



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
www.cityofdenton.com

Meeting Agenda Public Utilities Board

Monday, August 10, 2026

9:00 AM

Council Work Session Room

REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD

Citizens will be able to participate in the following way:

- eComment – The agenda was posted online at <https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>. Once the agenda is posted, a link to make virtual comments using the eComment module will be made available next to the meeting listing on the Upcoming Events Calendar. Using eComment, Individuals may indicate support or opposition and submit a brief comment about a specific agenda item. eComments may be submitted up until the start of the meeting at which time the ability to make an eComment will be closed. eComments will be sent directly to members of the Public Utilities Board immediately upon submission and recorded by the Secretary into the Minutes of the Meeting.

After determining that a quorum is present, the Public Utilities Board of the City of Denton, Texas will convene in a Regular Meeting on Monday, August 10, 2026, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

This section of the agenda permits a person to make comments regarding public business on items as listed on the agenda. Each speaker will be allowed a maximum of four (4) minutes. Such person(s) shall have registered under the REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD detailed at the beginning of this agenda. Registration is required prior to the time this agenda item is read into the record.

2. CONSENT AGENDA

Each of the items on the Consent Agenda is recommended by the Staff and approval thereof will be strictly on the basis of the Staff recommendations. Approval of the Consent Agenda authorizes the City Manager or designee to implement each item in accordance with the Staff recommendations. The Public Utilities Board has received background information and has had an opportunity to raise questions regarding these items prior to consideration.

Listed below are bids, purchase orders, contracts, and other items to be approved for payment or other action under the Consent Agenda (Agenda Items A – C). This listing is provided on the Consent Agenda to allow Public Utilities Board Members to discuss or withdraw an item prior to approval of the Consent Agenda. If no items are pulled, the Consent Agenda Items will be approved with one motion. If items are pulled for separate discussion, they may be considered as the first items following approval of the Consent Agenda.

- A. [PUB26-128](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas

home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Our Daily Bread, Inc., amending the contract approved by City Council on March 21, 2023, in the not-to-exceed amount of \$1,040,803.00; said first amendment to provide additional funding for charges through the contract term for the Ready to Work Program for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 7988 - providing for an additional first amendment expenditure amount not-to-exceed \$260,200.00, with the total contract amount not-to-exceed \$1,301,003.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Original Ordinance and Contract](#)
 [Exhibit 3 - Ordinance and Amendment 1](#)

- B. [PUB26-129](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a Professional Services Agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by City Council on June 4, 2024, in the not-to-exceed amount of \$1,259,400.00; amended by Amendment 1 approved by the City Manager; said second amendment to provide an extended scope including alignments study of branch sanitary sewer lines, easement acquisition for the added sewer line branches, and additional full plan set and services for the added branch lines for the Clear Creek Interceptor project for the Wastewater Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8213-001 - providing for an additional second amendment expenditure amount not-to-exceed \$1,330,400.00, with the total contract amount not-to-exceed \$4,180,600.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Original Ordinance, Contract, Ordinance, and Amendment 1](#)
 [Exhibit 3 - Ordinance and Amendment 2](#)

- C. [PUB26-130](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with RDO Equipment Co., through the Buy Board Cooperative Network Contract No. 788-25, for the purchase, repair, and maintenance of heavy-duty John Deere construction equipment for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 9091 - awarded to RDO Equipment Co., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,806,000.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Cooperative Pricing](#)
 [Exhibit 3 - Ordinance and Contract](#)

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [PUB26-136](#) Consider approval of the July 27, 2026 minutes.

Attachments: [7-27-2026 PUB Minutes](#)

- B. [PUB26-137](#) Management Reports
1. Future Agenda Items
 2. New Business Action Items

Attachments: [Future Agenda Items](#)
 [New Business Action Items](#)

4. CONCLUDING ITEMS

A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the Public Utilities Board or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Following the completion of the Regular Meeting, the Public Utilities Board will convene in a Work Session at which the following items will be considered:

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (<https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on August 4, 2026, in advance of the three (3) business day posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

OFFICE OF THE CITY SECRETARY

NOTE: THE CITY OF DENTON'S DESIGNATED PUBLIC MEETING FACILITIES ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE ACCOMMODATION, SUCH AS SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED, IF REQUESTED AT LEAST TWO (2) BUSINESS DAYS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY SECRETARY'S OFFICE AT 940-349-8309 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT REASONABLE ACCOMMODATION CAN BE ARRANGED.



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: August 10, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Our Daily Bread, Inc., amending the contract approved by City Council on March 21, 2023, in the not-to-exceed amount of \$1,040,803.00; said first amendment to provide additional funding for charges through the contract term for the Ready to Work Program for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 7988 – providing for an additional first amendment expenditure amount not-to-exceed \$260,200.00, with the total contract amount not-to-exceed \$1,301,003.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Strengthen Community and Quality of Life.

INFORMATION/BACKGROUND

The City of Denton operates a landfill located at 1527 South Mayhill Road under Texas Commission on Environmental Quality permit MSW-1590B. This permit requires, among other things, that the City maintains equipment and personnel sufficient to complete compliance efforts, including, but not limited to, site maintenance, litter collection, and traffic spotting activities. The City maintains permanent positions to complete these duties. These positions also serve as entry-level, career ladder positions wherein these employees are trained to operate landfill equipment, and when positions are available, they become eligible to promote into the open positions.

In June 2021, the City of Denton published a Request for Proposal to identify local non/not-for-profit organizations offering job training and placement programs for people experiencing homelessness who could help the City fill vacant positions and reduce workforce shortages. The purpose of this contract between the City and Our Daily Bread (ODB) is to provide a dedicated labor force to the City of Denton and create opportunities for community members to exit homelessness through training, counseling, and the promise of defined, consistent income. The program develops a pool of trained, reliable individuals who are eligible to apply for permanent positions within the City of Denton.

Performance results of this contract have demonstrated a great benefit. Since the inception of the contract, the Solid Waste and Recycling Department has hired five (5) participants through the program. These individuals are preparing for advanced roles within the department.

The City's contract with Our Daily Bread expires on March 21, 2028; however, the not-to-exceed (NTE) amount will be exhausted within ten months due to additional departments, including Animal Services and Fleet, utilizing this great program and accelerating the spend against the NTE amount. In addition to this contract amendment, the Solid Waste Department is preparing to initiate a new Request for Proposal. The additional funding requested by this amendment will allow time to procure a new contract.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSION)

On March 21, 2023, City Council approved a contract with Our Daily Bread Inc., in the not-to-exceed amount of \$1,040,803 (Ordinance 23-583).

RECOMMENDATION

Award Amendment No. 1 with Our Daily Bread, Inc., to provide additional funding for charges through the contract term for the Ready to Work Program for the Solid Waste and Recycling Department, in a not-to-exceed amount of \$260,200, for a total amended contract amount of \$1,301,003.

PRINCIPAL PLACE OF BUSINESS

Our Daily Bread, Inc.
Denton, TX

ESTIMATED SCHEDULE OF PROJECT

This contract will expire on March 3, 2028.

FISCAL INFORMATION

These services will be funded from the Solid Waste and Recycling account 660800.7879. Requisitions will be entered on an as-needed basis. The total amended amount of this contract is \$1,301,004.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment 1

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Arturo Garcia, 940-349-8021.

Legal point of contact: Leah Bush at 940-349-8333.

ORDINANCE NO. 23-583

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH OUR DAILY BREAD, INC., FOR THE PROVISION AND SUPERVISION OF TEMPORARY LABOR FOR THE SOLID WASTE AND RECYCLING DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7988 –AWARDED TO OUR DAILY BREAD, INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$1,040,803.00).

WHEREAS, Our Daily Bread, Inc., the professional services provider (the “Provider”) set forth 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, this procurement was undertaken as part of the City’s governmental function; 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 authorized to enter into the professional service contract attached hereto with Our Daily Bread, Inc., for the provision and supervision of temporary labor for the Solid Waste and Recycling Department.

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, Texas 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 Jesse Davis and seconded by Chris Watts. This ordinance was passed and approved by the following vote [5 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	☒	☐	☐	☐
Vicki Byrd, District 1:	☒	☐	☐	☐
Brian Beck, District 2:	☒	☐	☐	☐
Jesse Davis, District 3:	☒	☐	☐	☐
VACANT, District 4:	☐	☐	☐	☐
Brandon Chase McGee, At Large Place 5:	☐	☐	☐	☒
Chris Watts, At Large Place 6:	☒	☐	☐	☐

PASSED AND APPROVED this the 21st day of March, 2023.


GERARD HUDSPETH, MAYOR

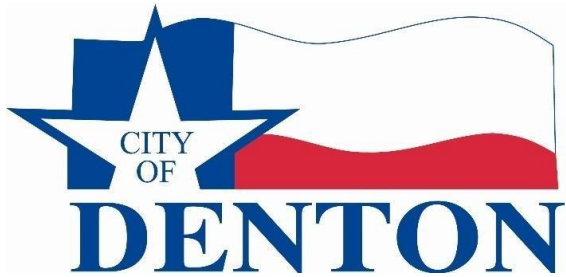
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: 
Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o,
ou=City of Denton,
email=marcella.lunn@cityofdent
on.com, c=US
Date: 2023.02.21 17:10:01 -06'00'





Docusign City Council Transmittal Coversheet

RFP	7988
File Name	Ready to work Program
Purchasing Contact	Erica Garcia
City Council Target Date	MARCH 21, 2023
Piggy Back Option	Not Applicable
Contract Expiration	MARCH 21, 2028
Ordinance	23-583

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND OUR DAILY BREAD, INC.
(CONTRACT 7988)**

THIS CONTRACT is made and entered into this date 03/21/2023, by and between **Our Daily Bread, Inc.** a Texas nonprofit corporation, whose address is 909 North Loop 288, Denton, TX 76209 hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Contractor shall provide products and/or services in accordance with the City's document RFQ 7988 – Ready to Work Program, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) City of Denton's RFQ 7988 (**Exhibit "B" on File at the Office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit "C"**);
- (d) Insurance Requirements (**Exhibit "D"**);
- (e) Certificate of Interested Parties Electronic Filing (**Exhibit "E"**);
- (f) Contractor's Proposal (**Exhibit "F"**);
- (g) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "G"**);

These documents make up the Contract 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 Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 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, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (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.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is
Contract # 7988

prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Sections 2252 and 2270 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, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor, pursuant to Chapters 2252 and 2270, 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.

Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

Contract # 7988

CONTRACTOR

DocuSigned by:
BY: Wendy McGee
48ED49A85FA0447...
AUTHORIZED SIGNATURE

Printed Name: wendy McGee

Title: Executive Director

940-566-1308

PHONE NUMBER

wendy.mcgee@ourdailymbreaddenton.org

EMAIL ADDRESS

2023-984651

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

DocuSigned by:
BY: Sara Hensley
5236DB296270423...
SARA HENSLEY, CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

DocuSigned by:
BY: Rosa Rios
1C6CA9C6E175493...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
BY: Marcella Lunn
4B979834B4AA438...

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

DocuSigned by:
Brian Boerner Brian Boerner
DCD14331B89A4A9...
SIGNATURE PRINTED NAME

Director of Solid Waste

TITLE

SWR

DEPARTMENT

Exhibit A

Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$1,040,803. Pricing shall be per Exhibit F attached.

2. The Quantities

The quantities indicated on Exhibit F are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

The Contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. The Supplier's request to not renew the contract must be submitted in writing to the Purchasing Manager at least 60 days prior to the contract renewal date for each year. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Price Escalation and De-escalation

On Supplier's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. Any request for price adjustment must be based on the, U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) or the manufacturer published pricing list. The maximum escalation will not exceed +/- 8% for any individual year. The escalation will be determined annually at the renewal date. The price will be increased or decreased based upon the annual percentage change in the PPI or the percentage change in the manufacturer's price list. Should the PPI or manufacturer price list change exceed a minimum threshold value of +/-1%, then the stated eligible bid prices shall be adjusted in accordance with the percent change not to exceed the 8% limit per year. The supplier should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

Request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to contract expiration of each year. Respondent must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal

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date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

5. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

COD Scope of Work

I. INTRODUCTION

Employment empowers people experiencing homelessness. Meaningful and sustainable employment is a key component to creating and maintaining housing stability. However, individuals experiencing homelessness face obstacles to finding and maintaining employment. Connecting them with employment and job experience where barriers to employment may exist is critical to ensure they have the financial resources necessary to exit homelessness and contribute to long-term housing stability.

The City of Denton (City) is seeking a request for proposals for an employment program for people experiencing homelessness. Work services anticipated to be delivered under this contract include, but are not limited to:

- Assisting drivers while they are backing the vehicle (spotting)
- Collecting windblown litter on and offsite
- Building temporary litter control fencing around the active landfill working face.
- Completing daily performance logs
- Inspecting equipment before and after use
- Operating a variety of hand tools and/or power tools; such as:

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- a steam cleaner
 - weed-eater
 - yard blower
 - chainsaw
 - bolt cutter
 - hammer
 - sledgehammer
 - metal cutter
 - pliers,
 - wrench
 - saw
- Operating compactor, mechanical and hydraulic mechanisms
- Performing general maintenance task, including:
 - painting
 - mowing, planting, fertilizing, and trimming
 - grass
 - shrubs
 - trees
 - flowers
 - other landscaping
 - steam cleaning of equipment
 - general maintenance assignments
- Performing various lifting and carrying tasks.
- Picking-up and unloading solid waste on residential routes including:
 - Garbage
 - recyclables
 - leaves
 - tree limbs
 - bulk waste
 - appliances
- Steam cleaning and washing trucks and equipment

Participant in the Ready to Work Program must have the ability to

- get along with customers and co-workers.
- lift to 60 pounds
- communicate effectively both verbally and in writing.
- perform all job duties in a safe manner.
- work in inclement weather.

The City intends to award by complete proposal, however, Primary, Secondary and Tertiary contractors will be selected. The Secondary contractor will be called if the Primary contractor fails to provide a suitable candidate for the position requested. If secondary contractor fails to provide a suitable candidate, the City has the right to call the Tertiary contractor.

II. PURPOSE AND BACKGROUND OF THE REQUEST FOR Qualifications

RESPONSIBILITIES OF EMPLOYMENT PROGRAM VENDOR

- 1) Employment Program Vendor/Firm shall administer and maintain all employment and payroll records, payroll processing, and payment of wages and taxes for FIRM's Assigned Employees, making the deductions required of employers by state, federal and local laws, including deductions for social security and withholding taxes. FIRM will also be responsible for distribution of payroll time sheets and checks, for all FIRM'S Assigned Employees provided under this contract.
- 2) FIRM understands and acknowledges all Assigned Employees are not CITY employees and any assignment to the CITY does not constitute an offer of employment to Assigned Employees.
- 3) FIRM shall make all contributions for unemployment compensation funds as required by federal and state laws and process claims as indicated.
- 4) FIRM shall provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Assigned Employees to the CITY.
- 5) FIRM shall conduct and assume all financial responsibilities for employment screening (including background), testing (including drug), evaluations, advertising, recruitment, and disciplinary actions involving any FIRM's Assigned Employees under this contract.
- 6) FIRM shall conduct and assume all financial responsibilities for pre-employment drug testing their Assigned Employee provided to CITY. FIRM's internal process shall be followed. CITY shall not be informed about any test results. The results shall remain confidential with FIRM. If the CITY has reasonable suspicion to think a FIRM's Assigned Employee may be under the influence, FIRM shall be notified to pick up their Assigned Employees and process the Assigned Employee under FIRM's drug-testing policy **within one-hour of notice** to the FIRM. The CITY shall be able to review FIRM's drug testing policy upon reasonable notice any time during the term of this agreement. FIRM warrants, represents and guarantees that their drug-testing policy is in compliance with all federal, state and local ordinances.
- 7) FIRM shall maintain an active policy on drugs and alcohol in the workplace that supports a drug-free environment, and be prepared to submit such policy upon CITY request.
- 8) FIRM shall perform criminal background checks on all prospective Assigned Employees prior to the Assigned Employee being considered eligible to perform duties for the CITY. FIRM shall comply with current EEOC guidance regarding the process for performing and considering the results of criminal background checks in FIRM's employment decisions.
- 9) FIRM shall provide proof of drug testing and background screening, but not the results, upon request to the CITY.
- 10) FIRM shall ensure Assigned Employees obtain any necessary licenses and permits as delineated by CITY Supervisor.
- 11) FIRM shall ensure that Assigned Employees can perform the essential functions of the job assigned and are not under the influence of altering drugs, medicine, and alcohol.
- 12) FIRM shall ensure all Assigned Employees report to work at the specified facility at the scheduled time.
- 13) FIRM shall understand that once a worker is assigned, the Assigned Employee shall complete the full assignment unless the CITY Supervisor releases the Assigned Employee.
- 14) FIRM understands that an Assigned Employee(s) that leaves an assignment, without prior notification to the CITY, shall be replaced by FIRM within thirty (30) minutes of notice by the CITY. In addition, the Assigned Employee who left the assignment may not be utilized on future assignments until approved by the Contract Administrator.
- 15) FIRM understands that an Assigned Employees shall be expected to work the time periods specified by the requesting department.
- 16) FIRM understands that the "Hourly Rate Billed to CITY" is for up to eight (8) hours per day, Contract # 7988

forty (40) hours per workweek (straight-time), and that the straight-time rate shall be increased by a factor of 1.5 for each hour worked, during a single workweek (Saturday through Friday), in excess of forty (40) hours (overtime), provided the requesting CITY department authorized the overtime.

- 17) FIRM understands for all hours worked, compensation shall be computed to the quarter hour.
- 18) FIRM is solely responsible for the provision of, and payment for, any and all workers' compensation claims. The CITY does not, and shall not, assume any liability for any workers' compensation claims, injuries, or other claims that a FIRM's Assigned Employee(s) may file. Such claims shall be the sole responsibility of FIRM.
- 19) FIRM'S Assigned Employees are NOT to be accompanied on any CITY property by acquaintances, family members, assistants, or any person unless said person is an authorized employee of FIRM.
- 20) FIRM MUST PROVIDE ALL OSHA/CITY REQUIRED PERSONAL PROTECTIVE EQUIPMENT (PPE) and comply with all applicable statutes, federal, and state laws related to employment safety.
- 21) Orientation of FIRM's Assigned Employees by CITY department/division staff prior to work assignment shall be at no additional cost to CITY.
- 22) Assigned Employees shall be paid at least the a minimum of \$15.00 per hour.
- 23) Assigned Employees must have identification as a STAFFING FIRM employee visible at all times.
- 24) Assigned Employees must wear highly visible vests, preferably with the logo of the FIRM they represent. Attire must be appropriate for outside labor, including jeans (or appropriate leg wear), shirts, hat and appropriate footwear. Attire must be clean and may not depict inappropriate logos including but not limited to alcohol, tobacco products, offensive language or adult content.

CITY'S RESPONSIBILITIES

- 1) Properly supervise Assigned Employees performing their work and be responsible for its business operations, products, services and intellectual property.
- 2) Provide a safe work site and appropriate information, training, and equipment with respect to any hazardous substances or conditions to which the Assigned Employee may be exposed at the work site.
- 3) Not change Assigned Employee's job duties without FIRM's prior approval.
- 4) The CITY will notify the FIRM of a safety or security requirement for a specific job placement.
- 5) The City **WILL Not** provide meals or snacks as needed or required by the employee

JOB DESCRIPTIONS

Item 1: General Assigned Employees

The FIRM's Assigned Employees shall perform general laboring or maintenance tasks for an office, department or work team. Tasks may include collecting solid waste and resysling throughout the City, moving files, furniture, boxes, from one location to another location in the same or another office, building or facility; loading and unloading trucks; shoveling and moving materials; general maintenance tasks such as lawn mowing, yard care, hand collection of windblown litter and snow or ice removal; and other labor tasks. Assigned Employees may use tools and equipment such as carts, dollies, shovels, tee-post drivers and pullers, lawn equipment, mowers, weed-eaters and other hand and small power tools. Assigned Employees must adhere to all safety precautions relevant to the use of hand and powered tools.

Assigned employees must have

- Ability to perform strenuous labor under adverse conditions;
- Ability to perform lifting, carrying, pushing or pulling tasks associated with the specific assignment;
- Ability to ensure that safe work habits are observed;
- Ability to traverse uneven terrain and ascend/descend steep slopes.
- Ability to lift, climb, bend and kneel in order to complete assigned tasks;
- Ability to tolerate working at heights from a ladder or scaffold;
- Ability to follow proper safety procedures for the job, including but not limited to proper lifting procedures and working in high traffic areas;
- Ability to follow verbal instructions;
- Must be able to lift 60 lbs.;
- Ability to get along with customers and co-workers;
- Ability to work outside in various weather environments;
- Ability to work independently and in group settings.

Exhibit C

Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor or Supplier. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Supplier. No Terms and Conditions contained in the seller's proposal response, invoice or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, 22 and 32 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. CONTRACTOR'S OBLIGATIONS. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. EFFECTIVE DATE/TERM. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. CONTRACTOR TO PACKAGE DELIVERABLES: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. SHIPMENT UNDER RESERVATION PROHIBITED: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. TITLE & RISK OF LOSS: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be

shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth the purchase order.

7. RIGHT OF INSPECTION AND REJECTION: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

9. PLACE AND CONDITION OF WORK: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. WORKFORCE

A. The Contractor shall employ only orderly and competent workers, trained in the performance of the services which they will perform under the Contract. Workers provided by contractor will participate in training programs available.

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property .

i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, Contract # 7988

disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

Immigration: The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA) enacted on September 30, 1996.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

Environmental Protection: The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).

12. INVOICES:

A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

B. Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount.

The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

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A. All proper invoices need to be sent to Accounts Payable. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received in Accounts Payable, whichever is later.

B. If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.

D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- i. delivery of defective or non-conforming deliverables by the Contractor;
- ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, with all required attachments and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given that any awarded firm who is in arrears to the City of Denton for delinquent taxes, the City may offset indebtedness owed the City through payment withholding.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. TRAVEL EXPENSES: All travel, lodging and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the contract terms. During the term of this contract, the contractor shall bill and the City shall reimburse contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise

negotiated.

15. FINAL PAYMENT AND CLOSE-OUT:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within ten (10) business days of written request. Further, the Contractor shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. SUBCONTRACTORS:

A. If the Contractor identified Subcontractors in a DBE/MBE/WBE agreed to Plan, the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or

remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the

Contract, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
- v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. WARRANTY – TITLE: The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all
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deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

A. Recycled deliverables shall be clearly identified as such.

B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. WARRANTY – SERVICES: The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may

reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. STOP WORK NOTICE: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. DEFAULT: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written
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notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

29. FRAUD: Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR

THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

32. INSURANCE: The following insurance requirements are applicable, in addition to the specific insurance requirements detailed in **Appendix A** for services only. The successful firm shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton.

A. General Requirements:

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:
City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209
- vii. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

x. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

xi. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

xii. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

xiii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverage's indicated within the Contract.

xiv. The insurance coverage's specified in within the solicitation and requirements are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the solicitation instrument.

33. CLAIMS: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

34. NOTICES: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

35. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as

such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

36. NO WARRANTY BY CITY AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.

37. CONFIDENTIALITY: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to

execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.

39. PUBLICATIONS: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

40. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

41. NO CONTINGENT FEES: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

42. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without Contract # 7988

liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. 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 Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

44. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or their designee under this agreement. The contractor is expressly free to advertise and perform services for other parties while performing services for the City.

45. ASSIGNMENT-DELEGATION: The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

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

46. **WAIVER:** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

47. **MODIFICATIONS:** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

48. **INTERPRETATION:** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

49. DISPUTE RESOLUTION:

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

50. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

51. INVALIDITY: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

52. HOLIDAYS: The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veterans Day
Thanksgiving
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or their authorized designee.

53. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

54. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

55. EQUAL OPPORTUNITY

A. Equal Employment Opportunity: No Offeror, or Offeror's agent, 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 RFQ.

B. Americans with Disabilities Act (ADA) Compliance: No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

57. RIGHT TO INFORMATION: The City of Denton reserves the right to use any and all information presented in any response to this contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

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58. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

59. PREVAILING WAGE RATES: The contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

60. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The contractor or supplier shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

61. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

62. DRUG FREE WORKPLACE: The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

63. RESPONDENT LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY: The Respondent shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Respondent shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

64. FORCE MAJEURE: The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contract # 7988

Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

65. NON-WAIVER OF RIGHTS: Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

66. NO WAIVER OF SOVEREIGN IMMUNITY: The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

67. RECORDS RETENTION: The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Should a conflict arise between any of the contract documents, it shall be resolved with the following order of precedence (if applicable). In any event, the final negotiated contract shall take precedence over any and all contract documents to the extent of such conflict.

- 1. Final negotiated contract**
- 2. RFP/Bid documents**
- 3. City's standard terms and conditions**
- 4. Purchase order**
- 5. Supplier terms and conditions**

Exhibit D

INSURANCE REQUIREMENTS AND WORKERS' COMPENSATION REQUIREMENTS

Upon contract execution, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
 - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. General Liability Insurance:

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] Automobile Liability Insurance:

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned hired and non-owned autos.

[X] Workers' Compensation Insurance

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Workers' Compensation Commission (TWCC).

[] Owner's and Contractor's Protective Liability Insurance

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least **\$500,000.00** combined bodily injury and property damage per occurrence with a **\$1,000,000.00** aggregate.

[] Fire Damage Legal Liability Insurance

Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than _____ each occurrence are required.

[] Professional Liability Insurance

Professional liability insurance with limits not less than **\$1,000,000.00** per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

[] Builders' Risk Insurance

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

[] Environmental Liability Insurance

Environmental liability insurance for \$1,000,000 to cover all hazards contemplated by this contract.

[] Riggers Insurance

The Contractor shall provide coverage for Rigger's Liability. Said coverage may be provided by a Rigger's Liability endorsement on the existing CGL coverage; through and Installation Floater covering rigging contractors; or through ISO form IH 00 91 12 11, Rigger's Liability Coverage form. Said coverage shall mirror the limits provided by the CGL coverage

[] Commercial Crime

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than \$_____ each occurrence are required.

[] Additional Insurance

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

ATTACHMENT 1**[] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities****A. Definitions:**

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1. a certificate of coverage, prior to that person beginning work on the

project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

2. no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 4. obtain from each other person with whom it contracts, and provide to the contractor:
 - a. a certificate of coverage, prior to the other person beginning work on the project; and

- b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

Exhibit E
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 Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor 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/filinginfo/1295/>
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 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.

Exhibit F

- The crew will be available for up to 29 hours a week
- Crew sizes can either consist of 3 workers (1 supervisor and 2 trainees) or 5 workers (1 supervisor and 4 trainees)
- The hourly rate per worker is \$25.94

CONFLICT OF INTEREST QUESTIONNAIRE -

FORM CIQ

For vendor or other person doing business with local governmental entity

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) and by City of Denton Ethics Code, Ordinance 18-757.

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.

Our Daily Bread, 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 7th 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

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. 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

☐

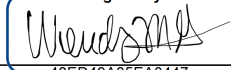
No

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:



2/17/2023

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: 300A2E1B664E4CF1B6E9A1DE3D84C496

Status: Completed

Subject: Please DocuSign: City Council Contract 7988 Ready to Work Program

Source Envelope:

Document Pages: 40

Signatures: 6

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada)

erica.garcia@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

2/14/2023 1:53:24 PM

erica.garcia@cityofdenton.com

Signer Events**Signature****Timestamp**

Erica Garcia

Completed

Sent: 2/14/2023 2:00:05 PM

erica.garcia@cityofdenton.com

Viewed: 2/14/2023 2:00:24 PM

Buyer

Signed: 2/14/2023 2:01:40 PM

City of Denton

Using IP Address: 198.49.140.10

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**
Not Offered via DocuSign

Lori Hewell



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lori.hewell@cityofdenton.com

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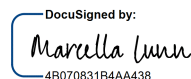
Purchasing Manager

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City of Denton

Signature Adoption: Pre-selected Style
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(None)**Electronic Record and Signature Disclosure:**
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Marcella Lunn



Sent: 2/14/2023 2:11:47 PM

marcella.lunn@cityofdenton.com

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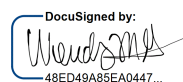
Mack Reinwand City Attorney

Signed: 2/17/2023 11:32:52 AM

City of Denton

Signature Adoption: Pre-selected Style
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Wendy McGee



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wendy.mcgee@ourdailybreaaddenton.org

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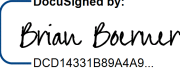
Executive Director

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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

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

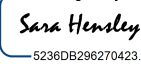
Rosa Rios
rosa.rios@cityofdenton.com
City Secretary
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Intermediary Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 3/21/2023 3:58:19 PM
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Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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 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 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 and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND OUR DAILY BREAD, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON MARCH 21, 2023, IN THE NOT-TO-EXCEED AMOUNT OF \$1,040,803.00; SAID FIRST AMENDMENT TO PROVIDE ADDITIONAL FUNDING FOR CHARGES THROUGH THE CONTRACT TERM FOR THE READY TO WORK PROGRAM FOR THE SOLID WASTE AND RECYCLING DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 7988 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$260,200.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,301,003.00).

WHEREAS, on March 21, 2023, City Council awarded a contract to Our Daily Bread, Inc. in the amount of \$1,040,803.00, for the Ready to Work Program for the Solid Waste and Recycling 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 Our Daily Bread, Inc., which is on file in the office of the Purchasing Agent, in the amount of Two Hundred Sixty Thousand Two Hundred and 0/100 (\$260,200.00) 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 \$1,301,003.00.

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

The motion to approve this ordinance was made by _____ and seconded by _____. The ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	_____	_____	_____	_____
Jordan Villarreal, District 1:	_____	_____	_____	_____
Nick Stevens, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
George Ferrie, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2026.

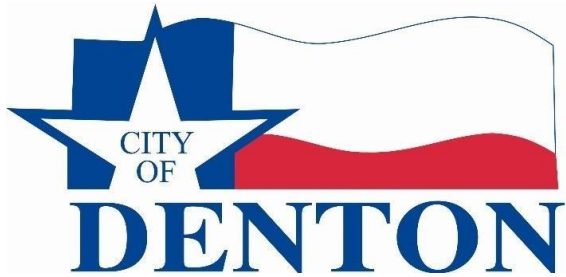
CHRIS WATTS, MAYOR

ATTEST:
KRISTI FOGLE, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

RFQ	7988
File Name	Ready to work program
Purchasing Contact	Crystal westbrook
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND OUR DAILY BREAD, INC.

THIS FIRST AMENDMENT TO CONTRACT 7988 (this “Amendment”) by and between the City of Denton, Texas (“City”) and OUR DAILY BREAD, INC. (“Contractor”) to that certain contract executed on March 21, 2023, in the original not-to-exceed amount of \$1,040,803 (the “Agreement”); for services related to the **Ready to Work Program**.

WHEREAS, the City deems it necessary to further expand the services provided by Contractor to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount **\$260,200** with this First Amendment for an aggregate not-to-exceed amount of **\$1,301,003** and

WHEREAS, this amendment incorporates any previously executed documents between the parties including but not limited to pricing adjustments.

WHEREAS, the City deems it necessary to further expand the goods/services provided by Contractor to the City; and

WHEREAS, the original not-to-exceed amount may not be increased by more than 25.0% as provided in Texas Local Government Code Sec. 252.048; and

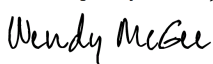
NOW THEREFORE, the City and Contractor (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following First Amendment, which amends the following terms and conditions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

1. This Amendment modifies the Agreement amount to provide an additional \$260,200 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of \$1,301,003.

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 Contractor, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this date_____.

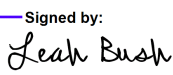
“CONTRACTOR”
OUR DAILY BREAD, INC.

By: 
48ED49A85EA0447...
AUTHORIZED SIGNATURE, TITLE

“CITY”
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By: 
3A6254145BDA469...
SIGNED BY:

ATTEST:

By: _____

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

Signed by:  Brenda Haney
C3C62BE563154A1...
SIGNATURE PRINTED NAME

Director
TITLE

Solid Waste
DEPARTMENT

CONFLICT OF INTEREST QUESTIONNAIRE -

FORM CIQ

For vendor or other person doing business with local governmental entity

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) and by City of Denton Ethics Code, Ordinance 18-757.

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.

OUR DAILY BREAD, 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 7th 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

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. 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:

Wendy McGee

7/8/2026

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm](http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm). For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: 376ED2AC-8C94-8143-826F-CCF314AD5C16

Subject: Please DocuSign: City Council Contract 7988 - Ready to Work Program, NTE Increase

Source Envelope:

Document Pages: 5

Signatures: 4

Certificate Pages: 6

Initials: 1

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:

Christa Christian

901B Texas Street

Denton, TX 76209

Christa.Christian@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

7/7/2026 8:32:08 AM

Holder: Christa Christian

Christa.Christian@cityofdenton.com

Location: DocuSign

Signer Events

Christa Christian

Christa.Christian@cityofdenton.com

Purchasing Supervisor

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signature

Completed

Using IP Address: 198.49.140.10

Timestamp

Sent: 7/7/2026 8:45:37 AM

Viewed: 7/7/2026 8:45:45 AM

Signed: 7/7/2026 8:45:59 AM

Lori Hewell

lori.hewell@cityofdenton.com

Purchasing Manager

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Initial

lt

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Sent: 7/7/2026 8:46:01 AM

Viewed: 7/7/2026 9:45:53 AM

Signed: 7/7/2026 9:46:07 AM

Leah Bush

leah.bush@cityofdenton.com

Assistant City Attorney

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signed by:

Leah Bush

3A6254145BDA469...

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.104

Sent: 7/7/2026 9:46:09 AM

Viewed: 7/7/2026 4:18:20 PM

Signed: 7/7/2026 4:30:16 PM

Wendy McGee

wendy.mcgee@ourdailymbreaddenton.org

Executive Director

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 4/4/2022 10:56:31 AM

ID: 70345625-878e-479a-9906-95ae53aea870

DocuSigned by:

Wendy McGee

48ED49A85EA0447...

Signature Adoption: Pre-selected Style

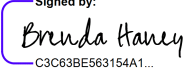
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Viewed: 7/8/2026 11:38:44 AM

Signed: 7/8/2026 11:43:37 AM

Signer Events	Signature	Timestamp
Brenda Haney Brenda.Haney@cityofdenton.com Director Security Level: Email, Account Authentication (None)	Signed by:  C3C63BE563154A1... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/8/2026 11:43:40 AM Viewed: 7/8/2026 11:45:52 AM Signed: 7/8/2026 11:46:20 AM

Electronic Record and Signature Disclosure:
Accepted: 7/8/2026 11:45:52 AM
ID: 4501c913-54c8-446a-b46d-87923111d4b4

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

Sent: 7/8/2026 11:46:23 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Cassey Ogden
Cassey.Ogden@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kristi Fogle
kristi.fogle@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Accepted: 7/1/2026 4:30:58 PM
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

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

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Sent: 7/7/2026 8:46:01 AM

Carbon Copy Events	Status	Timestamp
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 City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Arturo Garcia arturo.garcia@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 4/16/2026 8:34:23 AM ID: d4171875-555b-4321-8abc-b94ced2893df	COPIED	Sent: 7/8/2026 11:46:24 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/7/2026 8:45:37 AM
Envelope Updated	Security Checked	7/7/2026 4:38:48 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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.

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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 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..

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- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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.

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- 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
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City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: August 10, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a Professional Services Agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by City Council on June 4, 2024, in the not-to-exceed amount of \$1,259,400.00; amended by Amendment 1 approved by the City Manager; said second amendment to provide an extended scope including alignments study of branch sanitary sewer lines, easement acquisition for the added sewer line branches, and additional full plan set and services for the added branch lines for the Clear Creek Interceptor project for the Wastewater Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8213-001 – providing for an additional second amendment expenditure amount not-to-exceed \$1,330,400.00, with the total contract amount not-to-exceed \$4,180,600.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Enhance Infrastructure and Mobility.

INFORMATION/BACKGROUND

The original contract was established for engineering services focused on the conceptual design and due diligence for "a major wastewater interceptor in the near future in the Clear Creek Basin." Per the City of Denton Wastewater Master Plan, the project involved designing approximately 7.5 miles of 27-inch to 42-inch sanitary sewer pipeline. This pipeline will begin at the future Clear Creek Water Reclamation Plant Site (located approximately 5,500 feet north of the Hartlee Field Road and Collins Street intersection), extend westward along Clear Creek to the Milam Creek confluence, and connect to the influent gravity piping at the Ganzer Road Lift Station (at the southeast corner of Ganzer Road and IH-35), which is currently under design.

The initial scope of services includes Design Management, Alignment Study, Topographic Survey, Nationwide Permitting, Archaeological Services, ESA Field Assessments, Tree Survey, Alignment Revisions, Easement Preparation, TxDOT RULIS, and Gas Pipeline Encroachments.

The first amendment addressed the high development interest within the Clear Creek Basin and the pressing need for expanded wastewater services to support the area's rapid growth. To meet this increased demand, the amendment provides for the continuation of comprehensive engineering design and easement acquisition services, positioning the city to move forward with constructing the Clear Creek Interceptor. The revised scope adds essential tasks: Preliminary Design, Final Design, Bid Phase Services, and Easement

Acquisition Services. These additions ensure all phases from planning through construction are covered, facilitating efficient progress on this critical infrastructure project.

This amendment to the scope of work addresses the high development interest and the ability to abandon up to six (6) existing lift stations with the additional sewer branch lines. These projects are identified on the City's wastewater master plan (WWMP) as project 27, 30, and 43, and comprise generally 6,100 feet, 6,120 feet, and 7,613 feet, respectively. This amendment also includes additional design and easements that have arisen on the original Clear Creek project and includes construction phase services. This amendment provides for the continuation of comprehensive engineering design and easement acquisition services, positioning the city to move forward with constructing the Clear Creek Interceptor. The revised scope adds essential tasks: Preliminary Design, Final Design, Bid Phase Services, and Easement Acquisition Services. These additions ensure all phases from planning through construction are covered, facilitating efficient progress on this critical infrastructure project.

Request for Qualifications for an engineering services list for various water and wastewater utilities projects for the Water Utilities Department was solicited using the City's formal solicitation process. City Council approved a pre-qualified list of professional service firms on March 5, 2024 (Ordinance 24-390).

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On March 5, 2024, City Council approved RFQ 8213 for a prequalified list of firms for engineering services for various water and wastewater utilities projects for the Water Utilities Department (Ordinance 24-390).

On June 4, 2024, City Council approved a contract with Kimley-Horn and Associates, Inc., in the not-to-exceed amount of \$1,259,400 (Ordinance 24-1076).

On December 17, 2024, City Council approved Amendment No. 1 with Kimley-Horn and Associates, Inc., in the not-to-exceed amount of \$1,590,800, for a total not-to-exceed amount of \$2,850,200 (Ordinance 24-2410).

RECOMMENDATION

Award Amendment No. 2 with Kimley-Horn and Associates, Inc., to provide an extended scope including alignments study of branch sanitary sewer lines, easement acquisition for the added sewer line branches, and additional full plan set and services for the added branch lines for the Clear Creek Interceptor project for the Wastewater Department, in a not-to-exceed amount of \$1,330,400, for a total amended contract amount of \$4,180,600.

PRINCIPAL PLACE OF BUSINESS

Kimley-Horn and Associates, Inc.
Fort Worth, TX

SUSTAINABILITY MEASURES

The contract will help the City of Denton in the full engineering design and easement acquisition necessary to permit the City to begin construction of the Clear Creek Interceptor. The new additional infrastructure will increase wastewater capacity throughout the Northern part of the City. The facilities are essential to the safe treatment and discharge of effluent to the sensitive accepting streams.

ESTIMATED SCHEDULE OF PROJECT

This amendment will be started upon approval, with preliminary plans being submitted in October 2025, and final plans coming in October 2026.

FISCAL INFORMATION

These services will be funded from the 5-year Capital Improvement Program, account 640516545.1360.20100. Purchase Order #207401 will be revised to include the second amendment amount of \$1,330,400. The total amount of this contract is \$4,180,600. The funds will be generated over the next three years, FY 25/26, FY 26/27, & FY 27/28.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Original Ordinance, Contract, Ordinance, and Amendment 1

Exhibit 3: Ordinance and Amendment 2

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Shawn Messick, 940-349-8390.

Legal point of contact: Leah Bush at 940-349-8333.

ORDINANCE NO. 24-1076

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 ENGINEERING SERVICES FOR THE CONCEPTUAL DESIGN AND DUE DILIGENCE ITEMS FOR THE CLEAR CREEK INTERCEPTOR PROJECT FOR THE WASTEWATER DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8213-001 - PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES AWARDED TO KIMLEY-HORN AND ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$1,259,400.00).

WHEREAS, on March 5, 2024, the City Council approved a pre-qualified engineer list for the Water and Wastewater Utilities Department (Ordinance 24-390), 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, this procurement was undertaken as part of the City's governmental function [Water and sewer service]; 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 Kimley-Horn and Associates, Inc., for engineering services for the conceptual design and due diligence items for the Clear Creek Interceptor project for the Wastewater Department, 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 Brian Beck and seconded by Vicki Byrd. This ordinance was passed and approved by the following vote [6 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, District 3:	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Joe Holland, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jill Jester, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 4th day of June, 2024.


GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

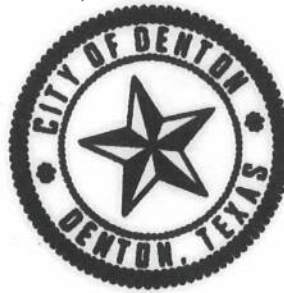
BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:



Digitally signed by Marcella Lunn
DN: dc=com, dc=cityofdenton, dc=codad, ou=Department Users and Groups, ou=General Government, ou=Legal, cn=Marcella Lunn, email=Marcella.Lunn@cityofdenton.com
Date: 2024.05.03 13:23:43 -05'00'





DocuSign City Council Transmittal Coversheet

PSA	8213-001
File Name	Clear Creek Interceptor PSA
Purchasing Contact	Erica Garcia
City Council Target Date	June 4,. 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-1076

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES 8213-001

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 801 Cherry Street, Suite 1300, Unit 11, Fort Worth, TX 76102, and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Clear Creek Interceptor (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 **\$1,259,400** in the manner and in accordance with the fee schedule as set forth in Attachment B. 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

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

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**

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 2271 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

Sections 2252 and 2270 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 Chapters 2252 and 2270, 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. Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 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 energy companies; and (2) will not boycott energy companies during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

O. Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms "discriminate against a firearm entity or firearm trade association," "firearm entity" and "firearm trade association" shall have the meanings ascribed to those terms in Chapter 2274 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 have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

P. Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Engineer is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

Q. 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 23-1165 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 Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

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

Contractor 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/filinginfo/1295/>
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 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.

S. 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

Attachment B - Compensation

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.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

Duly executed by each party's designated representative to be effective on
6/4/2024

BY:
CITY OF DENTON, TEXAS

DocuSigned by:

Sara Hensley

5236DB296270423

Sara Hensley, City Manager

BY:
ENGINEER
KIMLEY-HORN AND ASSOCIATES, INC

DocuSigned by:

John Atkins

25D7302EA77F421...

Authorized Agent, Title

Full Name: John Atkins

2024-1149688

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

ATTEST:
LAUREN THODEN, CITY SECRETARY

DocuSigned by:

Lauren Thoden

BY: D09D09CAD33D487

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

DocuSigned by:

Steven Gay

9EBFF5658E56492...

Signature

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

Marcella Lunn

BY: 4B070831B44A438

Director,

Title

Water Utilities

Department

ATTACHMENT "A"

Scope for Engineering Design Related Services for: **CLEAR CREEK INTERCEPTOR**

The ENGINEER will perform its services pursuant to the requirements delineated below. Services under this attachment include engineering services for the conceptual design and due diligence items for the CLEAR CREEK INTERCEPTOR project.

Project Understanding

The City of Denton water and wastewater utility has determined that a major wastewater interceptor will be necessary in the near future in the Clear Creek Basin. In accordance with the City of Denton Wastewater Master Plan approximately 7.5 miles of 27-inch through 42-inch sanitary sewer pipeline will be designed to be installed beginning at the future Clear Creek Water Reclamation Plant Site (~5,500 LF north of the Hartlee Field Road and Collins Street intersection) and extending to the west along the Clear Creek to the Milam Creek confluence, and connecting to the influent gravity piping at the Ganzer Road Lift Station (at the southeast corner of Ganzer Road and IH-35) which is currently under design.

This scope of services includes conceptual design and due diligence items necessary to permit the City to begin purchasing easements necessary to construct the interceptor.

Final design is not included in this scope of services and is anticipated to be added by amendment in fiscal year 2025.

ENGINEER's scope of services is as follows:

- Task 1 – Design Management
- Task 2 – Alignment Study
- Task 3 – Topographic Survey
- Task 4 – Nationwide Permitting
- Task 5 – Archeological Services
- Task 6 – ESA Field Assessments and Tree Survey
- Task 7 – Alignment Revisions
- Task 8 – Easement Preparation
- Task 9 – TxDOT RULIS
- Task 10 – Gas Pipeline Encroachments

Task 1 – DESIGN MANAGEMENT

A. Project Management

1. Develop project communication plan.
 - a. Develop project contact list.
 - b. Prepare and e-mail progress reports to the project team once a month to be included with invoices. 12 months is assumed.
 - c. Prepare project schedule and provide schedule updates if the schedule changes.
2. Meetings
 - a. Prepare for and attend kickoff meeting.
 - b. Prepare meeting notes and distribute to the City.
3. Sub-consultant Agreement Preparation
 - a. Prepare and execute up to two (2) subconsultant agreements.

Task 2 – ALIGNMENT STUDY

This task is for considering alternative alignments of the proposed Clear Creek Interceptor and obtaining City concurrence of a single option for the proposed alignment prior to performing and preparing design surveys, special studies and permitting, construction plans, and easement documents. This task will also verify sizing for the interceptor based upon the existing City wastewater hydraulic model.

A. Preliminary Investigation

1. Data collection and record research
2. Site investigation
3. Hydraulic verification and sizing utilizing City provided wastewater model
4. Data review with City

B. Schematic property and right-of-way investigation

1. Obtain and organizing publicly available parcel, easement, and ownership data.
2. Import obtained data into CAD format for use in alignment determination.

C. Aquatic Resources Delineation

1. Delineation will be performed in general accordance with the U.S. Army Corps of Engineers (USACE) 1987 Wetlands Delineation Manual and appropriate USACE Regional Supplement (Great Plains Region) as detailed below:
 - a. Locate readily available resource documents and perform a desktop review of site conditions.
 - b. Perform one site visit to evaluate the existence and approximate locations of aquatic resources on the site.
 - c. Prepare exhibits showing the boundaries (polygons) and acreage and/or linear footage (if applicable) of aquatic resources identified onsite during the site visit. Appropriate feature data, locations, and extents will be collected with a GPS with sub-meter accuracy as required by the USACE. This scope of work does not include flagging.
 - d. Prepare a report for the project documenting the results of the aquatic resources delineation performed onsite providing recommendations pertaining to compliance with Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act.
2. Official authority to make a determination defining applicable jurisdictional limits rests with the EPA; however, authority has been delegated to the USACE. Jurisdictional determinations are made by the USACE, upon specific written request, on a case-by-case basis and may make use of certain information at its disposal (such as other permits in the local area) that may not be readily available to the public. The aquatic resources delineation should not be considered authoritative, and it may not wholly eliminate uncertainty regarding the USACE's jurisdictional limits.

D. Alternate Alignment Technical Memorandum

1. Easement requirements

2. Pavement impacts
3. Environmentally sensitive area identification
4. Permitting requirements
5. Property ownership impacts
6. Field review of alignment alternatives
7. Opinion of Probable Construction Cost (OPCC)
8. Alternative alignments mapping
9. Draft memorandum, including presentation to City
10. Final memorandum, including alignment recommendations

The workflow anticipated will require certain investigations to commence after this task is underway or nearly complete, e.g., the archeological survey (by others). If the archeological survey findings or findings of other investigations dictate changes to the already established alignment and other work performed in this task, then the revisions will be performed as part of Task 7 – Alignment Revisions.

E. Deliverables

1. Digital .PDF copy of draft and final alignment study.

F. Meetings

1. Conduct up to six (6) status update and review meetings with City.

Task 3 – TOPOGRAPHIC SURVEY

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. Right-of-Entry coordination with property owners to obtain permission to access private property to perform the design survey.
2. Design Survey
 - a. The limits of the topographic survey shall be approximately 100-feet wide and 7.5 miles long, centered on the final recommended alignment as dictated by Task 2 – Alignment Study.

Task 4 – NATIONWIDE PERMITTING

This task will include either the preparation of a USACE Nationwide Permit (NWP) 58 Non-Notifying Memorandum or a USACE NWP 58 Pre-Construction Notification but not both, as follows:

A. USACE NWP 58 Non-Notifying Memorandum:

1. If it appears that the proposed project could be authorized by Nationwide Permit (NWP) 58 for Utility Line Activities for Water and Other Substances without notification to the USACE Fort Worth District, ENGINEER will add to the aquatic resources delineation report to document compliance with the applicable NWP. This scope assumes that formal USACE notification and authorization is not required; therefore, ENGINEER will document specific project information and details and how to use the perceived applicable NWP. The report will include regulatory language for the applicable NWP with discussion of selected noteworthy General Conditions. The report will include the following information:
 - a. Brief project description of proposed impacts to aquatic features;
 - b. NWP 58 permit language with General Conditions;
 - c. State Water Quality Certifications and Conditions; and
 - d. NWP Regional Conditions for Texas.
2. Though no coordination with the USACE is proposed as part of this Task, the use of the applicable NWP constitutes compliance with appropriate Federal regulations. All NWP General and Regional Conditions and NWP terms must be met by the Client.

B. USACE NWP 58 Pre-Construction Notification (PCN):

1. If it appears that the proposed project could be authorized by Nationwide Permit (NWP) 58 for Utility Line Activities for Water and Other Substances with notification to the USACE Fort Worth District, ENGINEER will prepare a pre-construction notification (PCN) package for the proposed project requiring the NWP authorization. Under this scenario, ENGINEER anticipates providing, at a minimum, the following information in the PCN document:
 - a. Aquatic Resources Delineation Report (prepared as part of Task 2)
 - b. Project Description
 - c. Purpose and Need
 - d. Plan, Profile, and other CAD Drawings
 - e. Threatened and Endangered Species information from readily available databases
 - f. Cultural Resources information from readily available databases.
2. Although not anticipated, the USACE may require species specific studies for threatened and endangered species and/or cultural resources.
3. This option is based on the ability to receive authorization under the current NWP Program (2021-2026); however, receiving authorization from the USACE is not guaranteed. This option is based on the assumption that compensatory mitigation will not be required; therefore, compensatory mitigation evaluation and assistance is

not included in this scope of work. This option does not include pursuing authorization under an Individual Permit.

C. USACE Field Verification Site Visit:

1. It is anticipated, that the USACE may require a site visit to verify conditions in the field. ENGINEER will attend this site visit with the USACE. The USACE may modify the aquatic feature classifications or may request additional information about aquatic features. ENGINEER will update the NWP 58 PCN package based on this field site visit and provide the modifications to the USACE. This task includes one (1) site visit with the USACE and one (1) set of an additional information request from the USACE.

D. Deliverables

1. Non-notifying memorandum in digital PDF for City records; or
2. USACE Pre-construction notification packet in digital PDF.

E. Meetings

1. Attend up to two (2) meetings with the USACE and City to discuss the PCN packet and/or meet in the field for verification.

Task 5 – ARCHEOLOGICAL SERVICES

A Phase I intensive pedestrian archeological survey of the proposed project limits to identify cultural resources in the project area and to make recommendations based upon their significance with regard to eligibility for listing on the National Register of Historic Places (NRHP) and designation as a Texas State Antiquities Landmark (SAL). In the event that a recommendation for NRHP or SAL eligibility cannot be made for a site found during the Phase I survey, Phase II testing may be recommended and subsequently required by the Texas Historical Commission (THC), if the site cannot be avoided. This scope does not include any Phase II testing or Phase III mitigation tasks. The Phase I survey will include the following tasks:

A. Desktop Cultural Resources Evaluation:

1. Compile information from publicly available records/databases
2. Produce a letter report detailing the results of the records search and presents a review of the natural environment and cultural history of the project area, along with conclusions and recommendations of our findings.

B. Phase I Intensive Pedestrian Survey:

1. Perform shovel testing every 100m along the entire route.
2. In floodplain settings, excavate trenches a maximum of every 200 meters to test for deeply buried cultural resources.
3. Survey standards will meet the minimum requirements adopted by the THC (Council of Texas Archeologists 2020).
4. If archeological sites are found during the survey, they will be recorded.

C. Technical Report

1. Report will be prepared meeting the standards of the THC (Council of Texas Archeologists 2018) and presents a review of the natural environment and cultural history of the project area, research design and methodology, and the results of field investigations, as well as conclusions and recommendations of findings.

D. Curation

1. Records and collected artifacts must be curated in perpetuity with an approved curatorial facility, in order to fulfill requirements in the Texas Antiquities Permit (TAP). A representative of the City must sign the required curatorial paperwork. Though curation cannot be completed until the THC has approved the report, this task will not prevent the City from proceeding with construction of the project. If any artifacts are collected on private land, they will be returned to the landowner at their request.

E. Deliverables:

1. Desktop Cultural Resources Evaluation in digital .PDF format.
2. Cultural Resources THC Application in digital .PDF format.
3. Cultural Resources Technical Report in digital .PDF format.

Task 6 – ESA Field Assessments and Tree Survey

In accordance with the Denton Development Code Sections 2.5.5 and 7.7.4, a field assessment will be performed along the entire alignment to determine the limits of existing or unknown Environmentally Sensitive Areas (ESAs), and to prepare a tree inventory within the proposed pipeline corridor.

A. ESA Field Assessments

1. Schedule and attend a pre-application conference with City staff.
2. Perform a field assessment to determine whether the official ESA map requires modifications based upon actual riparian buffer locations, water related habitat boundaries, or cross timbers upland habitat. Obtain field locations of ESA boundaries with a GPS data logger.
3. Complete applications for each parcel to refine ESA boundaries based upon field assessment and submit to City for review and comment. Prepare CAD and GIS shapefiles of proposed ESA boundaries for utilization in design drawings.
4. Respond to up to two rounds of comments from City.

B. Tree Survey

1. Compile previous tree inventories (if provided by City), aerial photos, and ROW limits for use in GPS data logger. Create a Data Dictionary for GPS data logger for data collection and print paper maps and CAD drawings for field work.
2. Utilize GPS to collect tree data along a 100' wide easement based upon the alignment established in Task 2. The data will be collected by a handheld GPS unit and will therefore be mapping grade, not survey grade. For each 6-inch and larger tree, measured in accordance with the City of Denton Tree Ordinance, the collected data will include:
 - a. GPS coordinates (latitude and longitude in decimal degrees);
 - b. Diameter of trunk – City of Denton standard for multiple stemmed trees;
 - c. Species name (scientific and common);
 - d. Tag number - Each tree with recorded data above will be physically tagged with a pre-numbered aluminum circular tag; and
 - e. General health assessment (healthy, declining, or hazard).
3. Map and quantify existing trees in CAD drawings and shapefiles for incorporation in design drawings.
4. While Engineer will endeavor to tag and locate all trees, as described above, it may not be practicable to do so and some trees may be missed in areas of heavy tree coverage or limited access.

C. Deliverables

1. ESA exhibits and application.
2. Tree inventory spreadsheet, and exhibits.

D. Meetings

1. One (1) ESA Pre-application meeting.

Task 7 – ALIGNMENT REVISIONS

Findings and data collected from Tasks 3, 4, 5, and 6 will be incorporated into the overall alignment to refine the proposed alignment.

A. Alignment Revisions

1. Incorporate findings and data collected from Tasks 3, 4, 5, and 6 into alignment exhibits created as part of Task 2.
2. Prepare Final alignment recommendation letter.
3. Prepare final alignment recommendation exhibits including proposed easement boundaries.

B. Deliverables

1. Final alignment recommendation letter and exhibits in digital .PDF format.

C. Meetings

1. One (1) meeting to review final alignment recommendation submittal.

Task 8 – EASEMENT PREPARATION

A. Separate Instrument Easement Descriptions

1. Based on the final alignment recommendation and property research prepared and performed as part of Tasks 2 and 3, Engineer will prepare legal descriptions and accompanying exhibits to be attached to easement documents provided by the City for easements required to construct and maintain the proposed interceptor.
 - a. Twenty-Five (25) extra wide (50 – 100 feet) permanent easements are assumed to accommodate the construction of the proposed facilities.
 - b. Five (5) temporary construction and/or access easements are assumed to provide access or lay-down/storage areas to construct the proposed interceptor.

Task 9 – TxDOT RULIS

A. TxDOT RULIS Application

1. Prepare plan and profile Drawings of proposed Texas Department of Transportation (TxDOT) right of way crossings for the following TxDOT facilities:
 - a. FM 428 (E Sherman Drive)
 - b. FM 2164 (N Locust Street)
2. Prepare TxDOT Right of Way Utility and Leasing Information System (RULIS) applications for proposed crossings.
3. Respond to up to two rounds of comments on application.

B. Deliverables

1. Submit RULIS applications to City or to TxDOT on behalf of the City.

Task 10 – GAS PIPELINE ENCROACHMENTS

A. LONO Exhibits

1. Prepare plan and profile sheets indicating proposed gas pipeline crossings with proposed interceptor to obtain letters of no objection (LONOs) for up to six (6) gas pipeline crossings. The following crossings are assumed to be required:
 - a. Atmos Energy (3 Crossings)
 - b. Explorer Pipeline Company (1 Crossing)
 - c. Enterprise Products (1 Crossing)
 - d. Energy Transfer Company (1 Crossing)
2. Respond to up to two rounds of comments on submittals.

B. Deliverables

1. LONO drawings in digital .PDF format.

C. Meetings

1. Up to four (4) meetings/calls with pipeline owners.

ADDITIONAL SERVICES NOT INCLUDED IN THE EXISTING SCOPE OF SERVICES

City and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the City's written request. Any additional amounts paid to ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include, but are not limited to the following:

- Geotechnical Investigations
- Subsurface Utility Engineering
- Right-of-Way Acquisition Services
- Final design services
- Bidding phase services
- Preparation of a conditional letter of map revision (CLOMR) and letter of map revision (LOMR) and associated submittals to the City and FEMA.
- Revisions associated with development services comments beyond those indicated in the Scope of Services.
- Redesign to reflect project scope changes requested by the CITY, required to address changed conditions or change in direction previously approved by the CITY, mandated by changing governmental laws, or necessitated by the CITY's acceptance of substitutions proposed by the contractor.
- Traffic Control Plan Details
- Traffic signal design
- Sidewalk design
- Preparation for and attendance at public meetings beyond those identified in the scope
- Construction management and resident project representative services.
- Performance of materials or specialty testing services.
- Performance of miscellaneous and supplemental services related to the project as requested by the CITY.
- Retaining wall design
- Traffic studies or reports
- Any services not listed in the Scope of Services

ATTACHMENT "B"

Compensation for Engineering Design Related Services for:

CLEAR CREEK INTERCEPTOR

Total compensation for the ENGINEER contemplated under the terms of this agreement **shall be on a lump sum basis not-to-exceed \$1,259,400** for all services including reimbursable expenses.

Progress payments 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 1 – Design Management	\$ 33,900
• Task 2 – Alignment Study	\$336,000
• Task 3 – Topographic Survey	\$319,200
• Task 4 – Nationwide Permitting	\$ 40,100
• Task 5 – Archeological Services	\$191,200
• Task 6 – ESA Field Assessments and Tree Survey	\$ 99,800
• Task 7 – Alignment Revisions	\$ 73,300
• Task 8 – Easement Preparation	\$ 60,900
• Task 9 – TxDOT RULIS	\$ 30,000
• Task 10 – Gas Pipeline Encroachments	<u>\$ 75,000</u>

Grand Total \$ 1,259,400

ENGINEER will not exceed the total maximum 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.

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.

CONFLICT OF INTEREST QUESTIONNAIRE -**FORM CIQ****For vendor or other person doing business with local governmental entity****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) and by City of Denton Ethics Code, Ordinance 18-757.

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 7th 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.

John Atkins

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. 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.

N/A

4 ☒ **I have no Conflict of Interest to disclose.****5** DocuSigned by:

John Atkins

4/30/2024

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG176.htm](http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG176.htm). For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: 3B4B9F3B1EFE41A08B37A86322CA968B

Status: Completed

Subject: Please DocuSign: City Council Contract 8213-001 Clear Creek Interceptor PSA

Source Envelope:

Document Pages: 36

Signatures: 6

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

EnvelopeId Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada)

erica.garcia@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

4/29/2024 8:31:03 AM

erica.garcia@cityofdenton.com

Signer Events

Signature

Timestamp

Erica Garcia

Completed

Sent: 4/29/2024 8:35:28 AM

erica.garcia@cityofdenton.com

Viewed: 4/29/2024 8:35:48 AM

Senior Buyer

Signed: 4/29/2024 8:36:53 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lori Hewell

Sent: 4/29/2024 8:36:57 AM

lori.hewell@cityofdenton.com

Viewed: 4/29/2024 9:54:29 AM

Purchasing Manager

Signed: 4/29/2024 9:55:26 AM

City of Denton

Security Level: Email, Account Authentication
(None)

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Marcella Lunn

Sent: 4/29/2024 9:55:30 AM

marcella.lunn@cityofdenton.com

Viewed: 4/29/2024 1:19:08 PM

Senior Deputy City Attorney

Signed: 4/29/2024 1:27:18 PM

City of Denton

Security Level: Email, Account Authentication
(None)

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

John Atkins

Sent: 4/29/2024 1:27:21 PM

john.atkins@kimley-horn.com

Viewed: 4/30/2024 7:45:35 AM

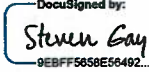
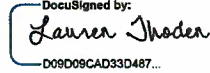
Vice President

Signed: 4/30/2024 7:46:41 AM

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style
Using IP Address: 130.41.174.193

Electronic Record and Signature Disclosure:
Accepted: 4/30/2024 7:45:35 AM
ID: 38888f8d-9274-4adf-9271-abe59dc77708

Signer Events	Signature	Timestamp
Steven Gay stephen.gay@cityofdenton.com Director, Water Utilities Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 4/30/2024 8:19:21 AM ID: 26e61aa8-81f3-4c6f-ada1-47a47cf5147e	DocuSigned by:  9EBFF5658E56492... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/30/2024 7:46:44 AM Viewed: 4/30/2024 8:19:21 AM Signed: 4/30/2024 8:40:40 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	Completed Using IP Address: 198.49.140.10	Sent: 4/30/2024 8:40:43 AM Resent: 6/5/2024 8:51:10 AM Viewed: 6/5/2024 8:56:21 AM Signed: 6/5/2024 8:57:08 AM
Sara Hensley sara.hensley@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DocuSigned by:  5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 47.190.47.120 Signed using mobile	Sent: 6/5/2024 8:57:11 AM Viewed: 6/5/2024 9:33:35 AM Signed: 6/5/2024 9:33:42 AM
Lauren Thoden lauren.thoden@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DocuSigned by:  D09D09CAD33D467... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/5/2024 9:33:46 AM Viewed: 6/5/2024 2:03:25 PM Signed: 6/5/2024 2:03:44 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
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: 4/29/2024 8:36:57 AM

Carbon Copy Events	Status	Timestamp
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: 4/30/2024 8:40:44 AM Viewed: 5/2/2024 10:51:24 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/5/2024 2:03:47 PM Viewed: 6/5/2024 2:46:52 PM

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	4/29/2024 8:35:28 AM
Envelope Updated	Security Checked	6/5/2024 8:51:09 AM
Envelope Updated	Security Checked	6/5/2024 8:51:09 AM
Certified Delivered	Security Checked	6/5/2024 2:03:25 PM
Signing Complete	Security Checked	6/5/2024 2:03:44 PM
Completed	Security Checked	6/5/2024 2:03:47 PM

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

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 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 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 and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

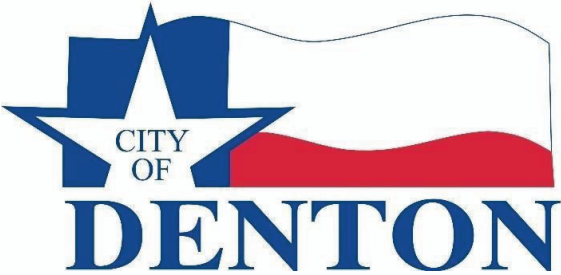
**** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw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



Docusign City Council Transmittal Coversheet

PSA	8213-001
File Name	Clear Creek Interceptor PSA
Purchasing Contact	Erica Garcia
City Council Target Date	June 4,, 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-1076

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES 8213-001

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 801 Cherry Street, Suite 1300, Unit 11, Fort Worth, TX 76102, and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Clear Creek Interceptor (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 **\$1,259,400** in the manner and in accordance with the fee schedule as set forth in Attachment B. 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

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

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**

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 2271 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

Sections 2252 and 2270 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 Chapters 2252 and 2270, 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. Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 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 energy companies; and (2) will not boycott energy companies during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

O. Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 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 have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

P. Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Engineer is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

Q. 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 23-1165 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 Contractor shall complete and submit the City’s Conflict of Interest Questionnaire.

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

Contractor 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/filinginfo/1295/>
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 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.

S. 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

Attachment B - Compensation

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.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

Duly executed by each party's designated representative to be effective on 6/4/2024.

BY:
CITY OF DENTON, TEXAS

DocuSigned by:
Sara Hensley
5236DB296270423...
Sara Hensley, City Manager

BY:
ENGINEER
KIMLEY-HORN AND ASSOCIATES, INC
DocuSigned by:
John Atkins
25D7303EA77F421...
Authorized Agent, Title

Full Name: John Atkins

2024-1149688

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

ATTEST:
LAUREN THODEN, CITY SECRETARY

DocuSigned by:
Lauren Thoden
BY: D09D09CAD33D487...

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

DocuSigned by:
Steven Gay
9EBFF5658E56492...
Signature

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

Director,
Title
water utilities
Department

ATTACHMENT "A"

Scope for Engineering Design Related Services for:

CLEAR CREEK INTERCEPTOR

The ENGINEER will perform its services pursuant to the requirements delineated below. Services under this attachment include engineering services for the conceptual design and due diligence items for the CLEAR CREEK INTERCEPTOR project.

Project Understanding

The City of Denton water and wastewater utility has determined that a major wastewater interceptor will be necessary in the near future in the Clear Creek Basin. In accordance with the City of Denton Wastewater Master Plan approximately 7.5 miles of 27-inch through 42-inch sanitary sewer pipeline will be designed to be installed beginning at the future Clear Creek Water Reclamation Plant Site (~5,500 LF north of the Hartlee Field Road and Collins Street intersection) and extending to the west along the Clear Creek to the Milam Creek confluence, and connecting to the influent gravity piping at the Ganzer Road Lift Station (at the southeast corner of Ganzer Road and IH-35) which is currently under design.

This scope of services includes conceptual design and due diligence items necessary to permit the City to begin purchasing easements necessary to construct the interceptor.

Final design is not included in this scope of services and is anticipated to be added by amendment in fiscal year 2025.

ENGINEER's scope of services is as follows:

- Task 1 – Design Management
- Task 2 – Alignment Study
- Task 3 – Topographic Survey
- Task 4 – Nationwide Permitting
- Task 5 – Archeological Services
- Task 6 – ESA Field Assessments and Tree Survey
- Task 7 – Alignment Revisions
- Task 8 – Easement Preparation
- Task 9 – TxDOT RULIS
- Task 10 – Gas Pipeline Encroachments

Task 1 – DESIGN MANAGEMENT

A. Project Management

1. Develop project communication plan.
 - a. Develop project contact list.
 - b. Prepare and e-mail progress reports to the project team once a month to be included with invoices. 12 months is assumed.
 - c. Prepare project schedule and provide schedule updates if the schedule changes.
2. Meetings
 - a. Prepare for and attend kickoff meeting.
 - b. Prepare meeting notes and distribute to the City.
3. Sub-consultant Agreement Preparation
 - a. Prepare and execute up to two (2) subconsultant agreements.

Task 2 – ALIGNMENT STUDY

This task is for considering alternative alignments of the proposed Clear Creek Interceptor and obtaining City concurrence of a single option for the proposed alignment prior to performing and preparing design surveys, special studies and permitting, construction plans, and easement documents. This task will also verify sizing for the interceptor based upon the existing City wastewater hydraulic model.

A. Preliminary Investigation

1. Data collection and record research
2. Site investigation
3. Hydraulic verification and sizing utilizing City provided wastewater model
4. Data review with City

B. Schematic property and right-of-way investigation

1. Obtain and organizing publicly available parcel, easement, and ownership data.
2. Import obtained data into CAD format for use in alignment determination.

C. Aquatic Resources Delineation

1. Delineation will be performed in general accordance with the U.S. Army Corps of Engineers (USACE) 1987 Wetlands Delineation Manual and appropriate USACE Regional Supplement (Great Plains Region) as detailed below:
 - a. Locate readily available resource documents and perform a desktop review of site conditions.
 - b. Perform one site visit to evaluate the existence and approximate locations of aquatic resources on the site.
 - c. Prepare exhibits showing the boundaries (polygons) and acreage and/or linear footage (if applicable) of aquatic resources identified onsite during the site visit. Appropriate feature data, locations, and extents will be collected with a GPS with sub-meter accuracy as required by the USACE. This scope of work does not include flagging.
 - d. Prepare a report for the project documenting the results of the aquatic resources delineation performed onsite providing recommendations pertaining to compliance with Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act.
2. Official authority to make a determination defining applicable jurisdictional limits rests with the EPA; however, authority has been delegated to the USACE. Jurisdictional determinations are made by the USACE, upon specific written request, on a case-by-case basis and may make use of certain information at its disposal (such as other permits in the local area) that may not be readily available to the public. The aquatic resources delineation should not be considered authoritative, and it may not wholly eliminate uncertainty regarding the USACE's jurisdictional limits.

D. Alternate Alignment Technical Memorandum

1. Easement requirements

2. Pavement impacts
3. Environmentally sensitive area identification
4. Permitting requirements
5. Property ownership impacts
6. Field review of alignment alternatives
7. Opinion of Probable Construction Cost (OPCC)
8. Alternative alignments mapping
9. Draft memorandum, including presentation to City
10. Final memorandum, including alignment recommendations

The workflow anticipated will require certain investigations to commence after this task is underway or nearly complete, e.g., the archeological survey (by others). If the archeological survey findings or findings of other investigations dictate changes to the already established alignment and other work performed in this task, then the revisions will be performed as part of Task 7 – Alignment Revisions.

E. Deliverables

1. Digital .PDF copy of draft and final alignment study.

F. Meetings

1. Conduct up to six (6) status update and review meetings with City.

Task 3 – TOPOGRAPHIC SURVEY

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. Right-of-Entry coordination with property owners to obtain permission to access private property to perform the design survey.
2. Design Survey
 - a. The limits of the topographic survey shall be approximately 100-feet wide and 7.5 miles long, centered on the final recommended alignment as dictated by Task 2 – Alignment Study.

Task 4 – NATIONWIDE PERMITTING

This task will include either the preparation of a USACE Nationwide Permit (NWP) 58 Non-Notifying Memorandum or a USACE NWP 58 Pre-Construction Notification but not both, as follows:

A. USACE NWP 58 Non-Notifying Memorandum:

1. If it appears that the proposed project could be authorized by Nationwide Permit (NWP) 58 for Utility Line Activities for Water and Other Substances without notification to the USACE Fort Worth District, ENGINEER will add to the aquatic resources delineation report to document compliance with the applicable NWP. This scope assumes that formal USACE notification and authorization is not required; therefore, ENGINEER will document specific project information and details and how to use the perceived applicable NWP. The report will include regulatory language for the applicable NWP with discussion of selected noteworthy General Conditions. The report will include the following information:
 - a. Brief project description of proposed impacts to aquatic features;
 - b. NWP 58 permit language with General Conditions;
 - c. State Water Quality Certifications and Conditions; and
 - d. NWP Regional Conditions for Texas.
2. Though no coordination with the USACE is proposed as part of this Task, the use of the applicable NWP constitutes compliance with appropriate Federal regulations. All NWP General and Regional Conditions and NWP terms must be met by the Client.

B. USACE NWP 58 Pre-Construction Notification (PCN):

1. If it appears that the proposed project could be authorized by Nationwide Permit (NWP) 58 for Utility Line Activities for Water and Other Substances with notification to the USACE Fort Worth District, ENGINEER will prepare a pre-construction notification (PCN) package for the proposed project requiring the NWP authorization. Under this scenario, ENGINEER anticipates providing, at a minimum, the following information in the PCN document:
 - a. Aquatic Resources Delineation Report (prepared as part of Task 2)
 - b. Project Description
 - c. Purpose and Need
 - d. Plan, Profile, and other CAD Drawings
 - e. Threatened and Endangered Species information from readily available databases
 - f. Cultural Resources information from readily available databases.
2. Although not anticipated, the USACE may require species specific studies for threatened and endangered species and/or cultural resources.
3. This option is based on the ability to receive authorization under the current NWP Program (2021-2026); however, receiving authorization from the USACE is not guaranteed. This option is based on the assumption that compensatory mitigation will not be required; therefore, compensatory mitigation evaluation and assistance is

not included in this scope of work. This option does not include pursuing authorization under an Individual Permit.

C. USACE Field Verification Site Visit:

1. It is anticipated, that the USACE may require a site visit to verify conditions in the field. ENGINEER will attend this site visit with the USACE. The USACE may modify the aquatic feature classifications or may request additional information about aquatic features. ENGINEER will update the NWP 58 PCN package based on this field site visit and provide the modifications to the USACE. This task includes one (1) site visit with the USACE and one (1) set of an additional information request from the USACE.

D. Deliverables

1. Non-notifying memorandum in digital PDF for City records; or
2. USACE Pre-construction notification packet in digital PDF.

E. Meetings

1. Attend up to two (2) meetings with the USACE and City to discuss the PCN packet and/or meet in the field for verification.

Task 5 – ARCHEOLOGICAL SERVICES

A Phase I intensive pedestrian archeological survey of the proposed project limits to identify cultural resources in the project area and to make recommendations based upon their significance with regard to eligibility for listing on the National Register of Historic Places (NRHP) and designation as a Texas State Antiquities Landmark (SAL). In the event that a recommendation for NRHP or SAL eligibility cannot be made for a site found during the Phase I survey, Phase II testing may be recommended and subsequently required by the Texas Historical Commission (THC), if the site cannot be avoided. This scope does not include any Phase II testing or Phase III mitigation tasks. The Phase I survey will include the following tasks:

A. Desktop Cultural Resources Evaluation:

1. Compile information from publicly available records/databases
2. Produce a letter report detailing the results of the records search and presents a review of the natural environment and cultural history of the project area, along with conclusions and recommendations of our findings.

B. Phase I Intensive Pedestrian Survey:

1. Perform shovel testing every 100m along the entire route.
2. In floodplain settings, excavate trenches a maximum of every 200 meters to test for deeply buried cultural resources.
3. Survey standards will meet the minimum requirements adopted by the THC (Council of Texas Archeologists 2020).
4. If archeological sites are found during the survey, they will be recorded.

C. Technical Report

1. Report will be prepared meeting the standards of the THC (Council of Texas Archeologists 2018) and presents a review of the natural environment and cultural history of the project area, research design and methodology, and the results of field investigations, as well as conclusions and recommendations of findings.

D. Curation

1. Records and collected artifacts must be curated in perpetuity with an approved curatorial facility, in order to fulfill requirements in the Texas Antiquities Permit (TAP). A representative of the City must sign the required curatorial paperwork. Though curation cannot be completed until the THC has approved the report, this task will not prevent the City from proceeding with construction of the project. If any artifacts are collected on private land, they will be returned to the landowner at their request.

E. Deliverables:

1. Desktop Cultural Resources Evaluation in digital .PDF format.
2. Cultural Resources THC Application in digital .PDF format.
3. Cultural Resources Technical Report in digital .PDF format.

Task 6 – ESA Field Assessments and Tree Survey

In accordance with the Denton Development Code Sections 2.5.5 and 7.7.4, a field assessment will be performed along the entire alignment to determine the limits of existing or unknown Environmentally Sensitive Areas (ESAs), and to prepare a tree inventory within the proposed pipeline corridor.

A. ESA Field Assessments

1. Schedule and attend a pre-application conference with City staff.
2. Perform a field assessment to determine whether the official ESA map requires modifications based upon actual riparian buffer locations, water related habitat boundaries, or cross timbers upland habitat. Obtain field locations of ESA boundaries with a GPS data logger.
3. Complete applications for each parcel to refine ESA boundaries based upon field assessment and submit to City for review and comment. Prepare CAD and GIS shapefiles of proposed ESA boundaries for utilization in design drawings.
4. Respond to up to two rounds of comments from City.

B. Tree Survey

1. Compile previous tree inventories (if provided by City), aerial photos, and ROW limits for use in GPS data logger. Create a Data Dictionary for GPS data logger for data collection and print paper maps and CAD drawings for field work.
2. Utilize GPS to collect tree data along a 100' wide easement based upon the alignment established in Task 2. The data will be collected by a handheld GPS unit and will therefore be mapping grade, not survey grade. For each 6-inch and larger tree, measured in accordance with the City of Denton Tree Ordinance, the collected data will include:
 - a. GPS coordinates (latitude and longitude in decimal degrees);
 - b. Diameter of trunk – City of Denton standard for multiple stemmed trees;
 - c. Species name (scientific and common);
 - d. Tag number - Each tree with recorded data above will be physically tagged with a pre-numbered aluminum circular tag; and
 - e. General health assessment (healthy, declining, or hazard).
3. Map and quantify existing trees in CAD drawings and shapefiles for incorporation in design drawings.
4. While Engineer will endeavor to tag and locate all trees, as described above, it may not be practicable to do so and some trees may be missed in areas of heavy tree coverage or limited access.

C. Deliverables

1. ESA exhibits and application.
2. Tree inventory spreadsheet, and exhibits.

D. Meetings

1. One (1) ESA Pre-application meeting.

Task 7 – ALIGNMENT REVISIONS

Findings and data collected from Tasks 3, 4, 5, and 6 will be incorporated into the overall alignment to refine the proposed alignment.

A. Alignment Revisions

1. Incorporate findings and data collected from Tasks 3, 4, 5, and 6 into alignment exhibits created as part of Task 2.
2. Prepare Final alignment recommendation letter.
3. Prepare final alignment recommendation exhibits including proposed easement boundaries.

B. Deliverables

1. Final alignment recommendation letter and exhibits in digital .PDF format.

C. Meetings

1. One (1) meeting to review final alignment recommendation submittal.

Task 8 – EASEMENT PREPARATION

A. Separate Instrument Easement Descriptions

1. Based on the final alignment recommendation and property research prepared and performed as part of Tasks 2 and 3, Engineer will prepare legal descriptions and accompanying exhibits to be attached to easement documents provided by the City for easements required to construct and maintain the proposed interceptor.
 - a. Twenty-Five (25) extra wide (50 – 100 feet) permanent easements are assumed to accommodate the construction of the proposed facilities.
 - b. Five (5) temporary construction and/or access easements are assumed to provide access or lay-down/storage areas to construct the proposed interceptor.

Task 9 – TxDOT RULIS

A. TxDOT RULIS Application

1. Prepare plan and profile Drawings of proposed Texas Department of Transportation (TxDOT) right of way crossings for the following TxDOT facilities:
 - a. FM 428 (E Sherman Drive)
 - b. FM 2164 (N Locust Street)
2. Prepare TxDOT Right of Way Utility and Leasing Information System (RULIS) applications for proposed crossings.
3. Respond to up to two rounds of comments on application.

B. Deliverables

1. Submit RULIS applications to City or to TxDOT on behalf of the City.

Task 10 – GAS PIPELINE ENCROACHMENTS

A. LONO Exhibits

1. Prepare plan and profile sheets indicating proposed gas pipeline crossings with proposed interceptor to obtain letters of no objection (LONOs) for up to six (6) gas pipeline crossings. The following crossings are assumed to be required:
 - a. Atmos Energy (3 Crossings)
 - b. Explorer Pipeline Company (1 Crossing)
 - c. Enterprise Products (1 Crossing)
 - d. Energy Transfer Company (1 Crossing)
2. Respond to up to two rounds of comments on submittals.

B. Deliverables

1. LONO drawings in digital .PDF format.

C. Meetings

1. Up to four (4) meetings/calls with pipeline owners.

ADDITIONAL SERVICES NOT INCLUDED IN THE EXISTING SCOPE OF SERVICES

City and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the City's written request. Any additional amounts paid to ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include, but are not limited to the following:

- Geotechnical Investigations
- Subsurface Utility Engineering
- Right-of-Way Acquisition Services
- Final design services
- Bidding phase services
- Preparation of a conditional letter of map revision (CLOMR) and letter of map revision (LOMR) and associated submittals to the City and FEMA.
- Revisions associated with development services comments beyond those indicated in the Scope of Services.
- Redesign to reflect project scope changes requested by the CITY, required to address changed conditions or change in direction previously approved by the CITY, mandated by changing governmental laws, or necessitated by the CITY's acceptance of substitutions proposed by the contractor.
- Traffic Control Plan Details
- Traffic signal design
- Sidewalk design
- Preparation for and attendance at public meetings beyond those identified in the scope
- Construction management and resident project representative services.
- Performance of materials or specialty testing services.
- Performance of miscellaneous and supplemental services related to the project as requested by the CITY.
- Retaining wall design
- Traffic studies or reports
- Any services not listed in the Scope of Services

ATTACHMENT "B"

Compensation for Engineering Design Related Services for:

CLEAR CREEK INTERCEPTOR

Total compensation for the ENGINEER contemplated under the terms of this agreement **shall be on a lump sum basis not-to-exceed \$1,259,400** for all services including reimbursable expenses.

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 1 – Design Management	\$ 33,900
• Task 2 – Alignment Study	\$336,000
• Task 3 – Topographic Survey	\$319,200
• Task 4 – Nationwide Permitting	\$ 40,100
• Task 5 – Archeological Services	\$191,200
• Task 6 – ESA Field Assessments and Tree Survey	\$ 99,800
• Task 7 – Alignment Revisions	\$ 73,300
• Task 8 – Easement Preparation	\$ 60,900
• Task 9 – TxDOT RULIS	\$ 30,000
• Task 10 – Gas Pipeline Encroachments	<u>\$ 75,000</u>

Grand Total \$ 1,259,400

ENGINEER will not exceed the total maximum 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.

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.

CONFLICT OF INTEREST QUESTIONNAIRE -**FORM CIQ****For vendor or other person doing business with local governmental entity****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) and by City of Denton Ethics Code, Ordinance 18-757.

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 7th 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.

John Atkins

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. 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.

N/A

4 ☒ **I have no Conflict of Interest to disclose.****5**

DocuSigned by:

John Atkins

4/30/2024

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm](http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm). For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: 3B4B9F3B1EFE41A08B37A86322CA968B

Status: Completed

Subject: Please DocuSign: City Council Contract 8213-001 Clear Creek Interceptor PSA

Source Envelope:

Document Pages: 36

Signatures: 6

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Envelopel Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada)

erica.garcia@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

4/29/2024 8:31:03 AM

erica.garcia@cityofdenton.com

Signer Events**Signature****Timestamp**

Erica Garcia

Completed

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erica.garcia@cityofdenton.com

Viewed: 4/29/2024 8:35:48 AM

Senior Buyer

Signed: 4/29/2024 8:36:53 AM

City of Denton

Using IP Address: 198.49.140.104

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(None)**Electronic Record and Signature Disclosure:**
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Lori Hewell



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lori.hewell@cityofdenton.com

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Purchasing Manager

Signed: 4/29/2024 9:55:26 AM

City of Denton

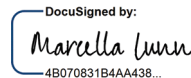
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Marcella Lunn



Sent: 4/29/2024 9:55:30 AM

marcella.lunn@cityofdenton.com

Viewed: 4/29/2024 1:19:08 PM

Senior Deputy City Attorney

Signed: 4/29/2024 1:27:18 PM

City of Denton

Signature Adoption: Pre-selected Style

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John Atkins



Sent: 4/29/2024 1:27:21 PM

john.atkins@kimley-horn.com

Viewed: 4/30/2024 7:45:35 AM

Vice President

Signed: 4/30/2024 7:46:41 AM

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Steven Gay stephen.gay@cityofdenton.com Director, Water Utilities Security Level: Email, Account Authentication (None)	DocuSigned by:  9EBFF5658E56492... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/30/2024 7:46:44 AM Viewed: 4/30/2024 8:19:21 AM Signed: 4/30/2024 8:40:40 AM

Electronic Record and Signature Disclosure:
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Lori Hewell
lori.hewell@cityofdenton.com
Purchasing Manager
City of Denton
Security Level: Email, Account Authentication (None)

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)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lauren Thoden
lauren.thoden@cityofdenton.com
City Secretary
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Completed

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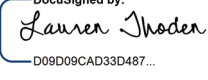
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Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 4/30/2024 8:40:44 AM Viewed: 5/2/2024 10:51:24 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/5/2024 2:03:47 PM Viewed: 6/5/2024 2:46:52 PM
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Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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 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 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 and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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. 24-2410

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 CITY COUNCIL ON JUNE 4, 2024, IN THE NOT-TO-EXCEED AMOUNT OF \$1,259,400.00, SAID FIRST AMENDMENT TO PROVIDE ENGINEERING DESIGN AND EASEMENT ACQUISITION SERVICES FOR THE CLEAR CREEK INTERCEPTOR PROJECT FOR THE WASTEWATER DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8213-001 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$1,590,800.00, FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$2,850,200.00).

WHEREAS, on June 4, 2024, City Council awarded a contract to Kimley-Horn and Associates, Inc. in the amount of \$1,259,400.00, for engineering services for the conceptual design and due diligence items for the Clear Creek Interceptor project for the Wastewater Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function [Water and sewer service]; 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 One Million Five Hundred Ninety Thousand Eight Hundred and 0/100 (\$1,590,800.00) 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 \$2,850,200.00.

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

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

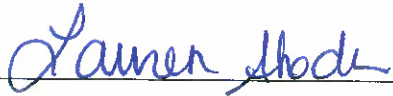
	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>X</u>	_____	_____	_____
Vicki Byrd, District 1:	<u>X</u>	_____	_____	_____
Brian Beck, District 2:	<u>X</u>	_____	_____	_____
Paul Meltzer, District 3:	<u>X</u>	_____	_____	_____
Joe Holland, District 4:	<u>X</u>	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	<u>X</u>	_____	_____	_____
Jill Jester, At Large Place 6:	<u>X</u>	_____	_____	_____

PASSED AND APPROVED this the 17th day of December, 2024.



 GERARD HUDSPETH, MAYOR

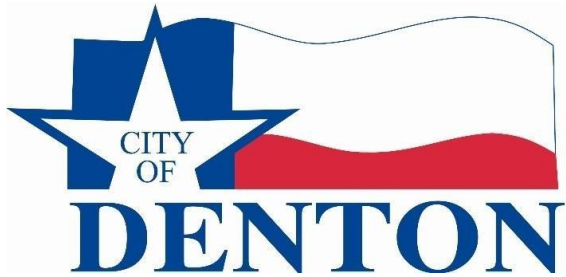
ATTEST:
 LAUREN THODEN, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
 MACK REINWAND, CITY ATTORNEY

BY: 





Docusign City Council Transmittal Coversheet

PSA	8213-001
File Name	Clear Creek Interceptor Amendment 1
Purchasing Contact	Erica Garcia
City Council Target Date	DECEMBER 17, 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-2410

**FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIMLEY-HORN AND ASSOCIATES INC.
PSA 8213-001**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 8213-001 (“Amendment”) by and between the City of Denton, Texas (“City”) and Kimley-Horn and Associates, Inc., (“Engineer”); to that certain contract executed on June 4, 2024, in the original not-to-exceed amount of \$1,259,400 (the “Agreement”); for services related to Clear Creek Interceptor

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 \$1,590,800 with this Amendment for an aggregate not-to-exceed amount of \$2,850,200; 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 Clear Creek Interceptor 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 as Exhibit “A”, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$1,590,800.
2. This Amendment modifies the Agreement amount to provide an additional \$1,590,800 for the additional services with a revised aggregate not to exceed total of \$2,850,200

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 12/17/2024.

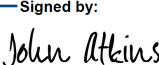
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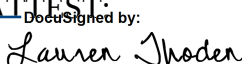
“Engineer”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

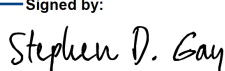
KIMLEY-HORN AND ASSOCIATES,
INC.

By:  DocuSigned by:
5236DB296270423... city Manager
AUTHORIZED SIGNOR, TITLE

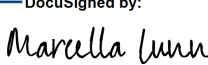
By:  Signed by:
25D7303EA77F421... Senior Vice President
AUTHORIZED SIGNOR, TITLE

ATTEST:
 DocuSigned by:
D09D09CAD33D487...
LAUREN THODEN, CITY SECRETARY

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

 Signed by:
FEB48BB9726E4A9... Stephen D. Gay
SIGNATURE PRINTED NAME
General Manager
TITLE
water utilities and street operations
DEPARTMENT

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

BY:  DocuSigned by:
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AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT ADDITIONAL SERVICES

Professional Services Agreement: CLEAR CREEK INTERCEPTOR Amendment Scope of Services

This is Amendment Number 01 to the Professional Service Agreement (8213-001) between Kimley-Horn and Associates, Inc. (ENGINEER) and the City of Denton (City) executed on June 4, 2024

Scope of Services

The Clear Creek Basin continues to see a high volume of development interest. In order to provide wastewater service to this growing area of the City, there is a need to continue with additional engineering design and easement acquisition services. The CITY has requested that the ENGINEER perform the following additional services:

Task 1 – DESIGN MANAGEMENT

A. Project Management

1. Develop project communication plan.
 - a. Prepare and e-mail progress reports to the project team once a month to be included with invoices. 18 additional months is assumed.
 - b. Prepare project schedule and provide schedule updates if the schedule changes.
2. Sub-consultant Agreement Preparation
 - a. Prepare and execute up to three additional (3) subconsultant agreements.

Task 3 – TOPOGRAPHIC SURVEY

A. Design Survey

1. Design Survey
 - a. Provide additional topographic survey for an additional 3,000 feet on the City owned property.

Task 11 – PRELIMINARY DESIGN

A. Preliminary Sewer Design

1. Geotechnical Engineering

- a. Perform a geotechnical analysis of the alignment utilizing a qualified geotechnical laboratory to determine subsurface conditions and make

EXHIBIT A

recommendations regarding design parameters. The analysis shall include the following:

- b. Subsurface exploration including up to twenty-six (26) sample bores varying 20 to 60 feet depending upon location.
- c. Laboratory tests for classification purposes and strength characteristics.
- d. Engineering services that address the following:
 - e. Soil and groundwater conditions
 - f. Comments on general excavatability of soils and shale encountered
 - g. Recommendations for pipe installation, including bedding and backfill
 - h. Recommendations for tunneling operations
 - i. Recommendations for vault and wet well foundation type and allowable loading (for BH-1)
 - j. Recommendations for lateral pressures for structural design (for BH-1)
- k. A geotechnical report will be 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.
- l. Engineer will contract with a Geotechnical Engineer solely for the City's administrative convenience, and Engineer is not responsible for these services. This task compensates Engineer for the labor necessary to administer the Geotechnical Engineer's contract. Upon receipt of payment, Engineer will pay the Geotechnical Consultant on City's behalf. City acknowledges that Engineer will not be reviewing the work product of the Geotechnical Engineer and will not be liable for it in any way. If the City has any future claim related to these services, City will pursue the Geotechnical Engineer directly and not Engineer.

2. Subsurface Utility Engineering (SUE)

- a. Level A investigation of existing water line connection point, and potential crossing utilities. The Level A investigation shall consist of performing up to thirteen (13) 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.
- b. Level B investigation to be performed for three (3) TxDOT/County road crossings.
- c. Level C/D for the entire corridor.

3. Preliminary Sanitary Sewer Line Design

- a. Visit the site to perform field verification of the survey.

EXHIBIT A

- b. Preliminary plan and profile drawings preparation for approximately 43,300 linear feet of 27-inch through 42-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) Prepare preliminary water line details, including connection details.
 - f) Coordinate phasing and connection details from Ganzer Lift Station and discharge location at the Clear Creek Water Reclamation Facility site.
 - g) Coordinate pipe sizing with the latest version of the City's Wastewater Masterplan.
 - h) Plan Profile/Section Views
 - i) 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.
 - j) Perform one (1) site visit to verify preliminary design.
- c. Preliminary Traffic Control and Detour Plan Preparation.
 - a) City and TxDOT typical traffic control details will be included as required.
- d. 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.
- e. Prepare preliminary general notes and details, including City Standard Details where applicable.
- f. Prepare preliminary technical specifications utilizing City Standard Specifications, and any special specifications.
- g. 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.

EXHIBIT A

- 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.

B. Deliverables

1. Preliminary design submittal (60%)
 - a. Submit four (4) copies to City for review and comment.
 - b. Submittal shall include the following:
 - a) Preliminary design plans (22"x34")
 - b) Preliminary technical specifications (table of contents)
 - c) Geotech report
 - d) Opinion of probable construction cost
 - c. Submit to TCEQ for review
 - d. Submit to Denton County for review
2. Meetings
 - a. Attend one (1) meeting with City to kick-off preliminary design.
 - b. Attend one (1) meeting with City to present and review the preliminary design submittal

Task 12 – FINAL DESIGN**A. Final 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.

EXHIBIT A

5. Prepare surface repair sheets and details as necessary.
6. 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 13 – 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 14 – EASEMENT ACQUISITION SERVICES**A. Easement Acquisition Services**

ENGINEER will coordinate with the Real Estate Agent to aid in property acquisition services for up to twenty (20) hours per parcel.

EXHIBIT A

ENGINEER will perform the following services for this task:

1. ENGINEER's Real Estate Agent shall provide appraisals for proposed easements on up to eleven (11) 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. Provide property negotiation services for up to eleven (11) 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.

EXHIBIT A

3. ENGINEER's Real Estate Agent will coordinate contacts with the CITY to deliver any payments to the Title Company prior to closing.
4. 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.
5. ENGINEER's Real Estate Agent will coordinate and attend all closings at the Title Company.
6. ENGINEER's Real Estate Agent will confirm that the Title Company records all documents at the Denton County Courthouse after closing.
7. ENGINEER's Real Estate Agent will confirm that the Title Company forwards copies of all recorded documents to the City.

Task 15– CONSTRUCTION PHASE SERVICES (TBD-Future Phase)**Task 16 – RECORD DRAWINGS (TBD-Future Phase)****SCHEDULE**

At a mutually agreed upon date.

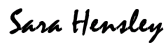
Compensation

The additional services described above will be accommodated by increasing the lump sum contract amount by **\$ \$1,590,800**. The following table summarizes the revised contract amount:

Task	Original Contract	Amendment No. 1	Revised Contract
Task 1 – Design Management	\$33,900	\$66,000	\$99,900
Task 2 – Alignment Study	\$336,000	\$0	\$336,000
Task 3 – Topographic Survey	\$319,200	\$18,100	\$337,300
Task 4 – Nationwide Permitting	\$40,100	\$0	\$40,100
Task 5 – Archeological Services	\$191,200	\$0	\$191,200
Task 6 – ESA Field Assessments and Tree Survey	\$99,800	\$0	\$99,800
Task 7 – Alignment Revisions	\$73,300	\$0	\$73,300
Task 8 – Easement Preparation	\$60,900	\$0	\$60,900
Task 9 – TxDOT RULIS	\$30,000	\$0	\$30,000
Task 10 – Easement Preparation	\$75,000	\$0	\$75,000
Task 11 – Preliminary Design	\$0	\$860,500	\$860,500
Task 12 – Final Design	\$0	\$374,400	\$374,400
Task 13 – Bid Phase Services	\$0	\$46,100	\$46,100
Task 14 – Easement Acquisition Services	\$0	\$225,700	\$225,700
Task 15 – Construction Phase Services (TBD)	\$0	\$0	\$0
Task 16 – Record Drawings (TBD)	\$0	\$0	\$0
Totals:	\$1,259,400	\$1,590,800	\$2,850,200

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

BY:
CITY OF DENTON, TEXAS

DocuSigned by:

5236DB296270423

Title: City Manager

Date: 12/17/2024

BY:
ENGINEER
Kimley-Horn and Associates, Inc

 P.E.

Title: John Atkins, Senior Vice President

Date: 09/03/2024

Certificate Of Completion

Envelope Id: 8EEF73F8-5ABF-48FE-9FB9-8D3A6CEBF4DC
Subject: Please DocuSign: City Council Contract 8213-001 Clear Creek Amendment 1
Source Envelope:
Document Pages: 11
Certificate Pages: 6
AutoNav: Enabled
Envelopeld Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Completed

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
11/15/2024 8:44:06 AM
Holder: Erica Garcia
erica.garcia@cityofdenton.com

Location: DocuSign

Signer Events

Erica Garcia
erica.garcia@cityofdenton.com
Senior Buyer
City of Denton
Security Level: Email, Account Authentication (None)

Signature

Completed

Using IP Address: 198.49.140.104

Timestamp

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Viewed: 11/15/2024 9:31:57 AM
Signed: 11/15/2024 9:32:22 AM

Electronic Record and Signature Disclosure:
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Lori Hewell
lori.hewell@cityofdenton.com
Purchasing Manager
City of Denton
Security Level: Email, Account Authentication (None)

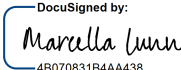


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Electronic Record and Signature Disclosure:
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Marcella Lunn
marcella.lunn@cityofdenton.com
Senior Deputy City Attorney
City of Denton
Security Level: Email, Account Authentication (None)



Signature Adoption: Pre-selected Style
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Signed: 11/18/2024 9:02:13 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

John Atkins
john.atkins@kimley-horn.com
Senior Vice President
Security Level: Email, Account Authentication (None)



Signature Adoption: Pre-selected Style
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Signer Events	Signature	Timestamp
Stephen D. Gay stephen.gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None)	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 11/18/2024 9:32:32 AM Resent: 11/19/2024 7:32:21 AM Viewed: 11/20/2024 1:02:55 PM Signed: 11/20/2024 1:14:32 PM

Electronic Record and Signature Disclosure:
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ID: 45b6b1c1-5627-42b7-95c5-7ec070fd02b4

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

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lauren Thoden
lauren.thoden@cityofdenton.com
City Secretary
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Completed

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

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: 11/15/2024 9:32:24 AM
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Carbon Copy Events	Status	Timestamp
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: 11/20/2024 1:14:35 PM Viewed: 11/20/2024 2:58:25 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/18/2024 10:39:21 AM
Nicholas Dampf nicholas.dampf@cityofdenton.com Water Wastewater Engineer City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/13/2024 2:45:20 PM ID: b6f51fa1-8c56-4cdc-9e05-9a14b339b1d7	COPIED	Sent: 12/18/2024 10:39:22 AM Viewed: 12/18/2024 10:43:22 AM
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Signing Complete	Security Checked	12/18/2024 10:39:19 AM
Completed	Security Checked	12/18/2024 10:39:22 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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 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 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 and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A SECOND AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND KIMLEY-HORN AND ASSOCIATES, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JUNE 4, 2024, IN THE NOT-TO-EXCEED AMOUNT OF \$1,259,400.00; AMENDED BY AMENDMENT 1 APPROVED BY THE CITY MANAGER; SAID SECOND AMENDMENT TO PROVIDE AN EXTENDED SCOPE INCLUDING ALIGNMENTS STUDY OF BRANCH SANITARY SEWER LINES, EASEMENT ACQUISITION FOR THE ADDED SEWER LINE BRANCHES, AND ADDITIONAL FULL PLAN SET AND SERVICES FOR THE ADDED BRANCH LINES FOR THE CLEAR CREEK INTERCEPTOR PROJECT FOR THE WASTEWATER DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8213-001 – PROVIDING FOR AN ADDITIONAL SECOND AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$1,330,400.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$4,180,600.00).

WHEREAS, on June 4, 2024, City Council awarded a contract to Kimley-Horn and Associates, Inc. in the amount of \$1,259,400.00, for engineering services for the conceptual design and due diligence items for the Clear Creek Interceptor project for the Wastewater Department; and

WHEREAS, on December 17, 2024, City Council awarded a First Amendment to Kimley-Horn and Associates, Inc. in the amount of \$1,590,800.00, to provide engineering design and easement acquisition services for the Clear Creek Interceptor project for the Wastewater Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function [Water and sewer service]; and

WHEREAS, the additional fees under the proposed Second 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 Second 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 One Million Three Hundred Thirty Thousand Four Hundred and 0/100 (\$1,330,400.00) 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 \$4,180,600.00.

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

The motion to approve this ordinance was made by _____ and seconded by _____. The ordinance was passed and approved by the following vote [____ - ____]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	_____	_____	_____	_____
Jordan Villarreal, District 1:	_____	_____	_____	_____
Nick Stevens, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
George Ferrie, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2026.

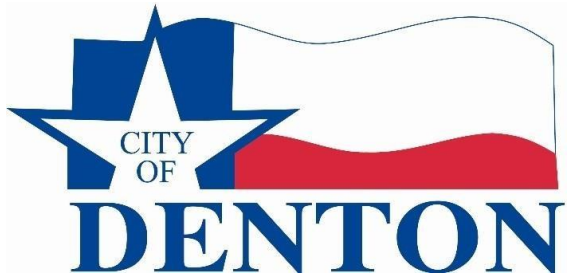
CHRIS WATTS, MAYOR

ATTEST:
KRISTI FOGLE, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

FILE	8213-001
File Name	Clear Creek Interceptor Amendment 2
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

**SECOND AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIMLEY-HORN AND ASSOCIATES INC.
PSA 8213-001**

THIS SECOND AMENDMENT TO CONTRACT 8213-001 (“Amendment”) by and between the City of Denton, Texas (“City”) and Kimley-Horn and Associates, Inc. (“Engineer”); to that certain contract executed on June 4, 2024, in the original not-to-exceed amount of \$1,259,400 (the “Original Agreement”); amended on December 17, 2024, in the additional amount of \$1,590,800 aggregating a not-to-exceed amount of \$2,850,200 (the “First Amendment”); (collectively, the Original Agreement, and the First Amendment are the “Agreement”) for services related to Clear Creek Interceptor.

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 \$1,330,400 with this Amendment for an aggregate not-to-exceed amount of \$4,180,600; 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 Clear Creek Interceptor, 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 as Exhibit “A” a total fee, including reimbursement for non-labor expenses an amount not to exceed \$1,330,400.
2. This Amendment modifies the Agreement amount to provide an additional \$1,330,400 for the additional services with a revised aggregate not to exceed total of \$4,180,600.

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 _____.

“Engineer”

**KIMLEY-HORN AND ASSOCIATES
INC.**

DocuSigned by:
By: Chris Elgo P.E. Associate
DABECDE1E329425
AUTHORIZED SIGNATURE, TITLE

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Signed by:
By: Leah Bush
3A6254145BDA469...

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

ATTEST:
_____, CITY SECRETARY

By: _____

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

Signed by:
Seth Garcia Seth Garcia
A13701F6BC954FC...
SIGNATURE PRINTED NAME

Director of Capital Projects

TITLE

Capital Projects

DEPARTMENT

AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT ADDITIONAL SERVICES

Professional Services Agreement: CLEAR CREEK INTERCEPTOR Amendment Scope of Services

This is Amendment Number 02 to the Professional Service Agreement (8213-001) between Kimley-Horn and Associates, Inc. (ENGINEER) and the City of Denton (City) executed on June 5, 2024

Scope of Services

The Clear Creek Basin continues to see a high volume of development interest and there is now an ability to abandon up to six (6) existing lift stations with additional sewer branch lines. These projects are identified on the City's wastewater master plan (WWMP) as project 27, 30 and 43, and comprise of generally 6,100-feet, 6,120-feet, 7,613-feet. This amendment also includes additional design and easements needs that have arisen on the original Clear Creek project, and also includes construction phase services. In order to provide wastewater service to this growing area of the City, there is a need to continue with additional engineering design, easement acquisition services. The CITY has requested that the ENGINEER perform the following additional services:

Task 1 – DESIGN MANAGEMENT

A. Project Management

1. Develop project communication plan.
 - a. Prepare and e-mail progress reports to the project team once a month to be included with invoices. 12 additional months is assumed.
 - b. Prepare project schedule and provide schedule updates if the schedule changes.
2. Sub-consultant Agreement Preparation
 - a. Prepare and execute up to three additional (3) subconsultant amendments/agreements.

Task 3 – TOPOGRAPHIC SURVEY

A. Design Survey

1. Design Survey
 - a. Provide additional topographic survey for an additional 20,000 feet on the City owned property.

Exhibit A

Task 4 – NATIONWIDE PERMITTING

1. Perform additional services to delineate the watershed and provide a no-notifying USACE NWP 58 for the proposed additional alignments, and as per previous scoped items.

Task 5 – ARCHEOLOGICAL SERVICES

A Phase I intensive pedestrian archeological survey of the proposed project limits to identify cultural resources in the project area and to make recommendations based upon their significance with regard to eligibility for listing on the National Register of Historic Places (NRHP) and designation as a Texas State Antiquities Landmark (SAL). In the event that a recommendation for NRHP or SAL eligibility cannot be made for a site found during the Phase I survey, Phase II testing may be recommended and subsequently required by the Texas Historical Commission (THC), if the site cannot be avoided.

This task includes the areas on Parcel 5, 6, and 7 that were not able to be accessed. These parcels may not be able to be accessed until the corridor is established,

This scope does not include any Phase II testing or Phase III mitigation tasks. The Phase I survey will include the following tasks:

A. Desktop Cultural Resources Evaluation:

1. Compile information from publicly available records/databases
2. Produce a letter report detailing the results of the records search and presents a review of the natural environment and cultural history of the project area, along with conclusions and recommendations of our findings.

B. Phase I Intensive Pedestrian Survey:

1. Perform shovel testing every 100 meters along the entire route.
2. In floodplain settings, excavate trenches a maximum of every 200 meters to test for deeply buried cultural resources.
3. Survey standards will meet the minimum requirements adopted by the THC (Council of Texas Archeologists 2020).
4. If archeological sites are found during the survey, they will be recorded.

C. Technical Report

1. Report will be prepared meeting the standards of the THC (Council of Texas Archeologists 2018) and presents a review of the natural environment and cultural history of the project area, research design and methodology, and the results of field investigations, as well as conclusions and recommendations of findings.

D. Curation

1. Records and collected artifacts must be curated in perpetuity with an approved curatorial facility, in order to fulfill requirements in the Texas Antiquities Permit (TAP). A representative of the City must sign the required curatorial paperwork. Though curation cannot be completed until the THC has approved the report, this task will not prevent the City from proceeding with construction of the project. If any

Exhibit A

artifacts are collected on private land, they will be returned to the landowner at their request.

E. Deliverables:

1. Desktop Cultural Resources Evaluation in digital .PDF format.
2. Cultural Resources THC Application in digital .PDF format.
3. Cultural Resources Technical Report in digital .PDF format.

Task 6 – ESA Field Assessments and Tree Survey

1. Perform additional ESA delineation for the selected alignments as per previous scoped items.

Task 8 – EASEMENT PREPARATION

A. Separate Instrument Easement Descriptions

- a. Prepare an additional Twenty (30) permanent easement documents
- b. Prepare and additional Thirty-Five (25) temporary construction and/or access easements are assumed to provide access or lay-down/storage areas to construct the proposed interceptor.

Task 10 – GAS PIPELINE ENCROACHMENTS

A. LONO Exhibits

1. Prepare plan and profile sheets indicating proposed gas pipeline crossings with proposed interceptor to obtain letters of no objection (LONOs) for up to three (3) gas pipeline crossings. The following crossings are assumed to be required:
 - a. Atmos Energy (2 Crossings)
 - b. Lone Star Gas (1 Crossing)
2. Respond to up to two rounds of comments on submittals.

B. Deliverables

1. LONO drawings in digital .PDF format.

C. Meetings

Up to four (4) meetings/calls with pipeline owners.

Task 11 – PRELIMINARY DESIGN

A. Preliminary Sewer Design

1. Geotechnical Engineering

- a. Perform additional 10 geotechnical bores

2. Subsurface Utility Engineering (SUE)

Exhibit A

- a. Level A investigation of existing water line connection point, and potential crossing utilities. The Level A investigation shall consist of performing up to five (5) 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.
- b. Level B investigation to be performed for existing developments
- c. Level C/D for the entire corridor.

3. Preliminary Sanitary Sewer Line Design

- a. Preliminary plan and profile drawings preparation for approximately 20,000 linear feet of 8-inch through 15-inch gravity sanitary sewer line.

B. Deliverables

- 1. Preliminary design submittal (60%)
 - a. Submit four (4) copies to City for review and comment.
 - b. Submittal shall include the following:
 - a) Preliminary design plans (22”x34”)
 - b) Preliminary technical specifications (table of contents)
 - c) Geotech report
 - d) Opinion of probable construction cost
 - c. Submit to TCEQ for review
 - d. Submit to Denton County for review
- 2. Meetings
 - a. Attend one (1) meeting with City to kick-off preliminary design.
 - b. Attend one (1) meeting with City to present and review the preliminary design submittal

Task 12 – FINAL DESIGN

A. Final 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

Exhibit A

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 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 13 – BID PHASE SERVICES

A. Bid Phase Services

1. Provide electronic bid documents to the City purchasing department for one separate additional bidding phase.
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.

Exhibit A

Task 14 – EASEMENT ACQUISTION SERVICES

A. Easement Acquisition Services

1. ENGINEER's Real Estate Agent shall provide services previously authorized for up to nine (9) more parcels.

Task 15– 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 twenty-four (24) times during construction to perform construction observation. 24 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 twenty-four (24) 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

Exhibit A

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.

Exhibit A

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 16 – RECORD DRAWINGS

A. Record Drawings

1. Obtain and review comments and field changes on the construction plans from City and Contractor.
2. Prepare record drawings based on comments and field changes. The ENGINEER will not be providing resident engineering services and will not be observing on a full-time basis, and will therefore not seal the record drawings. The record drawings will be provided in the following format:
 - a. (1) Mylar hardcopy full-size (22"x34")
 - b. PDF electronic copy

SCHEDULE

At a mutually agreed upon date.

Exhibit A

Compensation

The additional services described above will be accommodated by increasing the lump sum contract amount by **\$1,330,400**. The following table summarizes the revised contract amount:

Task	Original Contract	Amendment No. 1	Amendment No. 2	Revised Contract
Task 1 – Design Management	\$33,900	\$66,000	\$26,900	\$126,800
Task 2 – Alignment Study	\$336,000	\$0	\$0	\$336,000
Task 3 – Topographic Survey	\$319,200	\$18,100	\$146,100	\$483,400
Task 4 – Nationwide Permitting	\$40,100	\$0	\$23,000	\$63,100
Task 5 – Archeological Services	\$191,200	\$0	\$124,400	\$315,600
Task 6 – ESA Field Assessments and Tree Survey	\$99,800	\$0	\$50,000	\$149,800
Task 7 – Alignment Revisions	\$73,300	\$0	\$0	\$73,300
Task 8 – Easement Preparation	\$60,900	\$0	\$60,000	\$120,900
Task 9 – TxDOT RULIS	\$30,000	\$0	\$0	\$30,000
Task 10 – Gas Line Encroachment	\$75,000	\$0	\$15,000	\$90,000
Task 11 – Preliminary Design	\$0	\$860,500	\$326,100	\$1,186,600
Task 12 – Final Design	\$0	\$374,400	\$149,400	\$523,800
Task 13 – Bid Phase Services	\$0	\$46,100	\$25,100	\$71,200
Task 14 – Easement Acquisition Services	\$0	\$225,700	\$153,300	\$379,000
Task 15 – Construction Phase Services	\$0	\$0	\$209,900	\$209,900
Task 16 – Record Drawings	\$0	\$0	\$21,200	\$21,200
Totals:	\$1,259,400	\$1,590,800	\$1,330,400	\$4,180,600

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

Chris Igo P.E.

Title:_____

Title: Chris Igo, Associate_____.

Date:_____

Date: 04/06/2026_____

Certificate Of Completion

Envelope Id: 53826F97-E5AF-8836-80DA-5BA444549C82

Subject: Please DocuSign: City Council Contract 8213-001 Clear Creek Interceptor Amendment 2

Source Envelope:

Document Pages: 12

Certificate Pages: 6

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:

Erica Garcia

901B Texas Street

Denton, TX 76209

erica.garcia@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

7/2/2026 8:32:18 AM

Holder: Erica Garcia

erica.garcia@cityofdenton.com

Location: DocuSign

Signer Events

Erica Garcia

erica.garcia@cityofdenton.com

Senior Buyer

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signature

Completed

Using IP Address: 198.49.140.104

Timestamp

Sent: 7/2/2026 8:37:18 AM

Viewed: 7/2/2026 8:37:26 AM

Signed: 7/2/2026 8:37:55 AM

Lori Hewell

lori.hewell@cityofdenton.com

Purchasing Manager

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Initial

Sent: 7/2/2026 8:37:57 AM

Viewed: 7/2/2026 10:46:59 AM

Signed: 7/2/2026 10:47:23 AM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Leah Bush

leah.bush@cityofdenton.com

Assistant City Attorney

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signed by:

3A6254145BDA469...

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Viewed: 7/6/2026 9:06:42 AM

Signed: 7/6/2026 9:14:15 AM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Chris Igo

chris.igo@kimley-horn.com

Associate

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

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DocuSigned by:

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Resent: 7/14/2026 9:33:29 AM

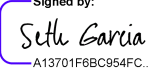
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Signed: 7/16/2026 10:42:12 AM

Signature Adoption: Uploaded Signature Image

Using IP Address: 141.193.204.164

Signed using mobile

Signer Events	Signature	Timestamp
Seth Garcia seth.garcia@cityofdenton.com Director of Capital Projects Security Level: Email, Account Authentication (None)	Signed by:  A13701F6BC954FC... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/16/2026 10:42:14 AM Viewed: 7/16/2026 10:56:08 AM Signed: 7/16/2026 10:56:45 AM

Electronic Record and Signature Disclosure:
Accepted: 7/16/2026 10:56:08 AM
ID: 0650c90e-2462-412b-8a2e-039b60b7979f

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

Sent: 7/16/2026 10:56:48 AM

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Not Offered via DocuSign

Cassey Ogden
Cassey.Ogden@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kristi Fogle
kristi.fogle@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Accepted: 7/17/2026 10:04:02 AM
ID: 4870ad15-76eb-46fd-ab65-c7c44f83773e

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

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

Sent: 7/2/2026 8:37:57 AM

COPIED

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) Electronic Record and Signature Disclosure: Not Offered via DocuSign City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Shawn Messick shawn.messick@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 7/7/2026 10:14:47 AM ID: 2e67a294-a713-4dd5-b5d6-cfb65d7025e8	COPIED	Sent: 7/16/2026 10:56:47 AM Viewed: 7/20/2026 3:03:40 PM
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Notary Events	Signature	Timestamp
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Envelope Updated	Security Checked	7/14/2026 9:33:28 AM
Envelope Updated	Security Checked	7/14/2026 9:33:28 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Consequences of changing your mind

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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

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 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..

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

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- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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.

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- 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.



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: August 10, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with RDO Equipment Co., through the Buy Board Cooperative Network Contract No. 788-25, for the purchase, repair, and maintenance of heavy-duty John Deere construction equipment for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 9091 – awarded to RDO Equipment Co., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,806,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Enhance Infrastructure and Mobility.

INFORMATION/BACKGROUND

The City of Denton Fleet Services Department is renewing a contract for the purchase, repair, and maintenance of heavy-duty John Deere construction equipment with RDO Equipment Co. to be utilized by various departments supporting infrastructure maintenance, construction activities, and solid waste operations.

Active John Deere construction equipment assets owned by the City total six (6) units, with quantities subject to change based on replacement schedules, operational needs, and approved additions. This contract supports both existing assets and future acquisitions, ensuring continuity in equipment availability and performance.

Examples of equipment covered under this contract include, but are not limited to, articulated dump trucks, backhoes, compact track loaders, dozers, excavators, forklifts, skid steers, and wheel loaders. These assets are essential to maintaining City infrastructure and supporting daily operations. The proposed contract supports maintenance and repair of existing fleet assets and anticipated additions, allowing the City to meet current demands and accommodate growth. This contract enables scalable operations while maintaining high service standards and ensures public services remain efficient.

The contract value is calculated based on historical spending trends and anticipated growth in service and equipment acquisitions. This agreement supports operational efficiency and ensures the City can maintain a reliable and effective fleet.

Estimated Contract Expenses

Category	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31	Total
Asset Additions	\$-	\$-	\$-	\$220,000	\$230,000	\$450,000
Asset Replacements	100,000	110,000	220,000	110,000	120,000	660,000
Repair Services	10,000	150,000	150,000	150,000	150,000	610,000
Contingency	5,500	13,000	18,500	24,000	25,000	86,000
Total	\$115,500	\$273,000	\$388,500	\$504,000	\$525,000	\$1,806,000

Pricing obtained through the Buy Board Cooperative Purchasing Network has been competitively bid and meets the statutory requirements of Texas Local Government Code 271.102.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On February 1, 2005, City Council approved the interlocal agreement with the Buy Board Cooperative Purchasing Network (Ordinance 2005-034).

RECOMMENDATION

Award a contract with RDO Equipment Co. for the purchase, repair, and maintenance of heavy-duty John Deere construction equipment for the Fleet Services Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,806,000.

PRINCIPAL PLACE OF BUSINESS

RDO Equipment Co.
 Fargo, ND

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same. This Buy Board contract expires on November 30, 2028.

FISCAL INFORMATION

These assets and services will be funded through the using department's capital and operational budget on an as-needed basis. The estimated expenditures of acquisitions and services are routed through the City's annual collaborative budgeting process. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Cooperative Pricing
Exhibit 3: Ordinance and Contract

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Tom Gramer, 940-349-7467.

Legal point of contact: Leah Bush at 940-349-8333.

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Articulated Trucks, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered.**

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

John Deere 0-10%

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Asphalt Compactors, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

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2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

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Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Backhoe/Loaders, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Mini Excavators, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Motor Graders, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Pneumatic Compactors and Rollers, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Scrapers, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Skid Steer Loaders, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Track Loaders, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Track and Wheel Material Handlers, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Track-Type Tractors and Dozers, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Tracked Excavators, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Vibratory Soil Compactors and Rollers, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Alternate 1

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total:

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Alternate 2

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total:

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Alternate 3

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total:

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Alternate 4

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total:

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Inspired Flight 0-3%

4
9

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/price list for **Repair Parts on All Types of Construction, Road, Bridge, and Other Equipment**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total: 0%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

PROPOSAL NOTE 2: A Vendor proposing shall be approved and authorized by the manufacturer to sell, install, and service the brand(s) of product(s) proposed. Proposers responding to this Proposal Invitation shall submit an approval letter from each manufacturer for each product line proposed. The requirement to provide an approval letter from the manufacturer applies to both seller and installers. Manufacturers responding directly to this Proposal Invitation, in lieu of an authorization letter, shall submit a written explanation that the company is the manufacturer of the product line(s) proposed. Dealer authorization agreements will not be accepted as a substitute for the manufacturer authorization letter.

The manufacturer authorization letters must include the following:

1. Composed on manufacturer letterhead (an email message is not a substitute for the letter),
2. Addressed to "The Local Government Purchasing Cooperative",
3. Dated within the current calendar year,
4. List the regions in Texas and states that Vendor is authorized to sell, install, and service product(s) proposed, and
5. Name, Title, and Signature of Authorized Official from Manufacturer.

PROPOSAL NOTE 3: "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer-authorized dealer prior to sale and shall be no older than sixty (60) months as of the date of delivery. Proposers responding to this Proposal Invitation for **"Pre-Owned/Reconditioned/Retired Rental"** equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. Equipment listed as **"Pre-Owned/Reconditioned/Retired Rental"** shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

John Deere list price on parts

5
0

Section II: Construction, Road, Bridge, and Repair Equipment-RENTAL ONLY (Rental Rate Sheet must be submitted with Proposal or Proposal will not be considered).

Discount (%) off catalog/price list for **RENTAL of All Construction, Road, Bridge, Other Equipment, Accessories and Attachments**. **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

John Deere

Alternate 1

Section II: Construction, Road, Bridge, and Repair Equipment-RENTAL ONLY (Rental Rate Sheet must be submitted with Proposal or Proposal will not be considered).

Discount (%) off catalog/price list for **RENTAL of All Construction, Road, Bridge, Other Equipment, Accessories and Attachments.** Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total: 10%

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Sakai

Section III: Construction, Road, Bridge, and Repair Equipment (Pre-Owned/Reconditioned/Retired Rental)- PURCHASE ONLY

Discount (%) off catalog/price list for **All Types of Pre-Owned/Reconditioned/Retired Rental Construction, Road, Bridge, Other Equipment, Accessories and Attachments.** **Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/price list(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/price list(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes**1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage**

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Alternate 1

Section III: Construction, Road, Bridge, and Repair Equipment (Pre-Owned/Reconditioned/Retired Rental)- PURCHASE ONLY

Discount (%) off catalog/price list for All Types of Pre-Owned/Reconditioned/Retired Rental Construction, Road, Bridge, Other Equipment, Accessories and Attachments. Catalog/Price list MUST be included or proposal will not be considered. Asphalt Distributors, Accessories and Attachments.

Total: 10%

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Sakai 0-10%

6 7	Section VIII: Installation and Repair Service
	Hourly Labor Rate for Installation/Repair Service on All Types of Construction, Road, Bridge and Other Equipment- <u>Not to Exceed</u> hourly labor rate for Installation/Repair Service of Equipment and Products.
Quantity: <u> 1 </u> UOM: <u>Hourly Labor Rate</u> Price: \$250.00 Total: \$250.00	

6 8	Section VIII: Installation and Repair Service
	Hourly Labor Rate for Installation/Repair Service on All Types of Street Sweepers, Sand/Salt Spreading, Snowplows, Deicing and Other Equipment- <u>Not to Exceed</u> hourly labor rate for Installation/Repair Service of Equipment and Products.
Quantity: <u> 1 </u> UOM: <u>Hourly Labor Rate</u> No Bid	

Response Total: \$250.00

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH RDO EQUIPMENT CO., THROUGH THE BUY BOARD COOPERATIVE NETWORK CONTRACT NO. 788-25, FOR THE PURCHASE, REPAIR, AND MAINTENANCE OF HEAVY-DUTY JOHN DEERE CONSTRUCTION EQUIPMENT FOR THE FLEET SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 9091 – AWARDED TO RDO EQUIPMENT CO., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$1,806,000.00).

WHEREAS, pursuant to Ordinance 2005-034, the Buy Board Cooperative Purchasing Network has solicited, received, and tabulated competitive bids for the purchase of necessary materials, equipment, supplies, or services in accordance with the procedures of state law and city ordinances; and

WHEREAS, the City Manager, or a designated employee, has reviewed and recommended that the herein described materials, equipment, supplies, or services can be purchased by the City through the Buy Board Cooperative Purchasing Network programs at less cost than the City would expend if bidding these items individually; and

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

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items shown in the “File Number” referenced herein and on file in the office of the Purchasing Agent, are hereby accepted and approved as being the lowest responsible bids for such items:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
9091	RDO Equipment Co.	\$1,806,000.00

SECTION 2. By the acceptance and approval of the items set forth in the referenced file number, the City accepts the offer of the persons submitting the bids to the Buy Board Cooperative Purchasing Network for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, conditions, specifications, standards,

quantities, and for the specified sums contained in the bid documents and related documents filed with the Buy Board Cooperative Purchasing Network and the purchase orders issued by the City.

SECTION 3. Should the City and persons submitting approved and accepted items set forth in the referenced file number wish to enter into a formal written agreement as a result of the City's ratification of bids awarded by the Buy Board Cooperative Purchasing Network, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, and standards contained in the Proposal submitted to the Buy Board Cooperative Purchasing Network, and the quantities and specified sums contained in the City's purchase orders and related documents referenced herein are approved and accepted.

SECTION 4. 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 5. By the acceptance and approval of the items set forth in the referenced file number, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approval of purchase orders or pursuant to a written contract made pursuant thereto as authorized herein.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. The ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	_____	_____	_____	_____
Jordan Villarreal, District 1:	_____	_____	_____	_____
Nick Stevens, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
George Ferrie, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2026.

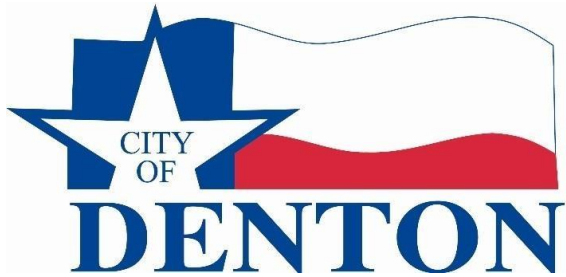
CHRIS WATTS, MAYOR

ATTEST:
KRISTI FOGLE, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

COOP	9091
File Name	John Deere Construction Equipment
Purchasing Contact	kayla clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND RDO Equipment CO.
(File # 9091)**

THIS CONTRACT is made and entered into this date _____, by and between RDO Equipment Co., a Delaware Corporation, whose address is PO BOX 7160 Fargo, ND 58106, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Supplier shall provide products and services in accordance with the Supplier's Buyboard Cooperative Purchasing Contract, #788-25, a copy of which is on file at the office of the Purchasing Agent as **Exhibit "B" ("Buyboard Contract")**. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) Buyboard Cooperative Purchasing Contract #788-25 with RDO EQUIPMENT CO., (**Exhibit "B" on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit "C"**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit "D"**);
- (e) Insurance Requirements (**Exhibit "E"**);
- (f) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "F"**)

These documents make up the Contract 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 Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 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, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (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.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to***

the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

Sections 2252 and 2270 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, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor, pursuant to Chapters 2252 and 2270, 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.

Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

BY:
SUPPLIER

RDO Equipment Co.

DocuSigned by:

Kyle Braswell

EC72DAC878E418...

Authorized Signature

Printed Name: Kyle Braswell

Title: Sales Manager

Email Address: KBraswell@rdoequipment.com

2026-1488251

TEXAS ETHICS COMMISSION CERTIFICATE NUMBER

BY:
CITY OF DENTON, TEXAS

Cassey Ogden, Interim City Manager

ATTEST:
Kristi Fogle, Interim CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

BY:

Marcella Lunn

4B070831B4AA438...

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

DocuSigned by:

Tom Gramer

7B58DABCE5E49C...

SIGNATURE

Director

TITLE

Fleet

DEPARTMENT

File 9091

Exhibit A
Special Terms and Conditions

1. Contract Term

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

2. Total Contract Amount

The contract total shall not exceed **\$1,806,000.00**. Pricing shall be per Exhibit B n file at the office of the Purchasing Agent as may be updated by Supplier from time to time in accordance with the terms of the Buyboard Contract.

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Contractor. No Terms and Conditions contained in the seller's proposal response, invoice, or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the Contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, and 21 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, and 22 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. CONTRACTOR'S OBLIGATIONS. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable federal, State, and local laws, rules, and regulations.

2. EFFECTIVE DATE/TERM. Unless otherwise specified in the Solicitation or Exhibit A, this Contract shall be effective as of the date this Contract is signed by the City and shall continue in effect until all obligations are performed in accordance with the Contract.

3. CONTRACTOR TO PACKAGE DELIVERABLES: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Solicitation or Contractor's Offer, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address, purchase order or purchase release number, and the price agreement number, if applicable, (c) container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. SHIPMENT UNDER RESERVATION PROHIBITED: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. TITLE & RISK OF LOSS: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

7. RIGHT OF INSPECTION AND REJECTION: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

9. PLACE AND CONDITION OF WORK: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The Contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

i. use or possess a firearm, including a concealed handgun that is licensed under State law, except as required by the terms of the contract; or

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs, or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA") ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

Environmental Protection: The Contractor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).

12. INVOICES:

A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

F. Contractor must submit invoices no later than thirty (30) calendar days after termination or expiration of the Contract. Any invoices sent after that date will be considered noncompliant and will not be approved for payment.

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

B. If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, including, but not limited to, those in Paragraph D , below, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches such shipment or delivery.

D. The City may withhold or set off the entire payment or part of any payment otherwise due to the Contractor to such extent as may be necessary on account of:

- i. delivery of defective or non-conforming deliverables by the Contractor;
- ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;
- iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or

account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

14. TRAVEL EXPENSES: All travel, lodging, and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the Contract Documents. During the term of this Contract, the Contractor shall bill and the City shall reimburse Contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the Contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. FINAL PAYMENT AND CLOSE-OUT:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15th) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Contractor's Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

C. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents", and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

A. The Contractor warrants the prices quoted in the Contractor's Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

B. The Contractor certifies that the prices in the Contractor's Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules,

and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

B. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

22. WARRANTY – SERVICES: The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable federal, State, and local laws, rules or regulations.

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor

to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses, and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. STOP WORK NOTICE: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. DEFAULT:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such

ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

29. FRAUD: Fraudulent statements by the Contractor in any offer, Contract Document, or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract

in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

32. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments, and liability of every character, type, or description, including all reasonable costs and expenses of litigation, mediation, or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and Subcontractors; the officers, agents, and employees of such Subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's Subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

33. LIMITATION OF LIABILITY: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

34. INSURANCE: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto, if applicable. The insurance shall be written by a company licensed to do business in the State of

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Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

35. CLAIMS: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

36. NOTICES: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

37. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. INDEMNIFICATION AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE**

DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

39. CONFIDENTIALITY: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

40. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-

for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

41. PUBLICATIONS: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

42. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

43. NO CONTINGENT FEES: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

44. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

45. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances File 9091

and/or State law. 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 codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. 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 Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. NO SUBCONTRACTING BID AFTER AWARD: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. NO GIFT OF PUBLIC PROPERTY: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

48. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or their designee under this Contract. The Contractor is expressly free to advertise and perform services for other parties while performing services for the City.

49. ASSIGNMENT-DELEGATION: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

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

50. **WAIVER:** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

51. **MODIFICATIONS:** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document submitted to the City by Contractor shall have any force or effect to change the terms, covenants, and conditions of the Contract.

52. **INTERPRETATION:** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. **DISPUTE RESOLUTION:**

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute, however any decision requiring approval of the City Council of the City will be required to be submitted to the City Council and the senior level person shall have authority to recommend approval of any resolution. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract

interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

C. The parties shall not be required to submit to binding arbitration.

54. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

55. INVALIDITY: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

56. HOLIDAYS: The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or their authorized designee.

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose

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continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

59. EQUAL OPPORTUNITY Contractor agrees that during the performance of its contract it will:

A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.

B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.

C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

60. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency

determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

61. RIGHT TO INFORMATION: The City of Denton reserves the right to use any and all information presented in any response to this Contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

62. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

63. PREVAILING WAGE RATES: The Contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

64. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

65. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Contractor shall demonstrate on-site compliance with the provisions of federal law dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Contractor shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

66. ATTORNEY'S FEES; LEGAL COSTS: Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

67. DRUG FREE WORKPLACE: The Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

68. CONTRACTOR LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY: The Contractor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Contractor shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

69. FORCE MAJEURE: The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

70. NON-WAIVER OF RIGHTS: Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

71. NO WAIVER OF SOVEREIGN IMMUNITY: The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

72. RECORDS RETENTION: The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit

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and litigation matters are resolved, whichever period is longer. The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. **PROCUREMENT LAWS:** The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. **AUTHORITY:** Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit D
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 Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor 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/filinginfo/1295/>
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 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.

Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents,

Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. GARAGE LIABILITY

Garage Liability Insurance including, but not limited to, Premises/Operations, Automobile, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000 other than Auto-

each accident, \$2,000,000 Other than Auto-aggregate, \$1,000,000 Auto-each accident.

The policy shall include:

- a) Garage Keepers on a direct primary basis to include coverage for Comprehensive and Collision for a limit equal to the Actual Cash Value of the CITY'S vehicle(s) in the CONTRACTOR'S care, custody, or control.

B. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

C. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE

Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: \$100,000.00 Each Accident

Bodily Injury by Disease: \$100,000.00 Each Employee

Bodily Injury by Disease: \$500,000.00 Policy Limit

NOTES:

- a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.
- b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the

services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

CONFLICT OF INTEREST QUESTIONNAIRE -		FORM CIQ
For vendor or other person doing business with local governmental entity		
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) and by City of Denton Ethics Code, Ordinance 18-757. 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.	
	RDO Equipment Co.	
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 7th 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	
	Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government 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:  Signature of vendor doing business with the governmental entity 7/20/2026 Date	

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

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 Subject: Please DocuSign: City Council Contract 9091 - John Deere Construction Equipment
 Source Envelope:
 Document Pages: 33
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Sent

Envelope Originator:
 Kayla Clark
 901B Texas Street
 Denton, TX 76209
 kayla.clark@cityofdenton.com
 IP Address: 198.49.140.104

Record Tracking

Status: Original
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 Holder: Kayla Clark
 kayla.clark@cityofdenton.com
 Location: DocuSign

Signer Events

Kayla Clark
 kayla.clark@cityofdenton.com
 Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Signature

Completed

Using IP Address: 198.49.140.104

Timestamp

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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)

Initial

Signature Adoption: Pre-selected Style
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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Marcella Lunn
 marcella.lunn@cityofdenton.com
 Senior Deputy City Attorney
 City of Denton
 Security Level: Email, Account Authentication
 (None)

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Signature Adoption: Pre-selected Style
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 Signed: 7/17/2026 12:19:49 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Kyle Braswell
 KBraswell@rdoequipment.com
 Sales Manager
 RDO Equipment Co.
 Security Level: Email, Account Authentication
 (None)

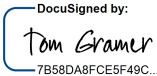
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Electronic Record and Signature Disclosure:
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Signer Events	Signature	Timestamp
Tom Gramer Tom.Gramer@cityofdenton.com Director Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DocuSigned by:  7B58DA8FCE5F49C... Signature Adoption: Pre-selected Style Using IP Address: 2603:8080:f7f0:2f90:98fe:af9e:343f:415c Signed using mobile	Sent: 7/20/2026 12:02:54 PM Viewed: 7/20/2026 12:04:49 PM Signed: 7/20/2026 12:06:24 PM
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		Sent: 7/20/2026 12:06:27 PM
Cassey Ogden Cassey.Ogden@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Kristi Fogle Kristi.fogle@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 7/17/2026 8:04:02 AM ID: 4870ad15-76eb-46fd-ab65-c7c44f83773e		

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

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: 7/14/2026 6:29:51 AM
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Carbon Copy Events	Status	Timestamp
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 City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 7/20/2026 12:06:28 PM Viewed: 7/20/2026 1:02:20 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	7/14/2026 1:03:19 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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 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 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 and in the body of such request you must state your e-mail, full name, US 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:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** 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.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
July 27, 2026

After determining that a quorum was present of the Public Utilities Board of the City of Denton, convened in a Regular Meeting on Monday, July 27, 2026, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

Also present: General Manager Antonio Puente, Jr., and First Assistant City Attorney Marcella Lunn

Absent: Susan Parker, Thomas Plock

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

There were no presentations from the public.

2. CONSENT AGENDA

The Consent Agenda consisted of Item 2 A-C.

Board Member Parker moved to recommend adoption of agenda items 2 A-C. Motion seconded by Board Member Plock; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- A. PUB26-111** Consider recommending adoption of an ordinance authorizing the City Manager to execute and deliver Supplemental Agreement No. 3 to the Standard Utility Agreement (“Agreement”) by and between the City of Denton and the Texas Department of Transportation (“TxDOT”), for the reimbursement of design, property acquisition and related services, construction, inspection, project management, and other direct costs associated with the adjustment, removal, and/or relocation of water utilities along IH-35E from Mayhill to Loop 288 more specifically called the IH-35E/Mayhill Utility Relocations Project (Utility ID No. U00008008) for water relocation efforts, within the County and City of Denton, Texas; providing for the expenditure of funds not to exceed an increase of Five Hundred Fifty-Six Thousand, Four Hundred Ninety-Six and 55/100 dollars (\$556,496.55) therefore; and providing an effective date.
- B. PUB26-112** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, ratifying the expenditure of funds by the City Manager for the emergency purchase of the turbo repair and overhaul for the Denton Energy Center; and providing an effective date (File 9094 - awarded to Accelleron US Inc., in the not-to-exceed amount of \$354,615.84).
- C. PUB26-114** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with

McKim & Creed, Inc. as the primary vendor, and Prime Controls, L.P., as the secondary vendor, for SCADA Maintenance and Services for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 9011 - awarded to McKim & Creed, Inc. and Prime Controls, L.P., for three (3) years, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$400,000.00).

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB26-127 Consider approval of the July 13, 2026 minutes.

Board Member Rayner moved to recommend adoption of agenda item 3 A. Motion seconded by Board Member Newquist; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, and Robert Rayner,

NO (0):

B. PUB26-061 Consider recommending adoption of an ordinance of the City of Denton, Texas, establishing the rates for Wastewater service; providing for a repealer; providing for a severability clause; and providing an effective date.

Seth Herrell presented. Antonio Puente, Christa Foster, and Seth Herrell answered questions from the board.

Board Member Rayner moved to recommend approval of agenda item 3 B. Motion seconded by Board Member Riback; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

C. PUB26-063 Consider recommending adoption of an ordinance of the City of Denton, Texas, establishing the rates for Electric service; providing for a repealer; providing for a severability clause; and, providing an effective date

Seth Herrell presented. Seth Herrell and Antonio Puente answered questions from the board.

Board Member Rayner moved to recommend approval of agenda item 3 C. Motion seconded by Board Member Riback; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

D. PUB26-064 Consider recommending adoption of an ordinance of the City of Denton, Texas, establishing the rates for Solid Waste service: providing for a repealer; providing for a severability clause; and, providing an effective date.

Seth Herrell presented. Seth Herrell and Brenda Hayney answered questions from the board.

Board Member Newquist moved to recommend approval of agenda item 3 D. Motion seconded by Board Member Rayner; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- E. PUB26-115** Consider recommending adoption of an ordinance of the City of Denton, Texas, establishing the rates for Water service; providing for a repealer; providing for a severability clause; and, providing an effective date.

Seth Herrell presented. Seth Herrell answered questions from the board.

Board Member Rayner moved to recommend approval of agenda item 3 E. Motion seconded by Board Member Newquist; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- F. PUB26-116** Consider recommending approval of the Electric Fiscal Year 2026-27 Operating and Capital Budget.

Seth Herrell presented. Seth Herrell answered questions from the board.

Board Member Newquist moved to recommend approval of agenda item 3 F. Motion seconded by Board Member Riback; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- G. PUB26-117** Consider recommending approval of the Water Fund Fiscal Year 2026-27 Operating and Capital Budget.

Seth Herrell presented. Seth Herrell and Stephen Gay answered questions from the board.

Board Member Rayner moved to recommend approval of agenda item 3 G. Motion seconded by Board Member Riback; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- H. PUB26-118** Consider recommending approval of the Wastewater Fund Fiscal Year 2026-27 Operating and Capital Budget.

Seth presented. Seth Herrell, Antonio Puente, and Christa Foster answered questions from the board.

Board Member Aaron Newquist moved to recommend approval of agenda item 3 H. Motion seconded by Board Member Riback; motion carried.

YES (6): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- I. PUB26-119** Consider recommending approval of the Drainage Fund Fiscal Year 2026-27 Operating and Capital Budget.

Seth Herrell presented. Aimee Kaslik answered questions from the board.

Board Member Riback moved to recommend approval of agenda item 3 I. Motion seconded by Board Member Newquist; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- J. PUB26-120** Consider recommending approval of the Solid Waste Fund Fiscal Year 2026-27 Operating and Capital Budget.
Seth Herrell presented. Seth Herrell and Brenda Hayney answered questions from the board.

Board Member Aaron Riback moved to recommend approval of agenda item 3 J. Motion seconded by Board Member Taylor; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- K. PUB26-121** Consider Recommending approval of the Customer Service Fund Fiscal Year 2026-27 Operating and Capital Budget.

Seth Herrell presented. Seth Herrell answered questions from the board.

Board Member Rayner moved to recommend approval of agenda item 3 K. Motion seconded by Board Member Newquist; motion carried.

YES (4): Chair Devin Taylor, Lee Riback, Aaron Newquist, Robert Rayner

NO (0):

- L. PUB26-126** Management Reports

1. Future Agenda Items

2. New Business Action Items

4. CONCLUDING ITEMS

WORK SESSION

- A. PUB26-109** Receive a report and hold a discussion regarding the quarterly project update from the Water Utilities Planning and Engineering Division.

Kyle Pedigo and Jason Donald presented. Jason Donald and Shawn Messick answered questions from the board.

With no further business, the meeting was adjourned at 10:48 am.

DEVIN TAYLOR
CHAIR
CITY OF DENTON, TEXAS
Minutes approved on: 08/10/26

GINA REDFEARN
ADMINISTRATIVE MANAGER
CITY OF DENTON, TEXAS

Future Public Utilities Board Agenda Items

Note: This is a working draft of pending PUB items and is subject to change without notice.

Meeting Date	Item	Dept
August 10, 2026		
August 24, 2026		
September 14, 2026		
September 28, 2026	Water/Wastewater Quarterly Report	Water
October 12, 2026	2027 PUB Schedule	DME
October 26, 2026		
November 16, 2026		
December 14, 2026	Water/Wastewater Quarterly Report	Water

Codes: Work Session WS, Consent Agenda CA, Individual Consideration IC

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPT	STATUS
1.	2/9/26	Riback	Major Water and Wastewater infrastructure projects such as Ray Roberts Expansion, Pecan Creek Expansion and any others the department may deem responsive to this request.	Water/Waste water – Stephen Gay	Quarterly Reports 7/27/26, 9/28/26, 12/14/26
2.					