
  - b. Laboratory tests for classification purposes and strength characteristics.

- c. Engineering services that address the following:
  - i. soil and groundwater conditions
  - ii. Comments on general excavatability of soils and shale encountered
  - iii. Recommendations for pipe installation, including bedding and backfill
  - iv. Recommendations for tunneling operations
  - v. Recommendations for vault and wet well foundation type and allowable loading
  - vi. Recommendations for lateral pressures for structural design
- 2. The previously provide geotechnical report will be amended and furnished by the geotechnical engineer to present the results of the field and laboratory data as well as analyses and recommendations. Three (3) copies of the report will be provided by the geotechnical engineer, with one (1) copy going to the City. The data contained in the geotechnical report will be made available to contractors during the bidding process for informational purposes.

#### **B. Subsurface Utility Engineering (SUE)**

- 1. Level A investigation of existing water line connection point, and potential crossing utilities. The Level A investigation shall consist of performing up to two (2) level A testholes or “locates” of existing utilities. The Level A investigation will be conducted in accordance with ASCE publication CI/ASCE 38-02 and include the location of said utility in three dimensions obtained through non-destructive geophysical methods.
- 2. This task assumes that SUE data will be available from TxDOT and may be relied upon for design.

#### **C. Preliminary Waterline and Sanitary Sewer Line Design**

- 1. Visit the site to perform field verification of the survey.
- 2. Additional Preliminary plan and profile drawings preparation for approximately 1,800 linear feet of 20-inch through 6-inch water main 330 linear feet of 12-inch sanitary sewer force main, and 13,500 feet of 18-inch through 36-inch gravity sanitary sewer line.
  - a. Prepare (22”x34”) plan and profile drawings at 1”=40’ horizontal and 1”=4’ vertical scale.
  - b. Plan view of the base map shall have all above ground features shown and clearly labeled along with existing utilities based on field ties and record information.
  - c. Plan view shall include design notes for stationing, size, slope, pipe material, embedment, length and construction method.
  - d. Profile view shall include design notes for stationing, size, slope, flow-line of pipe, pipe material, embedment, length and construction method.

- e. Design tunnels/bores including casing/tunnel liner plate minimum thickness and inside diameter, shafts, allowable methods, control of ground water, and appropriate tolerances with the chosen method.
  - f. Perform one (1) site visit to verify preliminary design.
3. Preliminary Traffic Control and Detour Plan Preparation.
- a. City and TxDOT typical traffic control details will be included as required.
4. Franchise Utility Coordination
- a. Provide one set of drawings to each franchise utility encountered for their review. Request each franchise to mark up the drawings to show the size, type, and location of their utilities.
  - b. Coordinate with franchise utilities if any relocations are required. Notify City if any relocations will be required.
5. Prepare preliminary general notes and details, including City Standard Details where applicable.
6. Prepare preliminary technical specifications utilizing City Standard Specifications, and any special specifications.
7. Compile and prepare an updated opinion of probable construction cost for the entire project using recent average unit bid prices which are representative of similar types of construction in the local area.
- a. The ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to ENGINEER at this time and represent only the ENGINEER's judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

**D. U.S. Army Corp of Engineer's Nationwide Permit 12 Memo (USACE NWP 12)**

- o ENGINEER will incorporate findings from additional field investigations into the previously authorized memorandum.

**E. Deliverables**

1. Preliminary design submittal (60%)
- a. Submit four (4) copies to City for review and comment.
  - b. Submittal shall include the following:
    - i. Preliminary design plans (22"x34")
    - ii. Preliminary technical specifications (table of contents)
    - iii. Geotech report (additional bores will be included in one report)
    - iv. NWP 12 Memo (additional findings included in memo)

v. Opinion of probable construction cost

**F. Meetings**

1. Attend one (1) meeting with City to kick-off preliminary design.
2. Attend one (1) meeting with City on-site prior to submittal of preliminary plans, if required.
3. Attend one (1) meeting with City to present and review the preliminary design submittal

**Task 4 – FINAL DESIGN**

**A. Final Waterline and Sanitary Sewer Design**

1. Incorporate the preliminary design submittal review comments (one (1) round of comments is anticipated in proposed effort).
2. Prepare updated opinion of probable construction cost.
  - a. The ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to ENGINEER at this time and represent only the ENGINEER's judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.
3. Incorporate franchise utility investigation information
4. Incorporate details and technical specifications.
5. Prepare surface repair sheets and details as necessary.
6. Prepare final abandonment layout sheet and letter for TxDOT submittal.
7. Prepare Project Manual using City Standard Construction Contract Documents.

**B. Deliverables:**

1. Final Design Submittal (95%)
  - a. Submit four (4) copies to the City for review and comment.
  - b. Submittal shall include the following:
    - i. Final design drawings
    - ii. Final design project manual
    - iii. Opinion of probable construction cost

**C. Meetings**

1. One (1) meeting with City to review Final Design Submittal.

## **Task 5 – CONSTRUCTION CONTRACT DOCUMENTS**

### **A. Bidding Construction Contract Documents**

1. Additional assistance to the previously authorized scope items.

## **Task 6 – BID PHASE SERVICES**

### **A. Bid Phase Services**

1. Additional assistance to the previously authorized scope items.

## **Task 7 – CONSTRUCTION PHASE SERVICES**

### **A. Construction Phase Services**

1. Additional assistance to the previously authorized scope items.

## **Task 8 – RECORD DRAWINGS**

### **A. Record Drawings**

1. Additional assistance to the previously authorized scope items.

## **Task 9 – PERMITTING**

### **A. Permitting**

1. Additional assistance to the previously authorized scope items.
2. Submit lift station plans to appropriate regulatory agencies: City, DME, TCEQ, and TDLR for review.
3. The City will be responsible for administration of Platting, Zoning and Obtaining building permits for the City of Denton. The ENGINEER will prepare exhibits as directed by City, including preliminary and final plat exhibits.

## **Task 10 – SURVEY AND EASEMENTS**

### **A. Design Survey**

1. Utility and Property Owner Coordination
  - a. Coordinate with DIG TESS and City of Denton to locate and mark existing franchise and public utilities prior to performing the field survey.
  - b. Coordinate with Engineer Real Estate Agent on Right of Entries for up to seven (7) parcels.
2. Design Survey

- a. The limits of the survey shall be a 100-foot wide alignment generally along IH-35, and along various crossings as shown on the Project Location Map. The topographic survey will be approximately 13,700 linear feet.
- b. Establish up to five (5) horizontal control points based on the City of Denton Coordinate System using ½-inch rebar with identifiable plastic cap, specific for this project.
- c. Establish a vertical control benchmark circuit tied to the City of Denton benchmark system, specific for this project, as well as tie into the TxDOT control.
- d. Perform a field survey to identify and locate all existing topographic elements within the alignment corridor including, but not limited to, the following:
  - i. Property pins
  - ii. Existing pavement, curbs, sidewalks, barrier free ramps, etc.
  - iii. Lane Striping (where applicable)
  - iv. Driveways
  - v. Existing storm sewer inlets, manholes, junction boxes, outfalls, and erosion control
  - vi. Culverts and bridges
  - vii. Guardrail
  - viii. Utility manholes, vaults, water valves, water meters, sprinkler heads, telephone poles, power poles, utility markers, other public utilities, and franchise utilities
  - ix. Traffic signal poles, cabinets, and other signal equipment
  - x. Signs (excluding temporary signs)
  - xi. Trees, 6-inch caliper and up (center of trunk as well as dripline)
  - xii. Buildings
  - xiii. Retaining walls
  - xiv. Fence limits and material types
  - xv. Other applicable physical features that could impact design:
    - a) Field ties to the existing edge of pavement on Interstate Hwy 35.
    - b) Field sketches of utility manholes and structures.
    - c) Prepare a final topographic drawings in a digital format (including one-foot contours and breaklines) showing the features located in the field as well as right-of-way strip map information, an ASCII coordinate file of the points located in the field, and a hard copy of the coordinates and feature descriptions.

## **B. Easement Preparation**

1. Upon receiving approval of 60% design drawings, ENGINEER will prepare up to seven (7) permanent water line easements and up to seven (7) temporary construction easements.
2. Easement instruments will consist of metes and bounds descriptions and exhibits.

## **Task 11 – EASEMENT ACQUISITION SERVICES**

### **A. Easement Acquisition Services**

ENGINEER will coordinate with the Real Estate Agent to aid in property acquisition services for up to two (2) hours per parcel.

ENGINEER will perform the following services for this task:

1. ENGINEER's Real Estate Agent shall provide appraisals for proposed easements on up to six (6) parcels for the proposed lines. Appraisals will be approved by the City prior to beginning negotiations with property owners. The appraisals will be prepared by State Certified Appraisers in accordance with the Uniform Standards of Professional Appraisal Practice Act (USPAP). The appraisals will be suitable for use in condemnation proceedings, if necessary.
2. ENGINEER's Real Estate Agent shall engage an independent Appraisal Reviewer to submit an Appraisal Review to accompany any appraisal completed for up to six (6) parcels.
3. Provide property negotiation services for up to six (6) parcels for the proposed line as follows:
  - a. The offer to purchase the properties will be based on the appraisals as indicated above. The City will establish the value to be used in negotiation and the range of negotiating authority to be given to the right-of-way agent. ENGINEER's Real Estate Agent will provide the services of qualified right-of-way agents to secure the required right-of-way for the project. The right-of-way agents will provide each property owner a copy of The Texas Landowner Bill of Rights, but will NOT be required to provide negotiation services under the Uniform Relocation and Acquisition Act (Uniform Act).
  - b. ENGINEER's Real Estate Agent will negotiate on behalf of the City and utilize conveyance documents and other necessary forms as prescribed by the City. ENGINEER's Real Estate Agent will provide a good faith effort to acquire the rights-of-way through a negotiation process, which will generally consist of three (3) contacts with the property owner, or his authorized representative. A maximum of five (5) total contacts will be provided to reach an agreement with the property owner, or to determine that further negotiations will be non-productive and that eminent domain actions will be necessary to acquire the property. If absentee owners are involved, the negotiations may be conducted via telephone, fax, or by mail. If the schedule for acquisition of the right-of-way or other factors arise, which make it expedient, travel outside the project area to meet with the absentee owners may be desirable. If such events arise, the travel must be specifically authorized by the City. If such travel is

authorized, the expenses involved, including the agent's services, will be considered additional services.

- c. The initial offer made to the property owner will be based on the value authorized by the City. All counter-offers by the property owner, along with ENGINEER's Real Estate Agent recommendations will be presented to the City for consideration. The City must establish and recommend such counter offers before ENGINEER's Real Estate Agent will be authorized to agree to the requested changes. All monetary offers made to the property owners will be within the limits authorized by the City in the various stages of the negotiation.
  - d. After reaching an agreement with the landowner on the consideration and all other terms of the transaction, ENGINEER's Real Estate Agent will forward to the City a Memorandum of Agreement (M/A) executed by the property owner to be ratified by the City. This M/A sets forth the compensation and any other terms and conditions agreed upon. The City will be responsible for obtaining the City's ratification and for returning the ratified M/A to ENGINEER's Real Estate Agent. ENGINEER's Real Estate Agent will then inform the Title Company that the parcel is ready for closing.
4. ENGINEER's Real Estate Agent will coordinate contacts with the CITY to deliver any payments to the Title Company prior to closing.
  5. This Scope of Services assumes that costs for Title Commitments, Title Policies and recording fees will be purchased by the City through the assistance of the Real Estate Agent. The amount paid for the Title Policies will not exceed premium amounts set by the Texas Department of Insurance and agreed upon in advance between the City and the Title Company. Any additional Title Company services such as recording fees shall be agreed upon in advance between the City and the Title Company. ENGINEER's Real Estate Agent will review liens or other exceptions reported in the Title Commitment. ENGINEER will coordinate the location and the effect of any utility easements. ENGINEER will report the results of the Title Commitment to the City, recommending the disposition of the exceptions. The decision whether the reported exceptions are acceptable or must be eliminated will be the responsibility of the City. Any action required to clear title is not included in the Scope of Work for this project, and if required, will be considered Additional Services.
  6. ENGINEER's Real Estate Agent will coordinate and attend all closings at the Title Company.
  7. ENGINEER's Real Estate Agent will confirm that the Title Company records all documents at the Denton County Courthouse after closing.
  8. ENGINEER's Real Estate Agent will confirm that the Title Company forwards copies of all recorded documents to the City.

## **Task 13 – LIFT STATION PRELIMINARY ENGINEERING REPORT**

### **A. Prepare Preliminary Engineering Report (PER) for Lift Station Relocations**

1. This task assumes that both the Border-Cowboy Lift Station on Barthold Road and the Love's Lift Station on Milam Road will be abandoned and replaced with a new Ganzer lift station. The following tasks will be performed:

2. Prepare and Submit a Preliminary Engineering Report per the City's specifications for review including:
  - a. Lift Station Capacity
    - Prepare and Submit a conceptual site plan for the proposed lift station replacement
  - b. System and Pump Curves
  - c. Wet Well Sizing
    1. Sized to accommodate existing flows and interim flows from Denton Commerce site, approximately 1,200 gpm. Will be designed to be expandable up to 2,300 gpm peak flow.
  - e. Site Access and Security per TCEQ
  - f. Flood Protection
  - h. Emergency Power (portable). Considerations will be made to add permanent backup generation if desired by City.
3. Prepare and Submit a conceptual site plan for the proposed lift station.

**B. Deliverables**

- a. Digital .PDF copy of draft and final technical memorandum.

**C. Meetings**

- a. Conduct one (1) review meeting with City.
- b. Revise PER based on City comments.

**Task 14 – LIFT STATION PRELIMINARY AND FINAL DESIGN**

**A. Preliminary Lift Station Design**

1. Prepare a preliminary site layout, including drainage, paving, yard piping sizing for initial as well as future capacity. and station configuration.
2. Prepare electrical site layout
3. Coordination with primary electric provider for design
4. The following items may be considered for inclusion into the design:
  - a. Flow metering.
  - b. Control Narrative – operational narrative of the pumps for normal, low flow and peak operations.
  - c. SCADA System.
  - d. City architectural requirements and City design preferences.
  - e. Geotechnical and structural requirements.
  - f. Site lighting requirements.

- g. Junction Structure/Manhole design for up to 4 structures for future phasing
  - h. On-site generator considerations.
  - i. Noise Control requirements.
  - j. City landscaping requirements.
  - k. City fencing requirements.
  - l. City storm drainage detention requirements.
- 5. Prepare a preliminary lift station design including:
    - a. Average and peak flow confirmation
    - b. Hydraulic analysis
    - c. Internal piping and valve layout
    - d. Lift station cross-sections
  - 6. Submit preliminary design to the City for review and comment.

### **B. Final Lift Station Design**

- 1. Prepare engineering plan sheets and specifications in accordance with the preliminary design and for permitting and processing.
- 2. The plans will include:
  - i. Civil sheets: general notes, site plan, grading plan, piping plan, security fence details, lift station mechanical plans and details
  - ii. Electrical sheets: general notes, site plan, grounding layout, section and elevations, one-line diagram, pump control schematic, SCADA layout, portable generator connection, and electrical details.
  - iii. Structural sheets: general notes, structural details for wet well, valve vault, meter vault (if required), junction structures and slab-on-grade and specifications.
- 3. Specifications shall include technical specifications for materials and installation of the proposed facilities.

### **C. Deliverables**

- 1. Preliminary design submittal (60%)
  - a. Submit four (4) copies to City for review and comment.
  - b. Submittal shall include the following:
    - vi. Preliminary design plans (22"x34")
    - vii. Preliminary technical specifications (table of contents)
    - viii. Opinion of probable construction cost.
- 2. Final design submittal (90%)
  - c. Submit four (4) copies to City for review and comment.

- d. Submittal shall include the following:
  - ix. Preliminary design plans (22"x34")
  - x. Preliminary technical specifications (table of contents)
  - xi. Opinion of probable construction cost

**D. Meetings**

- 1. Attend one (1) meeting with City to kick-off preliminary design.
- 2. Attend one (1) meeting with City on-site prior to submittal of preliminary plans, if required.
- 3. Attend one (1) meeting with City to present and review the preliminary design submittal

**Task 15 – LIFT STATION BID PHASE SERVICES**

This task assumes the lift stations to be bid as one bid package with the utility relocations. The services shown below will be performed concurrently with Task 6.

**A. Bid Phase Services**

- 1. Provide additional bidding assistance as previously authorized to aid in bidding the larger, combined lift station.

**Task 16 – LIFT STATION CONSTRUCTION PHASE SERVICES**

This task assumes the lift station to be constructed concurrently with the utility relocations. The services shown below are similar to Task 7.

**A. Construction Phase Services**

- 1. Provide additional construction phase services as previously authorized to aid in the larger, combined lift station.

## Compensation

Total compensation for the ENGINEER contemplated under the terms of this agreement **shall be a total not-to-exceed \$751,100** for all services including reimbursable expenses. The CITY shall compensate the ENGINEER as follows:

For Tasks 1-16 the total compensation shall be on a reimbursable (hourly) basis and not to exceed **\$751,100**.

Progress payments for shall be paid monthly based on the actual work satisfactorily completed per month in each phase, with the following amounts of the total compensation for each phase of the Project:

Task	Task Amount
Task 1 – Design Management	\$5,500
Task 2 – Alignment Study	\$19,700
Task 3 – Preliminary Design	\$142,000
Task 4 – Final Design	\$98,600
Task 5 – Construction Contract Documents	\$4,600
Task 6 – Bid Phase Services	\$3,800
Task 7 – Construction Phase Services	\$6,600
Task 8 – Record Drawings Preparation	\$5,000
Task 9 – Permitting	\$50,200
Task 10 – Survey and Easements	\$80,100
Task 11 – Easement Acquisition Services	\$80,800
Task 12 – Conflict Analysis	N/A
Task 13 – Lift Station Preliminary Engineering Report (PER)	\$26,000
Task 14 – Lift Station Prelim/Final Design	\$184,300
Task 15 – Lift Station Bid Phase Services	\$6,300
Task 16 – Lift Station Const. Phase Services	\$37,600
<b>Totals:</b>	<b>\$751,100</b>

ENGINEER will not exceed the total maximum labor fee shown without authorization from the CITY. Individual task amounts are provided for budgeting purposes only. ENGINEER reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative

time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the CITY.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Duly executed by each party's designated representative to be effective on the date subscribed by the CITY.

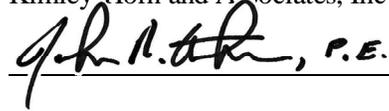
BY:  
CITY OF DENTON, TEXAS

\_\_\_\_\_

Title: \_\_\_\_\_

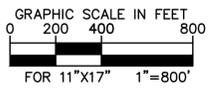
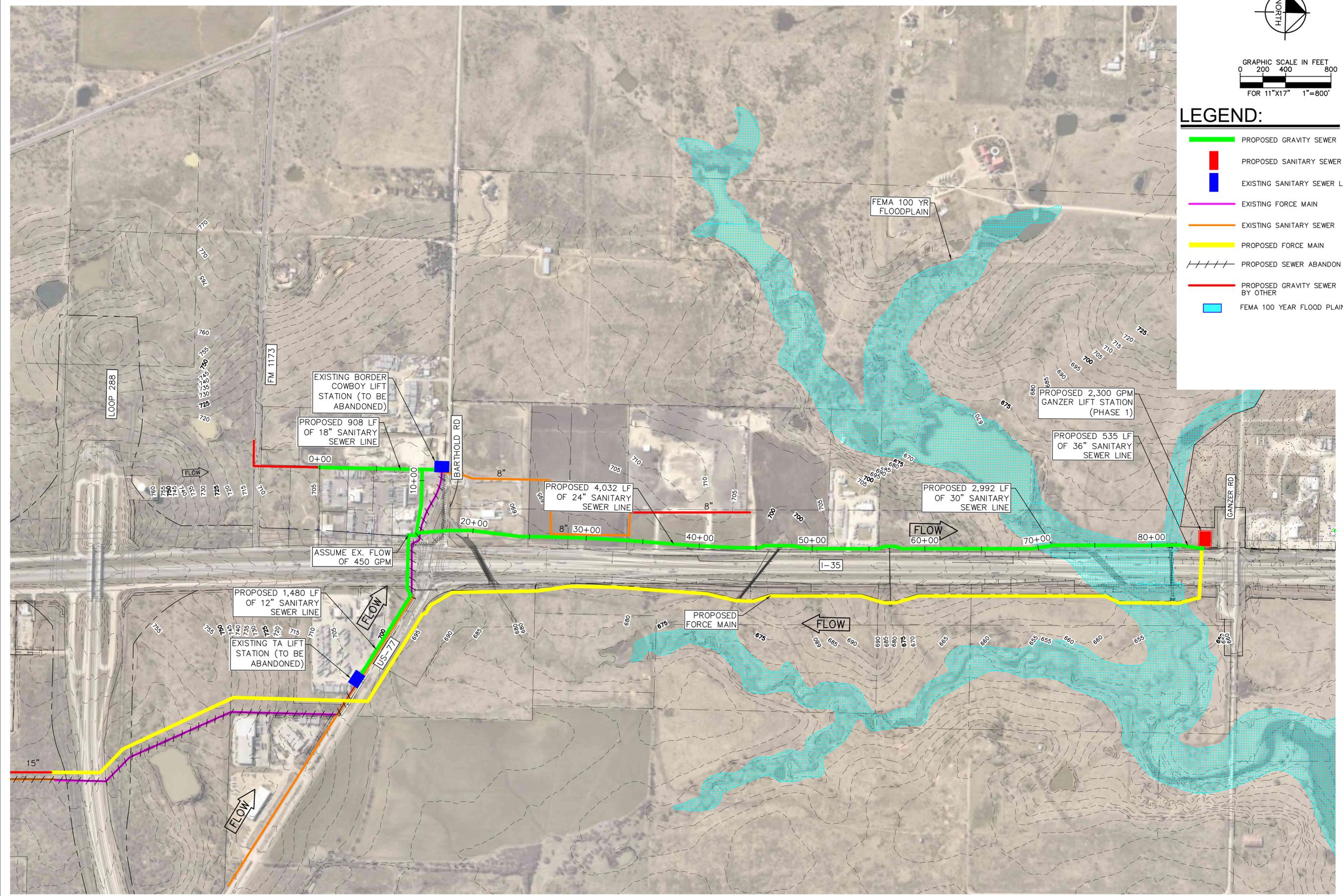
Date: \_\_\_\_\_

BY:  
ENGINEER  
Kimley-Horn and Associates, Inc

 \_\_\_\_\_

Title: John Atkins, Vice President

Date: 2/17/2022 \_\_\_\_\_



**LEGEND:**

- █ PROPOSED GRAVITY SEWER
- █ PROPOSED SANITARY SEWER LS
- █ EXISTING SANITARY SEWER LS
- █ EXISTING FORCE MAIN
- █ EXISTING SANITARY SEWER
- █ PROPOSED FORCE MAIN
- - - - PROPOSED SEWER ABANDON
- █ PROPOSED GRAVITY SEWER BY OTHER
- █ FEMA 100 YEAR FLOOD PLAIN

**Kimley** **Horn**  
 P.E. 817-335-6511  
 801 Cherry St., Suite 1300 Ft. Worth, TX 76102  
 Revision: \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_  
 No. \_\_\_\_\_  
 Chris Goo P.E.  
 SERIAL NO. 120045  
 DATE: MARCH 2022



**CITY OF DENTON**  
 IH-35 UTILITY RELOCATIONS  
 (FROM I-35EW SPLIT TO MILAM)

**GRAVITY SEWER**  
**ROUTING LOCATION MAP**  
 (SOUTH OF GANZER)

DATE:	MARCH 2022
DESIGN:	CPI
DRAWN:	JUN
CHECKED:	CTD
KHA NO.:	061024043

\\kimley-horn\TX\_FTW UTILITIES\061024043-Denton-IH-35-Utility-Relocations\CADD\EXHIBIT\Denton-Commerce-Sewer.dwg 2/11/2022 1:20 PM

## Exhibit CIQ

<b>CONFLICT OF INTEREST QUESTIONNAIRE -</b>	<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>	

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

**1** Name of vendor who has a business relationship with local governmental entity. KIMLEY-HORN AND ASSOCIATES, INC.

**2**  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7<sup>th</sup> business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3** Name of local government officer about whom the information in this section is being disclosed.

\_\_\_\_\_  
Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes                       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes                       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

Yes                       No

D. Describe each employment or business and family relationship with the local government officer named in this section.

**4**  I have no Conflict of Interest to disclose.

**5** DocuSigned by:

John Atkins

4/13/2022

Signature of Vendor doing business with the governmental entity

Date

**Certificate Of Completion**

Envelope Id: 8C471F516D934D228A61788413991955	Status: Completed
Subject: Please DocuSign: City Council Contract 7574-010--I35 Split to Milam Phase II	
Source Envelope:	
Document Pages: 34	Signatures: 6
Certificate Pages: 7	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Crystal Westbrook
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	crystal.westbrook@cityofdenton.com
	IP Address: 198.49.140.104

**Record Tracking**

Status: Original	Holder: Crystal Westbrook	Location: DocuSign
4/7/2022 4:21:30 PM	crystal.westbrook@cityofdenton.com	

**Signer Events**

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None)	<b>Completed</b>  Signed by link sent to crystal.westbrook@cityofdenton.com Using IP Address: 198.49.140.104	Sent: 4/7/2022 4:27:48 PM Viewed: 4/7/2022 4:30:07 PM Signed: 4/7/2022 4:31:42 PM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Signed by link sent to lori.hewell@cityofdenton.com Using IP Address: 198.49.140.10	Sent: 4/7/2022 4:31:45 PM Viewed: 4/7/2022 4:39:32 PM Signed: 4/7/2022 4:40:12 PM
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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Marcella Lunn marcella.lunn@cityofdenton.com Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Signed by link sent to marcella.lunn@cityofdenton.com Using IP Address: 198.49.140.104	Sent: 4/7/2022 4:40:15 PM Viewed: 4/12/2022 2:11:46 PM Signed: 4/12/2022 2:14:56 PM
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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

John Atkins john.atkins@kimley-horn.com Vice President Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Signed by link sent to john.atkins@kimley-horn.com Using IP Address: 208.127.245.199	Sent: 4/12/2022 2:20:45 PM Viewed: 4/13/2022 9:11:26 AM Signed: 4/13/2022 10:07:21 PM
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**Electronic Record and Signature Disclosure:**

Signer Events	Signature	Timestamp
<p>Accepted: 4/13/2022 9:11:26 AM ID: ca0f2356-8a0a-4db3-a921-50ece06c3baf</p> <p>Stephen D. Gay stephen.gay@cityofdenton.com Director Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by: <i>Stephen D. Gay</i> FEB48BB9726E4A9...</p> <p>Signature Adoption: Pre-selected Style Signed by link sent to stephen.gay@cityofdenton.com Using IP Address: 47.186.197.168 Signed using mobile</p>	<p>Sent: 4/13/2022 10:07:24 PM Viewed: 4/14/2022 5:30:42 AM Signed: 4/14/2022 5:31:42 AM</p>
<p><b>Electronic Record and Signature Disclosure:</b> Accepted: 4/14/2022 5:30:42 AM ID: f2620225-3b42-405d-bc31-9c317ead00a2</p> <p>John Atkins John.Atkins@kimley-horn.com Vice President Security Level: Email, Account Authentication (None)</p>	<p><b>Completed</b></p> <p>Signed by link sent to John.Atkins@kimley-horn.com Using IP Address: 208.127.242.84</p>	<p>Sent: 5/13/2022 3:21:23 PM Resent: 5/13/2022 3:34:37 PM Viewed: 5/13/2022 3:35:48 PM Signed: 5/13/2022 3:36:08 PM</p>
<p><b>Electronic Record and Signature Disclosure:</b> Accepted: 5/13/2022 3:35:48 PM ID: 5d514af4-f65e-4df5-b071-9de59a464ebd</p> <p>Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)</p>	<p><b>Completed</b></p> <p>Signed by link sent to cheyenne.defee@cityofdenton.com Using IP Address: 198.49.140.10</p>	<p>Sent: 4/14/2022 5:31:46 AM Viewed: 5/18/2022 12:48:43 PM Signed: 5/18/2022 12:49:03 PM</p>
<p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p> <p>Sara Hensley sara.hensley@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by: <i>Sara Hensley</i> 5236DB296270423...</p> <p>Signature Adoption: Pre-selected Style Signed by link sent to sara.hensley@cityofdenton.com Using IP Address: 198.49.140.10</p>	<p>Sent: 5/18/2022 12:49:06 PM Viewed: 5/18/2022 12:55:57 PM Signed: 5/18/2022 12:56:03 PM</p>
<p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p> <p>Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by: <i>Rosa Rios</i> 1C5CA8C5E175493...</p> <p>Signature Adoption: Pre-selected Style Signed by link sent to rosa.rios@cityofdenton.com Using IP Address: 198.49.140.10</p>	<p>Sent: 5/18/2022 12:56:07 PM Viewed: 5/18/2022 1:54:07 PM Signed: 5/18/2022 1:54:23 PM</p>
<p><b>Electronic Record and Signature Disclosure:</b> Accepted: 5/18/2022 1:54:07 PM ID: 574b2372-a01d-4b72-837c-d9b6229cf1d8</p>		
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cheyenne Defee  
cheyenne.defee@cityofdenton.com  
Procurement Administration Supervisor  
City of Denton  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 4/7/2022 4:31:45 PM

Scott Arnold  
scott.arnold@kimley-horn.com  
Vice President  
Kimley-Horn and Associates, Inc.  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
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**COPIED**

Sent: 4/12/2022 2:20:48 PM  
Viewed: 4/13/2022 8:47:39 AM

Gretna Jones  
gretna.jones@cityofdenton.com  
Legal Secretary  
City of Denton  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 4/14/2022 5:31:45 AM  
Viewed: 4/15/2022 2:52:36 PM

City Secretary Office  
citysecretary@cityofdenton.com  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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Sent: 5/18/2022 1:54:26 PM  
Viewed: 5/18/2022 2:15:01 PM

Annie Bunger  
annie.bunger@cityofdenton.com  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 5/18/2022 1:54:28 PM

David Brown  
david.brown@cityofdenton.com  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Accepted: 4/10/2019 2:54:36 PM  
ID: 20238ddf-ccd6-4d52-988f-8c9f3436055e

**COPIED**

Sent: 5/18/2022 1:54:29 PM  
Viewed: 5/18/2022 2:20:48 PM

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
Envelope Sent	Hashed/Encrypted	4/7/2022 4:27:48 PM
Certified Delivered	Security Checked	5/18/2022 1:54:07 PM
Signing Complete	Security Checked	5/18/2022 1:54:23 PM
Completed	Security Checked	5/18/2022 1:54:29 PM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Denton:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com)

**To advise City of Denton of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [melissa.kraft@cityofdenton.com](mailto:melissa.kraft@cityofdenton.com) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

**To request paper copies from City of Denton**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Denton**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 23-1660

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND KIMLEY-HORN AND ASSOCIATES, INC., AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON MAY 17, 2022, IN THE NOT-TO-EXCEED AMOUNT OF \$751,100.00; SAID FIRST AMENDMENT FOR AN EXTENDED SCOPE, AN ADDITIONAL FULL PLAN SET, AND SERVICES FOR A NEW LIFT STATION FOR THE I-35 SPLIT TO MILAM PHASE II PROJECT FOR THE CAPITAL PROJECTS AND WATER UTILITIES DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-010 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$224,300.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$975,400.00).

WHEREAS, on May 17, 2022, City Council awarded a contract to Kimley-Horn and Associates, Inc. in the amount of \$751,100.00, for regulatory permitting/approval support, process evaluation, design services, bidding assistance, construction phase services, and easement acquisition for the I-35 to Milam Creek Phase II Project for the Water Utilities Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Kimley-Horn and Associates, Inc., which is on file in the office of the Purchasing Agent, in the amount of Two Hundred Twenty-Four Thousand Three Hundred and 0/100 (\$224,300.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to \$975,400.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Paul Meltzer and seconded by Brian Beck. This ordinance was passed and approved by the following vote [ 6 - 0 ]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vicki Byrd, District 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Beck, District 2:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paul Meltzer, District 3:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joe Holland, District 4:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brandon Chase McGee, At Large Place 5:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Watts, At Large Place 6:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

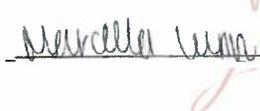
PASSED AND APPROVED this the 19<sup>th</sup> day of September, 2023.

  
 \_\_\_\_\_  
 GERARD HUDSPETH, MAYOR

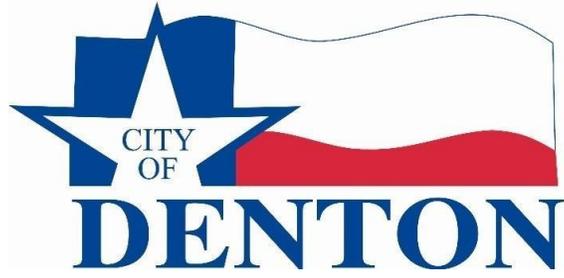
ATTEST:  
 JESUS SALAZAR, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:  
 MACK REINWAND, CITY ATTORNEY

BY:   
 \_\_\_\_\_  
Digitally signed by Marcella Lunn  
 DN: cn=Marcella Lunn, o=City  
 of Denton,  
 email=marcella.lunn@cityofdenton.com, c=US  
 Date: 2023.08.25 13:23:47 -05'00'





## DocuSign City Council Transmittal Coversheet

PSA	7574-010
File Name	I-35 Split to Milam Phase 2 - Amendment #1
Purchasing Contact	Cori Power
City Council Target Date	SEPTEMBER 19, 2023
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	23-1660

**FIRST AMENDMENT TO CONTRACT  
BY AND BETWEEN THE CITY OF DENTON, TEXAS  
AND KIMLEY-HORN AND ASSOCIATES, INC.  
PSA 7574-010**

THE STATE OF TEXAS                   §

COUNTY OF DENTON                   §

THIS FIRST AMENDMENT TO CONTRACT 7574-010 (“Amendment”) by and between the City of Denton, Texas (“City”) and Kimley-Horn and Associates, Inc. (“Engineer”); to that certain contract executed on May 17, 2022, in the original not-to-exceed amount of \$751,100 (the “Agreement”); for professional services related to the I-35 Split to Milam Phase II project.

WHEREAS, the City deems it necessary to further expand the services provided by Engineer to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$224,300 with this Amendment for an aggregate not-to-exceed amount of \$975,400; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Engineer to the City;

NOW THEREFORE, the City and Engineer (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the design of I-35 Split to Milam Phase II Project, are hereby authorized to be performed by Engineer. For and in consideration of the additional services to be performed by Engineer, the City agrees to pay, based on the cost estimate detail attached, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$224,300.
  
2. This Amendment modifies the Agreement amount to provide an additional \$224,300 for the additional services with a revised aggregate not to exceed total of \$975,400.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Engineer, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 09/19/2023.

“City”

“Engineer”

CITY OF DENTON, TEXAS  
A Texas Municipal Corporation

KIMLEY-HORN AND ASSOCIATES,  
INC.

By: DocuSigned by:  
Sara Hensley  
5336DB896270423  
SARA HENSLEY  
CITY MANAGER

By: DocuSigned by:  
John Atkins  
2597308FA77F4216  
AUTHORIZED SIGNOR, TITLE

ATTEST:  
JESUS SALAZAR, CITY SECRETARY

BY: DocuSigned by:  
Jesus Salazar  
2437C77B897541D...

THIS AGREEMENT HAS BEEN  
BOTH REVIEWED AND APPROVED  
as to financial and operational  
obligations and business terms.

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY: DocuSigned by:  
Marcella Lunn  
4B070831B4AA438...

DocuSigned by:  
Trevor Crain, PMP Trevor Crain, PMP  
7B46EEAB11864F2... PRINTED NAME

rector of Capital Projects  
TITLE

Capital Projects  
DEPARTMENT

**Exhibit A**  
**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT**  
**ADDITIONAL SERVICES**

**Professional Services Agreement:**  
**I-35 - SPLIT TO MILAM PHASE 2**  
**GANZER LIFT STATION AND GRAVITY SEWER/FORCE MAIN**  
**Amendment Scope of Services**

This is Amendment Number 01 to the Professional Service Agreement (7574-010) between Kimley-Horn and Associates, Inc. (ENGINEER) and the City of Denton (City) executed on May 17, 2022.

**Scope of Services**

This project was originally intended to be bid and constructed as a single construction set, along with the I-35 Utility Relocations. There are now two (2) separate I-35 utility relocation projects, as well as two (2) projects to be bid and constructed under this contract. Due to recent developments, the original corridor for design and proposed easement were no longer were feasible, thus there was a need for additional survey and design phase services for the gravity and force main sewers. The CITY has requested that the ENGINEER perform the following additional services:

**Task 4 – FINAL DESIGN**

**A. Final Waterline and Sanitary Sewer Design**

1. Provide additional Preliminary/Final plan and profile drawings preparation for an addition of approximately 500 linear feet water main, 330 linear feet of 12-inch sanitary sewer force main, and 400 feet of 18-inch through 33-inch gravity sanitary sewer line.

**Task 6 – BID PHASE SERVICES**

**A. Bid Phase Services**

1. Provide electronic bid documents to the City purchasing department for bidding.
2. Provide the Notice to Bidders to the City for publication. The City will be responsible for publication of the notice. The City will be responsible for distribution of the bidding documents to prospective contractors, suppliers and plan rooms.
3. The following assistance will be provided to the City during the bidding phase:
  - a. Preparation of addenda and delivery to City for distribution to plans holders.
  - b. Responses to questions submitted by plans holders.
  - c. Attend bid opening facilitated by City.
  - d. Preparation of bid tabulation.
  - e. Preparation of recommendation of award letter.
4. Conformance plans and specifications

- a. Based on potential questions and addenda from the bidding phase, prepare conformance set of plans and specifications to be used during construction.
  - i. Provide up to four (4) sets to City for execution.

## **Task 7 – CONSTRUCTION PHASE SERVICES**

### **A. Construction Phase Services**

1. Pre-Construction Conference
  - a. Prepare for and attend a pre-construction conference prior to commencement of Work at the Site
2. Site Visits
  - a. Visit the construction site up to twelve (12) times during construction to perform construction observation. 12 months construction time is assumed.
  - b. Site Visits are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgement.
  - c. Based on information obtained during site visits, ENGINEER will determine if Contractor's work is generally proceeding in accordance with the Contract Documents, and ENGINEER will keep CITY informed of the general progress of the work.
  - d. Hold monthly meetings with the contractor, either on site or off site for up to twelve (12) meetings.
3. Recommendations with Respect to Defective Work
  - a. Provide recommendations to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of site visit evaluations, ENGINEER believes such work will not produce a completed Project that conforms generally to Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Notwithstanding the foregoing, the City reserves the right to disapprove or reject Contractor's work without a recommendation from the ENGINEER.
4. Clarifications and Interpretations
  - a. Issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field orders authorizing variations from the requirements of the Contract Documents will be made by City.
5. Change Orders

- a. Recommend change orders to City, as appropriate.
  - b. Review and make recommendations related to Change Orders submitted or proposed by the Contractor.
6. Shop Drawings and Samples
- a. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs. Assumes up to thirty (30) shop drawings.
7. Substitutes and “or-equal”
- a. Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
  - b. Provide recommendations to City
8. Inspections and Tests
- a. Review certificates of inspections and tests within ENGINEER’s area of responsibility for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER will be entitled to rely on the results of such tests and facts being certified. The scope of services assumes the pumps and motors will go through a non-witnessed factory test. Attending testing will be considered additional services.
9. Disagreements between City and Contractor
- a. As necessary, ENGINEER will, with reasonable promptness, render initial written decision on all claims of City and Contractor relating to the acceptability of Contractor’s work or the interpretation of the requirements of the Contract Documents pertaining to the progress of the Contractor’s work. In rendering such decisions, ENGINEER will be fair and not show partiality to City or Contractor and will not be liable in connection with any decision rendered in good faith in such capacity. The initial decision of the ENGINEER shall be required as a condition precedent to mediation or litigation of any claim arising prior to the date final payment is due to the Contractor, unless thirty (30) days have passed after a claim has been referred to the ENGINEER with no decision having been rendered.
10. Final Walkthrough and Punchlist Preparation

- a. Attend final walkthrough with Contractor and City to determine if the completed work of Contractor is generally in accordance with the Contract Documents.
  - i. Limitation of Responsibilities: The ENGINEER will not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual entity performing or furnishing the work. ENGINEER will not have the authority or responsibility to stop the work of any Contractor.
- b. Compile punch list from information gathered during final walkthrough with City and Contractor.

## **Task 10 – SURVEY AND EASEMENTS**

### **A. Design Survey**

1. Provide an additional 7,000 linear feet of topographic survey due to a change in alignment. Survey will be provided per the previously authorized scope items.

## **Task 15 – LIFT STATION BID PHASE SERVICES**

### **A. Bid Phase Services**

1. Provide electronic bid documents to the City purchasing department for bidding.
2. Provide the Notice to Bidders to the City for publication. The City will be responsible for publication of the notice. The City will be responsible for distribution of the bidding documents to prospective contractors, suppliers and plan rooms.
3. The following assistance will be provided to the City during the bidding phase:
  - a. Preparation of addenda and delivery to City for distribution to plans holders.
  - b. Responses to questions submitted by plans holders.
  - c. Attend bid opening facilitated by City.
  - d. Preparation of bid tabulation.
  - e. Preparation of recommendation of award letter.
4. Conformance plans and specifications
  - a. Based on potential questions and addenda from the bidding phase, prepare conformance set of plans and specifications to be used during construction.
    - ii. Provide up to four (4) sets to City for execution.

## **Task 16 – LIFT STATION CONSTRUCTION PHASE SERVICES**

### **A. Construction Phase Services**

1. Pre-Construction Conference
  - a. Prepare for and attend a pre-construction conference prior to commencement of Work at the Site

## 2. Site Visits

- a. Visit the construction site up to twelve (12) times during construction to perform construction observation. 12 months construction time is assumed.
- b. Site Visits are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgement.
- c. Based on information obtained during site visits, ENGINEER will determine if Contractor's work is generally proceeding in accordance with the Contract Documents, and ENGINEER will keep CITY informed of the general progress of the work.
- d. Hold monthly meetings with the contractor, either on site or off site for up to twelve (12) meetings.

## 3. Recommendations with Respect to Defective Work

- a. Provide recommendations to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of site visit evaluations, ENGINEER believes such work will not produce a completed Project that conforms generally to Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Notwithstanding the foregoing, the City reserves the right to disapprove or reject Contractor's work without a recommendation from the ENGINEER.

## 4. Clarifications and Interpretations

- a. Issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field orders authorizing variations from the requirements of the Contract Documents will be made by City.

## 5. Change Orders

- a. Recommend change orders to City, as appropriate.
- b. Review and make recommendations related to Change Orders submitted or proposed by the Contractor.

## 6. Shop Drawings and Samples

- a. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences,

schedules, or procedures of construction or to related safety precautions and programs. Assumes up to fifty (50) shop drawings.

- b. Substitutes and “or-equal”
- c. Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- d. Provide recommendations to City

#### 7. Inspections and Tests

- a. Review certificates of inspections and tests within ENGINEER’s area of responsibility for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER will be entitled to rely on the results of such tests and facts being certified. The scope of services assumes the pumps and motors will go through a non-witnessed factory test. Attending testing will be considered additional services.
- b. Disagreements between City and Contractor
- c. As necessary, ENGINEER will, with reasonable promptness, render initial written decision on all claims of City and Contractor relating to the acceptability of Contractor’s work or the interpretation of the requirements of the Contract Documents pertaining to the progress of the Contractor’s work. In rendering such decisions, ENGINEER will be fair and not show partiality to City or Contractor and will not be liable in connection with any decision rendered in good faith in such capacity. The initial decision of the ENGINEER shall be required as a condition precedent to mediation or litigation of any claim arising prior to the date final payment is due to the Contractor, unless thirty (30) days have passed after a claim has been referred to the ENGINEER with no decision having been rendered.

#### 8. Final Walkthrough and Punchlist Preparation

- a. Attend final walkthrough with Contractor and City to determine if the completed work of Contractor is generally in accordance with the Contract Documents.
- b. Limitation of Responsibilities: The ENGINEER will not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual entity performing or furnishing the work. ENGINEER will not have the authority or responsibility to stop the work of any Contractor.
- c. Compile punch list from information gathered during final walkthrough with City and Contractor.

**SCHEDULE**

At a mutually agreed upon date.

**Compensation**

The additional services described above will be accommodated by increasing the contract amount by \$224,300. The following table summarizes the revised contract amount:

<b>Task</b>	<b>Original Contract</b>	<b>Amendment No. 1</b>	<b>Revised Contract</b>
Task 1 – Design Management	\$5,500	-	\$5,500
Task 2 – Alignment Study	\$19,700	-	\$19,700
Task 3 – Preliminary Design	\$142,000	-	\$142,000
Task 4 – Final Design	\$98,600	\$22,700	\$121,300
Task 5 – Construction Contract Documents	\$4,600	-	
Task 6 – Bid Phase Services	\$3,800	\$12,200	\$16,000
Task 7 – Construction Phase Services	\$6,600	\$61,100	\$67,700
Task 8 – Record Drawings Preparation	\$5,000	-	
Task 9 – Permitting	\$50,200	-	\$50,200
Task 10 – Survey and Easements	\$80,100	\$25,300	\$105,400
Task 11 – Easement Acquisition Services	\$80,800	-	\$80,800
Task 12 – Conflict Analysis	N/A	-	-
Task 13 – Lift Station Preliminary Engineering Report (PER)	\$26,000	-	\$26,000
Task 14 – Lift Station Prelim/Final Design	\$184,300	-	\$184,300
Task 15 – Lift Station Bid Phase Services	\$6,300	\$28,900	\$35,200
Task 16 – Lift Station Const. Phase Services	\$37,600	\$74,100	\$111,700
<b>Totals:</b>	<b>\$751,100</b>	<b>\$224,300</b>	<b>\$975,400</b>

Duly executed by each party's designated representative to be effective on the date subscribed by the CITY.

BY:  
CITY OF DENTON, TEXAS

BY:  
ENGINEER  
Kimley-Horn and Associates, Inc

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Title: John Atkins, Vice President .

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

Date: 07/28/2023

**Certificate Of Completion**

Envelope Id: 16EE7E28AD0E43B79728C84141D8A9B7	Status: Completed
Subject: Please DocuSign: City Council Contract 7574-010 I35 Split to Milam Phase II Amendment #1	
Source Envelope:	
Document Pages: 11	Signatures: 5
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Cori Power
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	cori.power@cityofdenton.com
	IP Address: 198.49.140.104

**Record Tracking**

Status: Original	Holder: Cori Power	Location: DocuSign
8/21/2023 7:12:12 PM	cori.power@cityofdenton.com	

**Signer Events**

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None)	<b>Completed</b>  Using IP Address: 198.49.140.104	Sent: 8/21/2023 7:20:44 PM Viewed: 8/21/2023 7:20:54 PM Signed: 8/21/2023 7:21:06 PM
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 8/21/2023 7:21:07 PM Viewed: 8/22/2023 7:44:59 AM Signed: 8/22/2023 7:45:38 AM
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		

Marcella Lunn marcella.lunn@cityofdenton.com Mack Reinwand City Attorney City of Denton Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 8/22/2023 7:45:41 AM Viewed: 8/23/2023 10:08:28 AM Signed: 8/23/2023 10:15:23 AM
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		

John Atkins john.atkins@kimley-horn.com Vice President Security Level: Email, Account Authentication (None)	  Signature Adoption: Pre-selected Style Using IP Address: 134.238.205.73	Sent: 8/23/2023 10:15:24 AM Viewed: 8/23/2023 9:21:07 PM Signed: 8/23/2023 9:21:36 PM
<b>Electronic Record and Signature Disclosure:</b> Accepted: 8/23/2023 9:21:07 PM ID: cdcbea80-0f86-4a03-9e91-3bdda39cdec2		

Signer Events	Signature	Timestamp
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Trevor Crain, PMP  
 Trevor.Crain@cityofdenton.com  
 rector of Capital Projects  
 City of Denton  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
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 Signature Adoption: Pre-selected Style  
 Using IP Address: 198.49.140.10

Sent: 8/23/2023 9:21:38 PM  
 Viewed: 8/24/2023 8:16:28 AM  
 Signed: 8/24/2023 8:16:58 AM

**Electronic Record and Signature Disclosure:**  
 Accepted: 8/24/2023 8:16:28 AM  
 ID: 0d2af5eb-8f38-4f32-9ac3-1827df06a9c8

Cheyenne Defee  
 cheyenne.defee@cityofdenton.com  
 Procurement Administration Supervisor  
 City of Denton  
 Security Level: Email, Account Authentication (None)

**Completed**  
 Using IP Address: 198.49.140.10

Sent: 8/24/2023 8:17:03 AM  
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 Signed: 9/20/2023 10:27:50 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Sara Hensley  
 sara.hensley@cityofdenton.com  
 City Manager  
 City of Denton  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 5236DB296270423...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 198.49.140.10

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 Viewed: 9/20/2023 10:30:01 AM  
 Signed: 9/20/2023 6:12:35 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Jesus Salazar  
 jesus.salazar@cityofdenton.com  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 2437C77B897541D...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 198.49.140.10

Sent: 9/20/2023 6:12:38 PM  
 Viewed: 9/21/2023 7:47:39 AM  
 Signed: 9/21/2023 7:48:29 AM

**Electronic Record and Signature Disclosure:**  
 Accepted: 9/21/2023 7:47:39 AM  
 ID: 4b426d1f-37d9-43d2-898b-78a25f9a1a9d

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cheyenne Defee  
 cheyenne.defee@cityofdenton.com  
 Procurement Administration Supervisor  
 City of Denton  
 Security Level: Email, Account Authentication (None)

**COPIED**

Sent: 8/21/2023 7:21:07 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 8/24/2023 8:17:01 AM Viewed: 8/25/2023 9:21:28 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 9/21/2023 7:48:31 AM Viewed: 9/21/2023 8:06:57 AM
Cole Tankersley Cole.Tankersley@cityofdenton.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Accepted: 9/14/2023 10:24:15 AM ID: 8d6fe3ea-da2d-4116-807e-3aff08dcceaa	<b>COPIED</b>	Sent: 9/21/2023 7:48:33 AM

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/21/2023 7:20:44 PM
Certified Delivered	Security Checked	9/21/2023 7:47:39 AM
Signing Complete	Security Checked	9/21/2023 7:48:29 AM
Completed	Security Checked	9/21/2023 7:48:33 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Denton:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com)

**To advise City of Denton of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [melissa.kraft@cityofdenton.com](mailto:melissa.kraft@cityofdenton.com) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

**To request paper copies from City of Denton**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Denton**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [purchasing@cityofdenton.com](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

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