City of Denton

Meeting Agenda

City Council

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

Tuesday, August 5, 2025 **2:00 PM** **Council Work Session Room & Council Chambers**

WORK SESSION BEGINS AT 2:00 P.M. IN THE COUNCIL WORK SESSION ROOM

CLOSED MEETING BEGINS IMMEDIATELY FOLLOWING THE WORK SESSION IN THE COUNCIL WORK SESSION ROOM

REGULAR MEETING BEGINS AT 6:30 P.M. IN THE COUNCIL CHAMBERS

REGISTRATION GUIDELINES FOR ADDRESSING THE CITY COUNCIL

Individuals may speak during a Council meeting under one of the following categories:

Open Microphone:

At regular meetings only, individuals can speak on any topic that is not on the agenda for no longer than four (4) minutes per individual. This portion of the meeting occurs immediately after the start of the regular meeting session. Please note, Council members cannot engage in a discussion on topics presented during this portion and there are limited slots available for this portion of the meeting.

Comments on Agenda Items:

Public comments can be given for any item considered by the Council, EXCEPT work session reports or closed meetings. Individuals are only able to comment one time per agenda item and cannot use more than one method to comment on a single agenda item. Public comments are limited to three (3) minutes per citizen.

Public Hearing Items:

Individuals are limited to four (4) minutes per public hearing item.

Individuals may participate by using one of the following methods:

1. **In Person for Regular or Consent Agenda Items:**

   To provide in-person comments on consent agenda items, individuals must be present at the Work Session portion of the meeting. To provide in-person comments on individual consideration items, individuals must be present at the Regular or Special Session portion of the meeting. In both instances, individuals must also submit a speaker card (available at the meeting location) to the City Secretary prior to the item being called.

2. **In Person for Public Hearing Items:**

For public hearing items, speaker cards are encouraged but not required.

3. eComment:

The agenda is posted online at www.cityofdenton.com/publicmeetings. 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 City Council immediately upon submission and recorded by the City Secretary into the Minutes of the Meeting.

After determining that a quorum is present, the City Council of the City of Denton, Texas will convene in a Work Session on Tuesday, August 5, 2025 at 2:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

WORK SESSION

1. Citizen Comments on Consent Agenda Items

This section of the agenda allows citizens to speak on any item listed on the Consent Agenda prior to its consideration. Each speaker will be given a total of three (3) minutes to address any item(s). Any person who wishes to address the City Council regarding these items may do so by submitting a completed speaker card (available at the meeting location) to the City Secretary at the commencement of the Work Session meeting. Registration is required prior to the time the City Council considers this item.

2. Requests for clarification of agenda items listed on this agenda for public hearing and individual consideration.

This section allows members of the City Council to ask questions on items listed on this agenda for public hearing and individual consideration. Responses to questions on items listed under the consent agenda that are received prior to the meeting are available by clicking on Exhibit 1 below. The responses will be available prior to the start of the meeting, when applicable. Any handouts distributed at the meeting will also be uploaded to the below link by 12:00 p.m. on the business day following the meeting. Members of the Council may remove items from the consent agenda. When items are removed from the consent agenda and placed on the regular agenda by members of the council, the removed items shall be taken up in the order of removal right after the consent agenda.

A. ID 25-468 Meeting Questions, Responses & Handouts

Attachments: Exhibit 1 - Agenda Information Sheet

3. Work Session Reports

A. ID 25-1178 Receive a report, hold a discussion, and give staff direction regarding the prevention of inquiries of an applicant's criminal history prior to making conditional offers of employment unless a law requires an earlier inquiry.
[Estimated Presentation/Discussion Time: 1 hour]

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Informal Staff Report
Exhibit 3 - Presentation

Following the completion of the Work Session, the City Council will convene in a Closed Meeting in the Council Work Session Room to consider specific item(s) when these items are listed below under the Closed Meeting section of this agenda. The City Council reserves the right to adjourn into a Closed Meeting on any item on its Open Meeting agenda consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law.

1. Closed Meeting:

A. ID 25-1167 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the Internal Auditor.

B. ID 25-1169 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the Municipal Judge.

C. ID 25-1396 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Manager.

D. ID 25-1397 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Attorney.

E. ID 25-1364 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City's attorneys regarding Petitions for Release from the Extraterritorial Jurisdiction; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position.

Any final action, decision, or vote on a matter deliberated in a Closed Meeting will only be taken in an Open Meeting that is held in compliance with Texas Government Code, Chapter 551, except to the extent such final decision, or vote is taken in the Closed Meeting in accordance with the provisions of Section 551.086 of the Texas Government Code (the 'Public Power Exception'). The City Council reserves the right to adjourn into a Closed Meeting or Executive Session as authorized by Texas Government Code, Section 551.001, et seq. (The Texas Open Meetings Act) on any item on its open meeting agenda or to reconvene in a continuation of the Closed Meeting on the Closed Meeting items noted above, in accordance with the Texas Open Meetings Act, including, without limitation Sections 551.071-551.086 of the Texas Open Meetings Act.

NOTE: Any item for which a formal action at the Regular Meeting has been taken by Council may be subject to a request for a motion for reconsideration at any time during the meeting, at the Concluding Items Section, or after the meeting. In order to comply with the Texas Open Meetings Act, a request for a motion for reconsideration made during, at the end of, or after a Council meeting will be placed on the agenda and considered at the next official meeting of the City Council.

Following the Closed Meeting, the City Council will reconvene in Open Meeting to take action, if any, on matters discussed in closed session.

AFTER DETERMINING THAT A QUORUM IS PRESENT, THE REGULAR MEETING OF THE CITY OF DENTON CITY COUNCIL WILL CONVENE AT 6:30 P.M. IN THE COUNCIL CHAMBERS AT CITY HALL, 215 E. MCKINNEY STREET, DENTON, TEXAS AT WHICH THE FOLLOWING ITEMS WILL BE CONSIDERED:

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag
B. Texas Flag

"Honor the Texas Flag – I pledge allegiance to thee, Texas, one state under God, one and indivisible."

2. PROCLAMATIONS/PRESENTATIONS

A. ID 25-1310 Proclamation: Gun Safety Awareness Month

3. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

A. Review of procedures for addressing the City Council.

B. Reports from members of the public shall be received through the following two (2) methods. A total of up to seven (7) speakers are permitted to provide public comment and may include any combination of prior registration and open microphone speakers.

1) Pre-registration. This section of the agenda permits any person who has registered in advance to make a citizen report regarding a public business item he or she wishes to be considered by the City Council. Each speaker is allowed a maximum of four (4) minutes to present their report. At the conclusion of each report, the City Council may pose questions to the speaker or may engage in discussion. If the City Council believes that a speaker's report requires a more detailed review, the City Council will give the City Manager or City Staff direction to place the item on a future work session or regular meeting agenda and advise staff as to the background materials to be desired at such meeting.

2) Open Microphone. This section of the agenda permits any person who has not registered in advance for a citizen report to make comments about public business items not listed on the agenda. Such person(s) shall have registered using the "Virtual White Card" or "By Phone" process outlined by the City on its website or meeting notice.

During open microphone reports under this section of the agenda, the Council may listen to citizens speak. However, because notice of the subject of the open microphone report has not been provided to the public in advance, the Texas Open Meetings Act limits any deliberation or decision by the Council to: a proposal to place the item on a future agenda; a statement of factual information; or a recitation of existing policy. Council Members may not ask the open microphone speakers questions or discuss the items presented during open microphone reports.

NOTE: If audio/visual aids during presentations to Council are needed, they must be submitted to the City Secretary 24 hours prior to the meeting.

4. CONSENT AGENDA

Each of these items is recommended by Staff or a board, commission, and committee. Approval thereof will be strictly on the basis of those recommendations. Approval of the Consent Agenda authorizes the City Manager or his designee to implement each item in accordance with the Staff recommendations. The City Council has received background information and has had an opportunity to raise questions regarding these items prior to consideration.

For those items recommended by a specific board, commission, or committee, the agenda item will reference that recommendation. To view the video of the related board, commission, or committee meeting, as applicable, a link can be found within the applicable supporting documentation (Exhibit 1).

Listed below are bids, purchase orders, contracts, and other items to be approved under the Consent Agenda (Agenda Items A – S). This listing is provided on the Consent Agenda to allow Council 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. ID 25-063 Consider approval of the minutes of the July 15, 2025 Regular Meeting.

Attachments: Exhibit 1 - Agenda Information Sheet
July 15, 2025 Minutes with Exhibits

B. ID 25-064 Consider approval of the minutes of the July 22, 2025 Special Called Meeting.

Attachments: Exhibit 1 - Agenda Information Sheet
July 22, 2025 Minutes

C. ID 25-087 Consider a nomination/appointment to the City of Denton Animal Shelter Advisory Committee.

Attachments: Exhibit 1 - Agenda Information Sheet

D. ID 25-1328 Consider approval of a resolution of the City Council of the City of Denton confirming the City Manager's reappointment of Darhyl Ramsey to the Civil Service Commission to serve for the term beginning September 1, 2025, and ending on August 31, 2028; and

providing an effective date.

Attachments: Agenda Information Sheet - Darhyl Ramsey Reappointment 2025
Ramsey Vita 2025 - Redacted
Resolution - Reappointment of Darhyl Ramsey

E. ID 25-1405 Consider a nomination/reappointment to the City of Denton Community Services Advisory Committee.

Attachments: Exhibit 1 - Agenda Information Sheet

F. ID 25-1406 Consider a nomination/reappointment to the City of Denton Sustainability Framework Advisory Committee.

Attachments: Exhibit 1 - Agenda Information Sheet

G. ID 25-1407 Consider a nomination/appointment to the City of Denton Zoning Board of Adjustment.

Attachments: Exhibit 1 - Agenda Information Sheet

H. ID 25-740 Consider adoption of an ordinance of the City of Denton prohibiting parking on the north side of Paisley Street between Mack Drive and Oak Valley between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on School days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Location Map
Exhibit 3 - Ordinance

I. ID 25-741 Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on north and south side of Gardenview between Brook Street and Evers Parkway between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on school days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Location Map
Exhibit 3 - Ordinance

J. ID 25-1133 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Cooperation Contract in the form of a Memorandum of Understanding (MOU) between the City of Denton and the Denton Independent School District (DISD), for reimbursement to the City in the estimated amount of $508,392 for compensation and benefits of six Student Resource Officers (SROs) assigned at DISD for the period of July 1, 2025, through June 30, 2026; and providing an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance and MOU

K. ID 25-1222 Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street. The general area of focus is located east of I-35 and south of UNT campus, City of Denton, Texas; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Location Map

Exhibit 3 - Support Letters

Exhibit 4 - Ordinance

L. ID 25-1243 Consider adoption of an ordinance of the city of Denton granting the Denton Black Chamber of Commerce a noise exception pursuant to section 17-20 of the city of Denton code of ordinances for the Denton Blues Festival, which will be held on September 19-21, 2025, Friday from 6:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 11:00 p.m., and Sunday from 10:00 a.m. to 10:00 p.m. at Quakertown Park; granting an exception for sound levels and a variance in the hours of operation on said dates; and providing an effective date.

Attachments: Exhibit 1- Agenda Information Sheet

Exhibit 2- Ordinance

M. ID 25-1208 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with AssetWorks Inc., through the GSA Cooperative Network Contract No. GS-35F-317GA, for fuel management and telematics software for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8812 - awarded to AssetWorks Inc., 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 $1,890,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance and Contract

N. ID 25-1344 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Construction Manager at Risk (CMAR) preconstruction services contract between the City of Denton and Sundt Construction, Inc., amending the contract approved by City Council on February 6, 2024, in the not-to-exceed amount of $2,452,441.00, said first amendment to provide additional preconstruction design services and expand the timeline for the Pecan Creek Water Reclamation Plant Headworks and Expansion project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8289 - providing for an additional first amendment expenditure amount

not-to-exceed $296,273.00, with the total contract amount not-to-exceed $2,748,714.00). The Public Utilities Board recommends approval (5 - 0).

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

O. ID 25-1345 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8717 for the Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production; and providing an effective date (RFP 8717). The Public Utilities Board recommends approval (5 - 0).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Ordinance

P. ID 25-1346 Consider 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., for the purchase of landfill compaction software for the Solid Waste and Recycling Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8857 - 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 $371,801.00). The Public Utilities Board recommends approval (5 - 0).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Ordinance and Contract

Q. ID 25-1349 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mark III Systems, Inc., through Choice Partners, a division of Harris County Department of Education (HCDE) Purchasing Network Contract No. 22/043KN-10, for data storage, data communications, networking equipment and related services for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8868 - awarded to Mark III Systems, 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 $375,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Pricing Index
Exhibit 3 - Ordinance and Contract

R. ID 25-1350 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mobile Wireless, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 210101 for the purchase of the annual maintenance and support of NetMotion

software to provide a virtual private network for mobile data computers for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8869 - awarded to Mobile Wireless, LLC, 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 $175,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Pricing Index
Exhibit 3 - Ordinance and Contract

S. ID 25-1361 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Brycer LLC, for the renewal of the inspection, testing, and maintenance reporting system, the Compliance Engine, for the Fire Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8867 - awarded to Brycer LLC, for three (3) years, with the option for one (1) additional three (3) year extension, in the total six (6) year term).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Ordinance and Contract.pdf

5. PUBLIC HEARINGS

A. ID 25-1140 Hold a public hearing to consider amending and updating the Water and Wastewater Land Use Assumptions and Capital Improvements Plan, and the imposition of increased water and wastewater impact fees for designated service areas and discuss amending Ordinance No. 2019-008 regulating the City's water and wastewater impact fees.

Attachments: Exhibit 1: Agenda Information Sheet
Exhibit 2: Draft Water/Wastewater Impact Fee Study
Exhibit 3: Land Use Assumptions and Service Area Maps
Exhibit 4: Ordinance 19-008
Exhibit 5: Presentation

B. ID 25-1039 Hold a public hearing and consider approval of a resolution of the City of Denton stating no objection to 2100 Spencer Road (TX) Owner LP's 4% housing tax credit application to the Texas Department of Housing and Community Affairs for proposed rehabilitation of the Waterford at Spencer Oaks Apartments to provide affordable rental housing; and providing an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Presentation
Exhibit 3 - Application for a Resolution of No Objection
Exhibit 4 - Draft Resolution of No Objection

6. ITEMS FOR INDIVIDUAL CONSIDERATION

A. ID 25-1315 Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025 to provide affordable rental housing; and providing an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Presentation
Exhibit 3 - Resolution
Exhibit 4 - ISR 2025-057

B. ID 25-1316 Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025 to provide affordable rental housing; and providing an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Presentation
Exhibit 3 - Resolution
Exhibit 4 - ISR 2025-057

C. ID 25-1343 Consider adoption of 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 6, 2023, in the not-to-exceed amount of $14,952,000.00; said first amendment to provide additional engineering design and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion Project for the Wastewater Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-027 - providing for an additional first amendment expenditure amount not-to-exceed $18,840,500.00, with the total contract amount not-to-exceed $33,792,500.00). The Public Utilities Board recommends approval (5 - 0).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Original Ordinance and Contract
Exhibit 3 - Presentation
Exhibit 4 - Ordinance and Amendment 1

D. ID 25-1348 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Bean Electrical, LLC, EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., for traffic signal construction services for the Traffic Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8801 - awarded to Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc. 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 $7,100,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Evaluation Sheet
Exhibit 3 - Presentation
Exhibit 4 - Ordinance and Contracts

7. CONCLUDING ITEMS

A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council 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.

B. Possible Continuation of Closed Meeting topics, above posted.

C E R T I F I C A T E

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 1, 2025, in advance of the 72-hour 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 48 HOURS 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.

File #: ID 25-468, **Version:** 1

AGENDA CAPTION

Meeting Questions, Responses & Handouts

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Meeting Questions, Responses & Handouts.

BACKGROUND

City Councilmembers direct questions related to items on the agenda to City staff. The questions are assigned to applicable departments and corresponding responses are compiled to a Question & Answer Report (Q&A) which is placed in a file directory for the applicable meeting. Selecting the link above will gain access to the final version of the Q&A for this meeting, which will be available prior to the start of the meeting.

Periodically during a meeting, handouts are distributed to members of the City Council. Any information distributed at this meeting will also be added to the directory by 12:00 p.m. on the business day following the meeting.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary

File #: ID 25-1178, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding the prevention of inquiries of an applicant's criminal history prior to making conditional offers of employment unless a law requires an earlier inquiry.
[Estimated Presentation/Discussion Time: 1 hour]

AGENDA INFORMATION SHEET

DEPARTMENT: **City Manager's Office**

CM/DCM/ACM: **Sara Hensley**

DATE: **August 5, 2025**

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding the prevention of inquiries of an applicant's criminal history prior to making conditional offers of employment unless a law requires an earlier inquiry.

BACKGROUND

On February 4, 2025, Council Member McGee presented a two-minute pitch to consider a Work Session to discuss the prevention of inquiries of an applicant's criminal history prior to making conditional offers of employment unless a law requires an earlier inquiry. On February 14, an Informal Staff Report was published in the Friday Report. On May 1, the Agenda Committee routed the pitch to a Work Session.

DISCUSSION

Fair chance hiring initiatives generally refer to a policy or practice of not considering an applicant's criminal history in an employment application until later in the hiring process. This information is then typically obtained once a conditional offer has been made. Importantly, these initiatives and their related ordinances, do not limit the authority of an employer to withdraw an employment offer for a lawful reason.

According to National Employment Law Project (NELP), 37 states and 150 cities/counties enacted fair chance laws for themselves as public employers. Of these, 15 states and 22 cities/counties extend these to private employers. Most cities and counties listed with NELP as having enacted fair chance hiring laws have only had those laws apply to their organization as an employer. An even greater number may utilize this practice outside of a formal ordinance, like the City of Denton.

In Texas, the following cities have enacted formal laws relating to fair chance hiring:

Applies Only to Organization	Applies Across Jurisdiction
Dallas County	City of Austin
City of San Antonio	City of DeSoto
Travis County	
Harris County	

There is no federal or state law prohibiting a private employer from inquiring about an applicant's criminal history prior to making a conditional offer; however, some laws require a criminal background check for certain positions, such as, peace officers, criminal justice, insurance, childcare, and energy industries. Title VII of the Civil Rights Act of 1964 prohibits facially neutral employment practices that cause a discriminatory impact. The Equal Employment Opportunity Commission (EEOC) advises that an employer that rejects everyone with a conviction from all employment opportunities is likely engaging in Title VII discrimination. The EEOC's best practice recommendations suggest employers consider asking criminal history questions later in the hiring process.

OPTIONS

1. Move forward with a citywide ordinance
2. Move forward with an internal policy formalizing the City's fair chance hiring efforts.
3. Do not move forward with the pitch

EXHIBITS

1. Agenda Information Sheet
2. Informal Staff Report
3. Presentation

Respectfully submitted:
Kristi Fogle
Chief of Staff

INFORMAL STAFF REPORT
TO MAYOR AND CITY COUNCIL

SUBJECT:
Implementation of a Fair Chance Hiring Ordinance of the City of Denton.

EXECUTIVE SUMMARY:
On February 4, 2025, Council Member McGee presented a two-minute pitch to consider an ordinance setting hiring standards to limit employers' consideration of criminal history on initial job applications.

BACKGROUND:
On June 6, 2023, Council Member McGee presented a 2-minute policy pitch to the Council requesting a fair chance hiring ordinance be brought to the Council at the next meeting for consideration and vote. The pitch received support from the Council and a proposed Fair Chance Hiring ordinance was brought forward for consideration on June 27, 2023. At that meeting, the Council postponed consideration of the ordinance until the first meeting in January 2024 and requested staff seek community and business feedback on the ordinance prior to that time. A public engagement period was held from October to December 2023.

On Jan. 9, 2024, a proposed Fair Chance Hiring ordinance was brought forward for consideration. Council postponed consideration of the ordinance for 120 days to allow for the Denton Chamber of Commerce to propose an alternative to an ordinance. The 120 days expired in May 2024, and the Chamber presented a proposed pilot program to Council at the June 4, 2024 Work Session. Council provided direction to the Chamber to proceed with the proposed program. The ordinance, postponed from January, was considered by Council at the June 4 Council meeting, and did not pass.

On December 3, 2024, staff provided an update on the Chamber's proposed plan, citing that the Chamber reported their program timeline had been temporarily impacted by the transition of the Convention and Visitors Bureau (CVB). The Chamber expressed intention to launch the program in early 2025.

DISCUSSION:

Fair Chance Hiring Overview
Fair chance hiring initiatives (also known as "ban the box" initiatives due to their goal of removing criminal history question boxes in job applications) generally refer to a policy or practice of not considering an applicant's criminal history in an employment application until later in the hiring process. This information is then typically obtained once a conditional offer has been made. Importantly, these initiatives and their related ordinances, do not limit the authority of an employer to withdraw an employment offer for a lawful reason.

According to National Employment Law Project (NELP), 37 states and 150 cities/counties enacted fair chance laws for themselves as public employers. Of these, 15 states and 22 cities/counties extend these to private employers. Most cities and counties listed with NELP as having enacted

fair chance hiring laws have only had those laws apply to their organization as an employer. An even greater number may utilize this practice outside of a formal ordinance, like the City of Denton.

In Texas, the following cities have enacted formal laws relating to fair chance hiring:

Applies Only to Organization	Applies Across Jurisdiction
Dallas County	City of Austin
City of San Antonio	City of DeSoto
Travis County	
Harris County	

Existing Laws and Statutes

Title VII of the Civil Rights Act of 1964, does not restrict employers from requesting criminal history information at any stage in the hiring process but they should be cautious that doing so does not have an adverse impact against a particular class of applicants. To avoid discrimination that denies equal employment opportunity to anyone on a protected basis, whether by intent or by unlawful disparate impact, employers conduct an individualized assessment of a candidate's criminal record and the position sought.

Additionally, some federal and state laws require a criminal background check to be performed for some positions. These include peace officers, Criminal Justice Information Services (CJIS) certifications, and certain positions in other sectors such as insurance, childcare, energy, etc. There is no requirement as to when a criminal background check should be performed under these statutes.

With respect to criminal history inquiries across all job types, no federal or State of Texas laws prohibit inquiring about an applicant's criminal history prior to a conditional employment offer, though the Equal Employment Opportunity Commission (EEOC) states that an employer that rejects *everyone* with a conviction from all employment opportunities is likely engaging in discrimination. Also, the EEOC states that an employment policy that rejects many more applicants of one race, national origin, or sex is discriminatory if the policy is not closely related to the job. The EEOC suggests employers consider waiting until later in the hiring process if they are going to ask criminal history questions.

Proposed Fair Chance Hiring Ordinance Structure

The ordinance presented incorporates fair chance hiring regulations into the current Comprehensive Non-Discrimination Ordinance (NDO), codified as Chapter 14, Article VIII of the code of ordinances. In this manner, employment protections already provided under the NDO would be extended to include persons with criminal histories under a new section. Additionally, new definitions specific to fair chance hiring would also be incorporated into the NDO. By including fair chance hiring regulations in the NDO, the same administrative and enforcement provisions would apply to fair chance hiring complaints in the same manner that they currently do for NDO complaints. Importantly, this would not add any protected classes to the NDO.

Regulated Fair Chance Hiring Practices

The fair chance hiring provisions prohibit employers from the following practices if they result in unlawful discrimination (whether such discrimination is intentional or through disparate impact):

1. Publishing information that states or implies that criminal history is an automatic disqualifier for employment
2. Soliciting or otherwise inquiring about criminal history on a job application
3. Soliciting criminal history information or considering criminal history prior to a conditional employment offer
4. Refusing to consider an applicant because criminal history was not provided prior to a conditional employment offer
5. Taking adverse action against an individual due to criminal history unless the individual is unsuitable for the job based on an individualized assessment

Staffing agencies may solicit criminal history information and perform an individualized assessment when the staffing agency has identified a job to which the individual will be employed or the individual is placed in a staffing pool.

Additionally, an employer who takes an adverse action based on criminal history must inform the individual in writing that the adverse action was based on the criminal history. The regulation also does not absolve the employer from any other federal or state requirements, as applicable, when withdrawing an offer of employment.

Applicability and Exclusions

The fair chance hiring regulations will apply to all employers in which the NDO is currently applied. This is generally all employers with 15 or more employees. Additionally, the same exemptions within the NDO would also be applied to the fair chance hiring regulations:

- Religious organizations
- The United States Government or its departments and agencies
- The State of Texas or its departments, agencies, and political subdivisions

An additional exemption specific to fair chance hiring regulations includes positions for which an individual may be disqualified based on criminal history under federal, state, or local law. This includes peace officers and certain positions in fields such as insurance, childcare, the energy sector, etc.

Administration and Enforcement

If fair chance hiring regulations are included in the NDO, all administrative and enforcement provisions currently applied to NDO complaints would also apply to fair chance hiring complaints. Just as the NDO directs that for complaints where the state or federal government has jurisdiction, those complainants be referred to those entities, fair chance hiring complainants will be referred to the Equal Employment Opportunity Commission or other applicable state or federal agency. Should such federal or state agency determine it does not have jurisdiction to investigate the complaint, the City may perform an investigation using the processes under the NDO. Since the

NDO's discrimination regulations are the same as the EEOC, if the EEOC determines it has no jurisdiction, the City will almost certainly defer to the EEOC jurisdiction determination.

As with the NDO, staff has included a 120-day delay in the effective date of the ordinance to communicate the provision of the ordinance to the community.

Public Feedback and Engagement

At the June 27, 2023, City Council meeting, the Council postponed consideration of the ordinance until the first meeting in January 2024 and requested staff seek community and business feedback on the ordinance prior to that time. Staff began the engagement period in early October 2023 with feedback and input being accepted through Dec. 5, 2023.

During this period, staff conducted three (3) in-person listening sessions, two (2) virtual listening sessions, and hosted a Discuss Denton project page. On the Discuss Denton page (www.discussdenton.com/fairchancehiring), members of the public were able to review information and FAQs on the proposed Fair Chance Hiring ordinance, leave comments, ask questions to be answered by staff, and voice their support or opposition for the proposed ordinance. Additionally, a public hearing was held at the Dec. 5, 2023, City Council meeting where members of the public gave live feedback directly to the City Council.

A complete report of the feedback and input received was provided to the Council on Dec. 22, 2023 (**attached**).

CONCLUSION:

Upon receipt of the Informal Staff Report, Council Member McGee may indicate if the information provided satisfies their request. Should the request not be satisfied, the item will be considered by the Agenda Committee for placement on a future Work Session agenda or routing through an appropriate board, commission, or committee.

ATTACHMENTS:

1. Fair Chance Hiring Detailed Engagement Report (December 2023)
2. Proposed Ordinance (January 2024)
3. Comprehensive Non-Discrimination Ordinance

STAFF CONTACT:

Kristi Fogle
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(940) 349-8565

REQUESTOR: Council Member McGee
STAFF TIME TO COMPLETE REPORT: 2.5 hours
PARTICIPATING DEPARTMENTS: City Manager's Office, Legal

Project Report

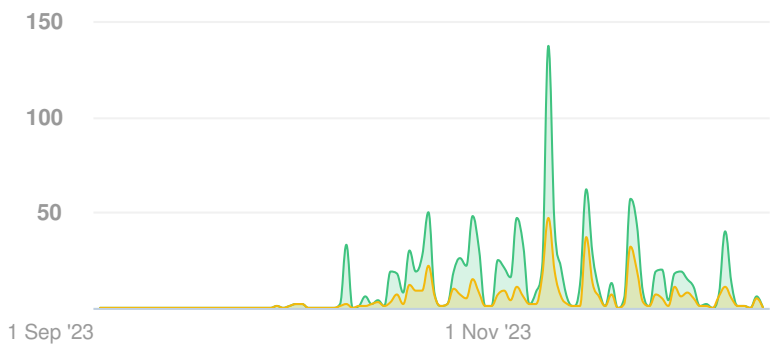
20 April 2021 - 11 December 2023

Discuss Denton

Fair Chance Hiring

BANG THE TABLE engagementHQ

Visitors Summary



Pageviews Visitors

Highlights

TOTAL VISITS	MAX VISITORS PER DAY
512	47

NEW REGISTRATIONS
28

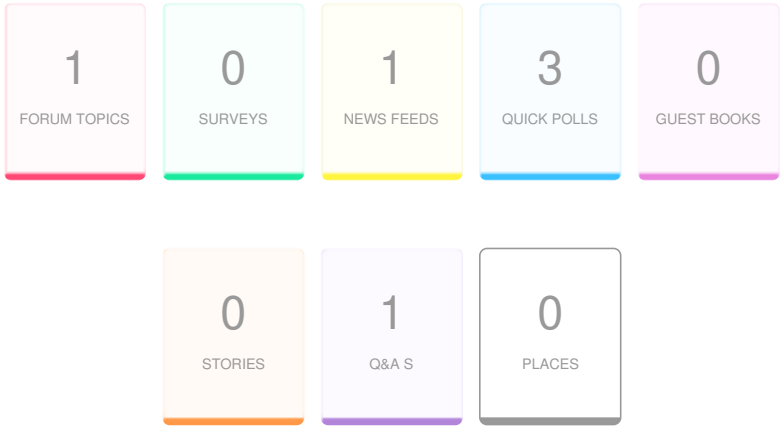
ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
39	140	398

Aware Participants	398
Aware Actions Performed	Participants
Visited a Project or Tool Page	398

Informed Participants	140
Informed Actions Performed	Participants
Viewed a video	0
Viewed a photo	0
Downloaded a document	18
Visited the Key Dates page	16
Visited an FAQ list Page	27
Visited Instagram Page	0
Visited Multiple Project Pages	71
Contributed to a tool (engaged)	39

Engaged Participants	39		
Engaged Actions Performed	Registered	Unverified	Anonymous
Contributed on Forums	22	0	0
Participated in Surveys	0	0	0
Contributed to Newsfeeds	0	0	0
Participated in Quick Polls	29	0	0
Posted on Guestbooks	0	0	0
Contributed to Stories	0	0	0
Asked Questions	4	0	0
Placed Pins on Places	0	0	0
Contributed to Ideas	0	0	0

ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Forum Topic	Fair Chance Hiring Ordinance Feedback	Published	74	22	0	0
Newsfeed	New FAQ - Does the ordinance require a business to hire s...	Published	1	0	0	0
Qanda	Submit a Question	Published	28	4	0	0
Quick Poll	Do you support the proposed Fair Chance Hiring Ordinance?	Published	30	29	0	0
Quick Poll	Do you live or work in Denton?	Published	4	4	0	0
Quick Poll	What best describes you?	Published	4	4	0	0

INFORMATION WIDGET SUMMARY

4	0	0	1	0
DOCUMENTS	PHOTOS	VIDEOS	FAQS	KEY DATES

Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Faqs	faqs	27	32
Key Dates	Key Date	16	26
Document	Proposed Fair Chance Hiring Ordinance.pdf	14	18
Document	Public Meeting Presentation	12	14
Document	Fair Chance Hiring Ordinance Public Input Flyer.pdf	8	8
Document	City of Denton Comprehensive Non-Discrimination Ordinance	7	8

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

Visitors 74	Contributors 22	CONTRIBUTIONS 95

15 October 23

Liam Gaume-Wakefield

AGREES	DISAGREES	REPLIES
3	2	0

This must be done because how can expect people to reintegrate society if they can't g et a job.

16 October 23

Dave Collins

AGREES	DISAGREES	REPLIES
7	1	1

This is not a municipal concern. This would be a state legislature concern. My person al opinion is the city has no business trying to tell a business that they are prohibited fr om protecting their personnel and property by screening applicants.

18 October 23

Lincoln

AGREES	DISAGREES	REPLIES
3	2	0

You have no business forcing businesses to hire ex cons. You are adding costs to busi nesses.

19 October 23

kevans14

AGREES	DISAGREES	REPLIES
2	1	0

It seems to me that once someone has served their time, the punishment should be ov er. Ex-cons should be able to move on with their lives and improve themselves and so ciety after paying for their crimes. I would be in favor of the 'fair chance' initiative. I se e other comments talking about 'forcing' businesses to hire ex-cons, but that misrepres ents what's going on. The idea is not to force any hire. It's just to Not force ex-cons to have to identify as having been convicts. Businesses can hire who they want, on the m erits, but will do so without necessarily knowing a person's previous convict status. Do I have that right?

23 October 23

kevans14

AGREES	DISAGREES	REPLIES
1	0	0

Although I am in favor of the 'Fair Chance' ordinance in principle, I think you raise an in teresting point about what level of government this should happen within. Maybe this s hould even be a federal concern... but why necessarily should it be a city concern? Ag ain, I'm in favor, but it's a good point you raise.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

26 October 23

KW

AGREES	DISAGREES	REPLIES
4	1	0

Do not think this is fair to smaller business. The cost and time put in for interviews, then finding out after the fact that someone does not fit, possible missing out on some one w ho was a better fit.

26 October 23

KW

AGREES	DISAGREES	REPLIES
3	0	0

If you have a business' that has lots of children and hires young teenagers, seems you would want to know if they had a sexual conviction.

26 October 23

Lazarus

AGREES	DISAGREES	REPLIES
4	0	0

While I think that low level misdemeanors and small convictions could be seen as a hin drance to people looking to get hired, because people have a unfair vision of anyone w ho has a conviction. But higher and more dangerous convictions should be disclosed t o protect workers and others.

02 November 23

S Hunt

AGREES	DISAGREES	REPLIES
0	2	0

I want to thank city staff for doing their due diligence to develop this ordinance. I think t hat the ordinance effectively addresses a critical obstacle to citizens who are earnestly working towards gainful employment while putting criminal history behind them. Peopl e need to work and employers have many jobs that need to be filled. Not all laws or leg al processes are just and not all punishments fit the crime. Our justice system is imperf ect. The stigma of having a criminal background is heavy no matter how minor the crim e. When people are unable to obtain an honest living due to discrimination, they have n o choice but to pursue dishonest means of providing for themselves and their depende nts. This ordinance doesn't compel any employer to hire ex-cons. I only wish there wer e a way to help more citizens come to this discussion with a better understanding of th e realities of the hiring process, and without the fear-based misconception that a munici pality would somehow be motivated to coerce employers to hire former criminals again st their wishes. Comments to the effect of the city being the wrong level of government to address the issues strike me as NIMBY-ism. I think that should this ordinance be ad opted and the local unemployment rate decrease, Denton will be well-regarded for its l eadership and visionary approach.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

05 November 23

KAS

AGREES	DISAGREES	REPLIES
2	0	0

We live in a wonderful society where you can get a first, second, third chance etc. if/when necessary. Those scenarios are entirely common, and as an employer in this county for decades, we have engaged in employing folks looking for opportunities, based on a criteria we have for public safety and our consumers. For context, the State of Texas, the City of Denton, Denton County and the entire business community in this State have and are participating in "At-Will" employer/employee relationships. Quite literally, this means that any entity and person seeking employment in/and doing business in the State of Texas are in a default employment relationship. Which interprets to that employers and employees can terminate or modify the employment at any time, for any reason, without notice or jurisdiction, unless prevented by law or express agreement. This quite literally gives them the governing bodies authority to discriminate based on their hiring and employment criteria for any reason or without, at any time. The same applies to commerce, you are free to conduct and engage in business with anyone in the product space you are pursuing, both as the offerors and the potential receivers of such goods or services. That's why Texas is booming and Fortune 500 companies are continually moving in and investing in Texas. The question is, will the governing bodies comply with the ordinance that is being proposed to the private business sector? And the answer is no. - From the private business side, there are costs that will effect the COGS of any business when efficiencies are compromised, including the hiring process. It's part of the general overhead, often overlooked, but the value is present regardless. And I have yet to see a successful business or organization that does not require efficiencies, regardless of their models. (In our personal business and corporate operations, we look for talent, but we assess every aspect of the hiring process to best fill a position for employment that represents the culture we are maintaining, developing and/or creating. That process includes people being up front honest and transparent about whatever offense they have committed. We as the employer maintain control to create the culture we want to best represent our core values and services. And that has historically included employing people with previous convictions, H1B visas, wherever the talent pool takes us. But ultimately, it's our process and our decision. And omitting information would be viewed as deceitful and not very helpful to the prospective applicant.) - Looking at it from the employee side, why would you want to apply and possibly work for an organization that has the potential to discriminate against you? Would it not be better for an individual to understand prior to application to know and understand that they may not be qualified for any various reason set forth for employment? Thus increasing their opportunity to be efficient in finding gainful employment. As prospective hire, if hired as an employee would you stand to gain by being in an uncomfortable work environment? If in the end the employer has a set of criteria, which will be made know in the process ultimately, and restricts your employment, would you not wish to know that as well? So as not to waste your time and be in the best position based off of your personal criteria to be successful in achieving gainful employment? - In conclusion, I personally feel that people who have paid their debt to society, have paid their debts when in compliance. I also find it extremely valuable to an employer to have the ability to create a job position or career opportunity based on whatever criteria they set. It's not up to the local municipality to decide how you run or operate your business, that's for you and the markets to decide. And if you develop a product that is beneficial to your community, you will be rewarded regardless of who the employee class is or were. I am curious to what the "prosecutorial commission to be created" (at taxpayers expense) would use as a criteria for "investigating" and potentially prosecuting local business owners for trying to create the best product they can for their communities safely and efficiently? Which prosecuting such "offense", in itself is a conflict of interest with the State of Texas and business practices. Prosecution in turn, which would pit the State (prosecuting municipal attorney), against the State of Texas and their adopted business laws. The municipalities have to either enforce exiting laws, engage in another losing legal battle, or seek relief through the legislative process. I would also suspect that a lawsuit would arise from the State itself and the business community, against this proposed ordinance if enacted, in which the taxpayers of the City of Denton will be left defending, and losing, wasting $million$ more, just as we have in recent legal losses that we are still on the hook for and are paying. I'm often reminded of that wastefulness engaged in when attempting to maneuver around or running over a pot hole, as many taxpaying citizens are as well. And then ask yourself, if the proposers of the ordinance were liable and the fiduciary protections were removed against elected officials, would they govern and behave the same way? The answer to that as well is no, the proposers will not risk personal wealth and treasures. Thanks as always for the opportunity to chime in and for the platform to do from.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

06 November 23

Bob

AGREES	DISAGREES	REPLIES
3	0	0

If you are in a business employing high school and college age boys & girls, there must be some way of screening possible employees who might be either working along side or managing these other employees. You should not be restricted from finding out about questionable background right up front. Saves everyone time and disappointmen t.

06 November 23

Bob

AGREES	DISAGREES	REPLIES
4	0	0

I'm always guarded against accepting rules from authorities who will not accept the sa me rules themselves. What's good for the goose should also be good for the gander. M y understand is that our city departments will not be held to the same requirement(s) s et by the Fair Chance Employment rules & restrictions being discussed.

06 November 23

Bob

AGREES	DISAGREES	REPLIES
3	2	0

The members of a seven member City Council in a city like Denton, with two universiti es and a community college and literally hundreds of businesses should not have the a uthority to establish restrictions on what questions owners/managers can ask "up front " of a prospective employee. Such questions & answers could help determine saf ety factors, actions, environment or other key elements affecting their business, other employees, their operation and their business's performance. Too often, those governi ng members have little, or no, experience actually hiring employees themselves or dev eloping/running a business.

07 November 23

Ttocsdor

AGREES	DISAGREES	REPLIES
1	2	0

Quit virtue signaling. How about you fix streets, support law enforcement, decrease va grancy, & lower our taxes rather than waste time on on your pet social causes. W e have enough federal hiring guidelines to choke on. Stay in your lane. I own a financi al services business. Do you want a money launderer involved in handling your money ?

07 November 23

Denton

AGREES	DISAGREES	REPLIES
0	1	0

Why don’t you help people without criminal records get jobs? Why would you advertise for criminals to come work in our city? Then they move here then we have more crime.

13 November 23

Angela

AGREES	DISAGREES	REPLIES
2	1	0

I am wondering why the city of Denton really wants to pass this ordinance. Is it becaus e Austin passed it , so now we need to pass it? Why does our Denton leadership want to be the next Austin? We can see how left leaning policies have destroyed that city. Al so, why does Denton leadership want to control how small businesses operate ? They should be grateful that businesses provide tax dollars to fund their pursuits.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

17 November 23

Mark

AGREES	DISAGREES	REPLIES
4	1	1

Any profession that requires a fiduciary relationship with others must be excepted. Als o, many crimes involve violence or moral turpitude which could affect the duty of an em ployer to provide a safe workplace....unfairly placing other employees at risk and/or for cing an employer to be held accountable for not protecting other employees (in the eve nt a workplace incident happens with an employee with such a history). Other criminal history (e.g. minor, with no violence or honesty issues) may not involve such risk to thir d parties. Finally, while we are at effectively full employment with many jobs going unfill ed that may be by preference or choice of the unemployed, a compelling need for such an accommodation may not exist, meaning the risk may not be worth imposing such a r egulation.

20 November 23

Franny

AGREES	DISAGREES	REPLIES
3	0	0

My office would have some concerns about this legislation. Everyone in our office has full access to hundreds of client's personal information, such as full names, social secu rity numbers, addresses, and birthdates. We have to be very careful when hiring, and would not be able to hire someone with a criminal history.

21 November 23

Kels

AGREES	DISAGREES	REPLIES
3	1	0

I have concerns about the ordinance as written. My company does not generally take c riminal history into account when hiring, however we do inquire about criminal history i n our application. We do not make interviewing or hiring decisions based on this inform ation, but we do consider whether an applicant can be honest in answering and approp riate in reflecting on the history. It is also the best opportunity to frankly discuss the crim inal history productively with the applicant if there are concerns. I see the City saying th at federal or state law requiring background checks supersedes this ordinance, but my staff fall outside those very specific jobs even though many have access to very sensiti ve personal and financial information, come into contact with children regularly as part of their duties, etc. If nothing else, prior knowledge of criminal history might affect the a ccess and supervision given to a new staff member. Due to the nature of our business, there is not usually much, if any, of a waiting period between an offer of employment an d starting in a position, so the idea of making a conditional offer and only then explorin g criminal history is fairly unworkable for us. I understand that the City is trying to acco mplish something positive here, but I think the actual result is going to be increasing th e burden and management of hiring processes (which my company tries to keep simpl e and up-front) with no material gain to the stakeholders they are trying to assist. Havin g said all of that, upon closer reading, the City seems to be trying to sidestep certain co mplications by inserting the underlined section suggesting that the prohibited conduct i s only prohibited if it results in unlawful discrimination. And if that's the case, then I am not really sure what the point of the ordinance is, as unlawful discrimination is already u nlawful and this ordinance would simply add confusion to a hiring process that can alre ady be burdensome for employers.

24 November 23

Shawash2

AGREES	DISAGREES	REPLIES
2	0	0

Businesses should be allowed to make hiring decisions for themselves and not have re gulations put on them that restricts them. Who they choose to hire is their decision, and no one else's.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

25 November 23

Eh

AGREES	DISAGREES	REPLIES
0	0	0

I was going to reply to this discussion but this gentleman’s statement sums up what I w as going to express. The ordinance is nonsense!

26 November 23

Mark

AGREES	DISAGREES	REPLIES
1	1	0

He governs best who governs least. First requirement of creating laws is to do no harm . This proposal has a good motive, but the unintended consequences are legion and off set any substantive value. Second requirement for lawmaking is that a law should ONL Y be created to address a compelling need that cannot be resolved otherwise. That ne ed at a time of effective full employment has not been demonstrated.

QANDA

Submit a Question

Visitors 28	Contributors 4	CONTRIBUTIONS 5

Q Seanjake

13 October 23

Have you considered the unintended consequence, which has been documented following similar "ban the box" initiat ives, that employers may simply avoid hiring anyone who seems like they may have had a criminal background, thus actually narrowing hiring opportunities instead of increasing them?

A Publicly Answered

Thank you for your feedback. One of the reasons the City is providing multiple opportunities for community and busin ess input is to ensure we are considering any potential unforeseen and unintended consequences.

Q Seanjake

13 October 23

Will organizations and businesses that work with vulnerable communities (child care, pregnancy care, human traffickin g recovery, etc.) still be able to require criminal background checks, even in the absence of federal regulations requiri ng them?

A Publicly Answered

A Fair Chance Hiring Ordinance does not prohibit an employer from inquiring about an applicant’s criminal history if th ere are federal or state laws that require a criminal history check, or if a conviction of a criminal offense would disqualify a person from holding a particular position (e.g., child day care facilities, public safety positions, certain fina ncial or insurance positions) Further, a criminal history check may still be performed, provided it does not result in illegal discrimination, including by a disparate impact of such checks.

QANDA

Submit a Question

Q

Glenda

19 October 23

So what is to prevent a convicted pedophile from applying for a job at a child care center? Do you think that is ok--really? Gee, what could go wrong?? This proposal is insane. This is government overreach, and we believe the City Council should BACK OFF and leave businesses alone. Glenda and Robert Kallman

A

Publicly Answered

There are laws that disqualify a person from holding a particular position due to a conviction for a certain offense (e.g., persons employed by child day care facilities, public safety positions, certain financial or insurance positions) so, employers for those positions would not violate the ordinance merely by performing a criminal history check unless they did so in a manner that was also in violation of federal or state law.

Q

GraceWeatherly

07 November 23

There is an exemption for jobs requiring a background check but who decides whether that exemption actually applies? Also how does this affect the affirmative defense created under state law for employers of service & delivery people whose job it is to go inside customer's homes?

A

Publicly Answered

The prospective employer in making its hiring decision will be responsible for determining whether an exemption applies. If a complaint is filed, and if the complaint is referred to the state or federal agency responsible for investigating employment discrimination complaints, that agency will determine whether an exemption applies. If the state/federal agency determines it does not have jurisdiction over the complaint, the complaint will be investigated by a third-party investigator hired by the City, who will be responsible for determining whether an exemption applies. If the investigator determines an exemption applies, the complaint will be closed. Regardless of who investigates the complaint, a prospective employer would be allowed to assert any affirmative defense allowed by law and a final determination on the merits of the complaint would be made by the investigating authority.

QANDA

Submit a Question

Q Denton

07 November 23

How can the city get involved in a private companies hiring practices? Especially having them waste their time intervie wing someone they will not hire because of there criminal back ground.

A Publicly Answered

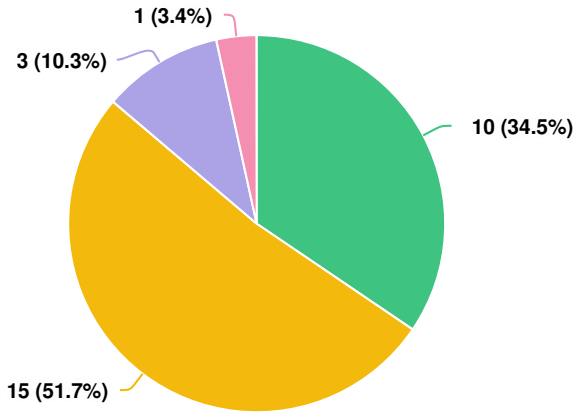
Local, state, and federal governments have the right to regulate, within certain parameters, the hiring practices of priv ate companies to protect individuals from illegal acts of an employer. For example, the United States Congress has p assed legislation that prohibits certain actions of an employer, such as child labor prohibitions and protections, and dis crimination in employment based upon being a member of a protected class, including but not limited to race, religion, national origin, age, and disability.

ENGAGEMENT TOOL: QUICK POLL

Do you support the proposed Fair Chance Hiring Ordinance?

Visitors 30	Contributors 29	CONTRIBUTIONS 29

Do you support the proposed Fair Chance Hiring Ordinance?



Question options

Yes No Unsure Unsure, and need more information

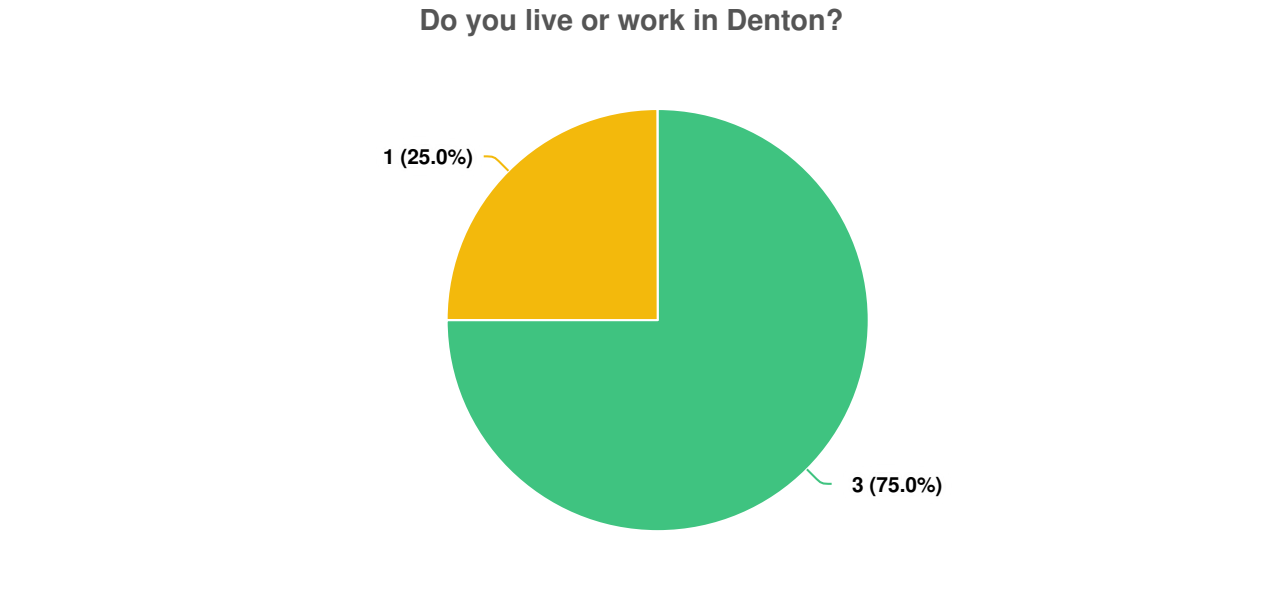
Mandatory Question (29 response(s))

Question type: Radio Button Question

ENGAGEMENT TOOL: QUICK POLL

Do you live or work in Denton?

Visitors 4	Contributors 4	CONTRIBUTIONS 4



Mandatory Question (4 response(s))

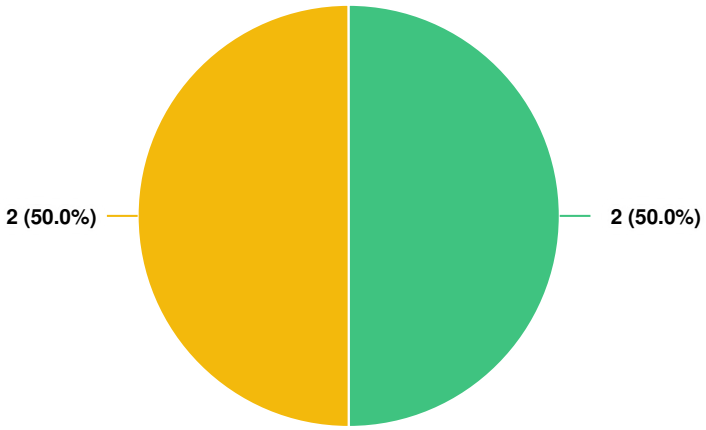
Question type: Radio Button Question

ENGAGEMENT TOOL: QUICK POLL

What best describes you?

Visitors 4	Contributors 4	CONTRIBUTIONS 4

What best describes you?



Question options

Business owner/manager

Not a business owner/manager

Mandatory Question (4 response(s))

Question type: Radio Button Question

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 14, ARTICLE VIII OF THE CODE OF ORDINANCES (NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING), TO ADD A FAIR CHANCE HIRING PROVISION TO SECTION 14-203-5 SETTING HIRING STANDARDS TO LIMIT EMPLOYERS' CONSIDERATION OF THE CRIMINAL HISTORY ON AN INITIAL JOB APPLICATION; PROVIDING SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND CODIFICATION; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton recognizes that people with criminal histories suffer from pervasive discrimination in many areas of life, including employment, housing, education, and eligibility for many forms of social service benefits; and

WHEREAS, an employer's neutral policy (e.g., excluding applicants from employment based on certain criminal conduct) can disproportionately impact some individuals based on their race or national origin as described in the U.S. Equal Employment Opportunity Commission Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act, EEOC Enforcement Guidance No. 915.002; and

WHEREAS, the City of Denton recognizes that legal protections extended to most protected classes under federal and state law do not apply to persons with criminal histories; and

WHEREAS, the City of Denton seeks to assist with the successful reintegration of formerly incarcerated people into the community after their release; and

WHEREAS, lack of employment is a principal factor for recidivism, with people who are employed proving significantly less likely to be re-arrested; and

WHEREAS, removal of obstacles to employment for people with criminal histories increases public health and safety by providing economic and social opportunities to large groups of citizens; and

WHEREAS, people with criminal histories represent a group of job seekers who are ready to contribute and add to the workforce; and

WHEREAS, the City Council finds that denying an employment opportunity to an otherwise qualified person based on the person's criminal history that is not relevant to the job under consideration is unjust; is detrimental to the health, safety, and welfare of the residents of the City; prevents the reintegration of the person into the community; creates a burden on public resources and law enforcement; contributes to crime and recidivism; and contributes to unemployment and harms the local economy; and

WHEREAS, the Council further finds that it is within the police power and the responsibility of the City to remedy the problems enumerated in herein; and

WHEREAS, the City Council declares it to be the public policy of the City that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment, without being subject to discrimination based on their criminal history; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference to the body of this Ordinance as if fully set forth herein.

SECTION 2. The City Council finds that adopting this amendment to Chapter 14, Article VIII, that Section 14-203-5 of the City Code of Ordinances removes an obstacle to employment for people with criminal histories, increases public health and safety by providing economic and social opportunities to large groups of citizens, ameliorates the disproportionate impact of certain hiring practices on individuals based on their race or national origin, and enhance the quality of life of the citizens of the City of Denton and serves a compelling governmental interest.

SECTION 3. Chapter 14, Article VIII of the City of Denton Code of Ordinances, entitled "Non-Discrimination in Public Accommodations, Employment Practices, and Housing," is hereby amended to add Section 14-203-5(c), entitled "Fair Chance Hiring," and provided as follows:

"Sec. 14-203-5: Employment Practices

. . .

(c) Fair Chance Hiring

(1) Policy Declarations.

(a) The City of Denton celebrates its diverse population, and to that end, it is hereby declared to be the public policy of the City of Denton that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment.

(b) The City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been extended to protect individuals with criminal histories, but that excluding applicants for employment based on criminal history may result in discrimination, whether by intent or by unlawful disparate impact, that denies equal employment opportunities due to an applicant's race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(c) The City of Denton recognizes that an employer that rejects everyone with a criminal conviction from all employment opportunities is likely engaging in

discrimination, and that an employment policy that rejects many more applicants of one race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity is discriminatory if the policy is not closely related to the job.

(d) The City of Denton has determined that employers waiting until later in the hiring process to inquire about an applicant's criminal history will reduce discrimination, whether by intent or by unlawful disparate impact, that denies equal employment opportunities due to race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(2) Definitions:

(a) In addition to the definitions in Section 14-203-2, the following definitions also apply to Subsection 14-203-5(c).

(b) In Subsection 14-203-5(c), the following words, terms, and phrases, when used, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Adverse Action means an employer's refusal to hire, a refusal to promote, or the revocation of an offer of employment.

Applicant means an individual who submits an initial job application or other documentation for employment.

Conditional Employment Offer means an oral or written offer by an employer to employ an individual in a job, or placement in an employment agency's staffing pool, that is conditioned on the employer's evaluation of the individual's criminal history.

Conviction means a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor, provided that the conviction is one for which the person has been placed on probation, fined, imprisoned, or paroled.

Criminal History means an arrest, conviction, plea of nolo contendere, or deferred adjudication arising from a felony criminal accusation, or a Class A or Class B misdemeanor criminal accusation, made under state law, federal law, or a comparable law of another state of the United States.

Criminal History Report means any criminal history report, including, but not limited to, those produced by the Texas Department of Public Safety, National Crime Information Center (NCIC), Federal Bureau of Investigation, other law enforcement or police agencies, or courts, or by any consumer reporting agency or business or employment screening agency or business.

Employment means to work for an employer for pay. The term includes full time work, part time work, temporary or seasonal work, contract work, casual or contingent work, work through the services of a temporary or other employment agency, and participation in a vocational, apprenticeship, or educational training program.

Individualized Assessment means an evaluation of the criminal history of an individual that includes, at a minimum, the following factors:

(1) the nature and gravity of any offenses in the individual's criminal history;

(2) the length of time since the offense and completion of the sentence; and

(3) the nature and duties of the job for which the individual has applied.

Initial Job Application means the first written or oral expression of interest in a job by an individual made in compliance with the employer's established criteria for receiving expressions of interest.

Job means an employment position with an employer for which the employer has solicited or accepted applications and which the employer is currently attempting to fill.

Staffing Pool means a list of individuals retained by an employment agency before the assignment of a specific job to perform for another employer.

(3) Applicability

(a) Subsection 14-203-5(c) applies to an employer as defined in Section 14-203-2.

(b) Subsection 14-203-5(c) does not apply to employment for which an individual may be disqualified based on the individual's criminal history under a federal, state, or local law, or compliance with legally mandated insurance or bond requirement.

(c) Nothing in Subsection 14-203-5(c) limits an employer's authority to make a hiring decision for any lawful reason, including the determination that an individual is unsuitable for the job based on an individualized assessment of the applicant's criminal history.

(4) Fair Chance Hiring Practices

(a) An employer may not commit any of the following listed actions where such action results in discrimination, whether by intent or by unlawful disparate impact, that denies an applicant an equal employment opportunity due to race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity:

(1) An employer may not publish or cause to be published information about a job that states or implies that an individual's criminal history automatically disqualifies the individual from consideration for the job.

(2) An employer may not solicit or otherwise inquire about the criminal history of an individual in an initial job application for a job.

(3) An employer may not inquire in oral or written form about an applicant's criminal history, solicit a criminal history report about an applicant, or consider an applicant's criminal history before the employer has first made a conditional employment offer to the applicant. This does not preclude an employer from explaining to applicant, in writing, the individualized assessment process that the employer uses to consider criminal history.

(4) An employer may not refuse to consider employing an individual in a job because the individual did not provide criminal history information before the individual received a conditional employment offer.

(5) An employer may not take adverse action against an individual because of the individual's criminal history unless the employer has determined that the individual is unsuitable for the job based on an individualized assessment conducted by the employer.

(6) An employer who takes adverse action against an individual based on the individual's criminal history must inform the individual in writing that the adverse action was based on the individual's criminal history.

(7) Notwithstanding any other part of Subsection 14-203-5(c), an employment agency may solicit criminal history information about an individual and make an individualized assessment of an individual's criminal history before the staffing agency places the individual in a staffing pool or has identified a job to which the individual will be employed."

SECTION 4. This Ordinance shall be cumulative of all provisions of ordinances of the City of Denton, except where the provisions of this Ordinance are in direct conflict with the provisions

of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5. All other provisions of Chapter 14, Article VIII apply to Fair Chance Hiring except where there is a direct conflict with a specific provision of Section 14-203-5(c), in which case the specific provision of Section 14-203-5(c) shall control.

SECTION 6. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7. The City Secretary is hereby directed to record and publish the above regulations in the City's Code of Ordinances.

SECTION 8. Any person violating any provision of this Ordinance shall, upon conviction, be found guilty of a Class "C" misdemeanor and fined a sum not to exceed five hundred dollars ($500.00) for each violation.

SECTION 9. This Ordinance shall become effective one hundred-twenty (120) calendar days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

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

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

PASSED AND APPROVED this the _____day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

ORDINANCE NO. 22-407

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES (HEALTH & HUMAN SERVICES) TO ADD ARTICLE VIII, TITLED "NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING;" REPEALING CHAPTER 15 OF THE CODE OF ORDINANCES (HOUSING), PROVIDING SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton celebrates its diverse population; and

WHEREAS, the City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been completely extended to protect individuals against discrimination based on their sexual orientation or gender identity; and

WHEREAS, the City of Denton declares it to be the public policy of the City that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment, to obtain and enjoy goods, services, facilities and accommodations in all places of public accommodation, and to obtain housing, without being subject to discrimination based on race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity, which otherwise is detrimental to the peace, progress, and welfare of the City; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2. The City Council finds that adopting a Non-Discrimination Ordinance that addresses public accommodations, employment practices, and housing, enhances the public welfare and quality of life for residents, visitors, and businesses in the City of Denton.

SECTION 3. Chapter 14 of the City of Denton Code of Ordinances, entitled "Health & Human Services," is hereby amended to add Article VIII, entitled "Non-Discrimination in Public Accommodations, Employment Practices, and Housing," as provided as follows:

ARTICLE VIII: NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING

Sec. 14-203-1. Equal rights policy.

(a) *Policy Declarations.*

(1) The City of Denton celebrates its diverse population, and to that end, it is hereby declared to be the public policy of the City of Denton that all persons subject to its jurisdiction

should enjoy equal human rights, including the ability to earn wages through gainful employment, to obtain and enjoy goods, services, facilities and accommodations in all places of public accommodation, and to obtain housing.

(2) It is policy of the City of Denton to ensure that no one is denied employment, public accommodations, or housing based on race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(3) The City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been completely extended to protect individuals against discrimination based on their sexual orientation or gender identity.

Sec. 14-203-2. Definitions

(a) In this ordinance, the following words, terms, and phrases, when used, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

(1) *Administrator* means the individual designated by the City Manager or their designee to receive, investigate, and conciliate complaints under this ordinance and includes the administrator's designated representatives.

(2) *Age* shall mean a person forty (40) or more years of age.

(3) *Business day* shall mean a day the City of Denton is open and conducts official business.

(4) *Complainant* shall mean a person who files a complaint pursuant to Section 14-203-11.

(5) *Conciliation* shall mean the attempted resolution of issues raised by a complaint or by the investigation of a complaint, through informal negotiations or mediation.

(6) *Conciliation agreement* shall mean a written agreement setting forth the resolution of issues pursuant to conciliation.

(7) *Disability* shall mean a physical or mental impairment that substantially limits one (1) or more major life activities of an individual, a record of such an impairment or being regarded as having such an impairment; it is to be construed to be in accordance with the Americans with Disabilities Act and the ADA Amendments Act of 2008.

(8) *Discrimination* shall mean any direct or indirect disparate, prejudicial, or unjust treatment, distinction, segregation, limitation, refusal, denial or other differentiation of a person or persons, based on a particular characteristic or by classifying or categorizing a person based on perceived or actual participation in a certain group of people with a particular characteristic.

(9) *Dwelling* shall mean:

a. A building, structure or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence for one (1) or more persons;

b. Vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure, described in subsection (a).

(10) *Educational institution* shall mean:

a. Any prekindergarten, kindergarten, primary, secondary, or postsecondary educational institution, supported in whole or in part by state tax funds;

b. A "private school" as defined by V.T.C.A., Education Code § 5.001(6-a);

c. An "open-enrollment charter school" as defined by V.T.C.A., Education Code § 5.001(6);

d. An "institution of higher education" as defined by V.T.C.A., Education Code § 61.003(8); or

e. A "private or independent institution of higher education" as defined by V.T.C.A., Education Code § 61.003(15).

(11) *Employee* shall mean any individual employed by an employer. The term does not include an elected official.

(12) *Employer* shall mean any person who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year and includes any agent of such person. The term does not include any person specifically excluded from this section.

(13) *Employment agency* shall mean any person, and any agent of a person, who regularly undertakes, with or without compensation, to procure:

a. Employees for an employer; or

b. Opportunities for a person to work for an employer.

(14) *Familial status* means one (1) or more individuals, who have not attained the age of eighteen (18) years, being domiciled with:

a. A parent or another person having legal custody of such individual or individuals; or

b. The designee of such parent or other person having such custody, with the written permission of such parent or other person; or

c. A person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(15) *Family* includes a single individual.

(16) *Gender identity* shall mean a person's real or perceived gender identity as male, female, both, or neither, and/or an innate, deeply felt sense of gender, which may or may not correspond to the person's physical anatomy and also includes a person's gender expression through external characteristics and behaviors including, but not limited to, dress, grooming, mannerisms, speech patterns and social interactions, that are identified with a particular gender or sexual orientation.

(17) *Joint labor-management committee* shall mean an entity that controls apprenticeship or other training or retraining programs, including on-the-job training programs.

(18) *Labor organization* shall mean a labor organization and any of its agents, and includes:

a. Any organization, agency or employee representation committee, group, association, or plan in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms and conditions of employment; and

b. Any conference, general committee, joint or system board or joint council so engaged, that is subordinate to a national or international labor organization.

(19) Non-profit organization shall mean an organization exempt from taxation as provided in Internal Revenue Code, 26 U.S.C. § 501(c).

(20) Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and any other organization or entity of whatever character.

(21) Place of public accommodation means any of the following establishments if they are open to the general public and, for compensation, offer any product, service, or facility to the general public:

a. Any inn, hotel, motel, or other establishment that provides lodging to transient guests, other than an establishment:

1. Located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as a residence; or

2. In which the majority of the occupants are permanent residents and maintain their fixed place of domicile in the establishment.

b. Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment or gasoline station;

c. Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

d. Any bar, tavern, pub, drinking establishment, or facility where alcoholic beverages are served;

e. Any retail or wholesale establishment selling any kind of goods or services; or

f. Any public conveyance, including stations and terminals.

(22) Public conveyance shall mean any vehicle, or any other means of transport operated on land, water or in the air, which in fact caters to, or offers its goods, facilities, or services to, or solicits or accepts patronage from the general public. "Public conveyance" includes any person who is the owner, lessee, operator, proprietor, manager, superintendent, agent or employee or any public conveyance.

(23) Protected employment characteristic shall mean an individual's race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(24) Protected housing characteristic shall mean an individual's race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, gender identity, or a veteran's source of income.

(25) Reasonable Accommodation means a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to meet program requirements.

(26) Reasonable Cause means that there is sufficient evidence to allege that a respondent has violated this ordinance. Evidence is sufficient if a reasonable person would believe that further inquiry into whether a violation occurred is warranted.

(27) Reasonable Modification under the Fair Housing Act means a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

(28) Religion shall mean all aspects of religious observance and practice, as well as belief.

(29) Religious organization shall mean:

a. A religious corporation, association, or society; or

b. A school, college, university, or other educational institution or institution of learning, if:

1. The institution is, in whole or in substantial part, controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

2. The curriculum of the institution is directed toward the propagation of a religion.

(30) Respondent shall mean a person, organization, or entity against whom a complainant has filed a complaint pursuant to Section 14-203-11.

(31) Sex shall mean gender and the biological differences between men and women.

(32) Sexual orientation shall mean the actual or perceived status of a person with respect to their sexuality.

(33) Source of income means lawful, verifiable income paid directly to a tenant (child support, or spousal maintenance) or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and

federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937.

(34) To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(35) U.S. Department of Housing and Urban Development (HUD)-Veterans Affairs (VA) Supportive Housing Program (HUD-VASH) is a collaborative program between HUD and VA combining HUD housing vouchers with VA supportive services to help homeless Veterans and their families find and sustain permanent housing.

(36) Veteran means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.

Sec. 14-203-3: Exclusions

Except as required by state or federal law, this ordinance shall not apply to the following:

(a) Religious organizations;

(b) The United States government or any of its departments or agencies;

(c) The State of Texas, or any of its departments, agencies, or political subdivisions.

Sec. 14-203-4: Public Accommodations

(a) *Unlawful practice.* It shall be unlawful for any person with care, custody or control over the premises of a place of public accommodation or for any owner, employee or agent, of a place of public accommodation to discriminate against any person on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity, to:

1. Directly or indirectly exclude, segregate, limit, refuse, or deny to any person any of the accommodations, advantages, facilities, benefits, services or goods, offered to the general public at a place of public accommodation; or

2. Circulate, issues, display, post, mail, or otherwise publish a statement, advertisement, or sign indicating that:

    a. A person will be denied accommodations, advantages, facilities, benefits, privileges, services, or goods at that place; or

    b. The patronage or presence of a person at that place is objectionable, unwelcome, unacceptable, undesirable, or unsolicited.

(b) *Defenses.*

1. It is a defense to prosecution under this subsection on the basis of disability that the discrimination resulted from a condition or structural feature that is in conformance with the law.

2. It is a defense to prosecution if the refusal to admit a person to a place of public accommodation or the expulsion of a person from a place of public accommodation was required by law.

(c) *Additional Exclusion.*

1. This section does not apply to a bona fide social, fraternal, educational, political, religious, or civic organization, including a private club, that is restricted to members of the organization/club and guests and is not open to the general public, when the profits of the accommodations, advantages, facilities, and services (above reasonable and necessary expenses) are solely for the benefit of the organization/club.

Sec. 14-203-5: Employment Practices

(a) *Unlawful practice.* It shall be unlawful for an employer to discriminate against any person on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity by the following actions or inactions:

1. For an employer to fail or refuse to hire, or to discharge, any person;

2. For an employer to discriminate against any person with respect to compensation, terms, conditions, or privileges, of employment;

3. For an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;

4. For an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;

5. For an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;

6. For a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;

7. For a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;

8. For a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment;

9. For a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this ordinance;

10. For an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic

in the admission to, or employment in, any program established to provide apprenticeship or other training;

11. For an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic;

12. For an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic; or

13. For a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic.

(b) *Additional Exclusions.*

1. Nothing in this subsection prohibits a notice or advertisement from indicating a preference, limitation, specification, or discrimination, based on a protected characteristic when a protected characteristic is a bona fide occupational qualification for employment.

2. This section does not apply to, and does not require, the provision of employee benefits to a person for the benefit of the person's domestic partner.

Sec. 14-203-6: Housing

(a) It is the policy of the City of Denton to provide, within constitutional limitations, for fair housing throughout the City by ensuring the opportunity for every person to obtain housing without regard to race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity.

(b) Fair Housing means the prohibition of discrimination based on race, color, national origin, religion, sex, familial status, or disability when renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

(c) *Unlawful practice.* It shall be unlawful for any person to discriminate against any person on the basis of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity by engaging in the following housing practices:

1. *In the Sale and Rental of Housing.* A person engages in a prohibited discriminatory act if, because of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity, they:

    a. Refuse to rent or sell a dwelling;

    b. Refuse to negotiate for the purchase or rental of a dwelling;

    c. Discourage the purchase or rental of a dwelling or otherwise make housing unavailable;

    d. Impose different sales prices or rental charges for the sale or rental of a dwelling; or

    e. Set different terms, conditions or privileges for sale or rental of a dwelling or in the provision of services or facilities therewith.

2. *Other Prohibited Discriminatory Acts.* A person engages in a prohibited discriminatory act if, because of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity, they:

    a. Based on a person's disability, refuse to make a reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas;

    b. Based on a person's disability, refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

    c. In publication, make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, relating to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination, for a protected housing characteristic or an intention to make any preference, limitation, or discrimination, based on a protected housing characteristic;

    d. In inspection, represent to a person that a dwelling is not available for inspection, sale, or rental, when the dwelling is available for inspection, sale or rental;

    e. For profit, induce or attempt to induce a person to sell or rent, or to not sell or rent, a dwelling by representing that people of a particular protected characteristic are about to move into the neighborhood;

    f. In brokerage services, deny access to or membership in any multiple listing service or real estate brokers' organization or other service organization or facility;

g. In residential real-estate-related transactions, refuse to make a mortgage loan, provide other financial assistance for a dwelling, impose different terms or conditions in a real-estate-related transaction, or otherwise discriminate against a person in making a real-estate-related transaction available.

3. *Veteran Source of Income.* Except as prohibited by Texas Local Government Code, Section 250.007, as amended, it shall be a discriminatory practice to discriminate in housing based on a Veteran's source of income.

(d) *Additional Exclusions.*

1. This subsection does not apply to the following:

a. To the sale or rental of a single-family house if the owner does not own more than three (3) single-family houses at any one (1) time. Any such sale of a single-family house shall be limited to one (1) such sale within any twenty-four (24) month period if the owner is not the most recent resident of the house prior to the sale or does not live there at the time of the sale, and the owner did not use the services or facilities of a real estate broker, agent, or salesman, or their agents and employees, for the sale or to advertise the sale in violation of this subsection; or

b. To a rental of a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies part of the dwelling as his residence.

c. Religious organizations and private clubs are allowed to give preference to their members as long as they do not discriminate in their membership.

2. Nothing in this article limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

3. Nothing in this article regarding discrimination based on familial status applies with respect to housing for older persons as set out and defined in the Fair Housing Act.

4. Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(e) *Housing Enforcement; complaints.*

1. Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur, hereinafter referred to as the "person aggrieved," may request assistance from the administrator to file a complaint with the Fair Housing and Equal Opportunity Division of the Region VI office of the U.S.

Department of Housing & Urban Development. The administrator, if requested by the person aggrieved, may assist with preparation and submission of the complaint to the U.S. Department of Housing and Urban Development.

2. Whenever the administrator has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this article or that any group of persons has been denied any of the rights granted by this article, administrator may prepare and file a complaint to the U.S. Department of Housing & Urban Development. setting forth the facts in his own name, and such complaint shall be treated in the same manner as a complaint filed by a person aggrieved.

3. The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, as amended (42 U.S.C. 3610), and shall treat such complaints in the same manner as other complaints filed pursuant to this section.

Sec. 14-203-7: Unlawful Intimidation, Retaliation and Coercion

It shall be unlawful for any person to discriminate against, harass, threaten, harm, damage or otherwise penalize or retaliate against another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting or participating in any manner in an investigation, proceeding or hearing, in connection with an act of discrimination prohibited by this ordinance.

Sec. 14-203-8: Effect on Legal Remedies

(a) This ordinance shall not affect the right of any person to pursue any legal remedy for discriminatory practices available under federal or state law by filing a claim with the appropriate public agency or by filing a private civil action.

(b) This ordinance does not create a private cause of action.

(c) All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Denton in the discharge of their duties, shall not thereby render themselves personally liable; and they are hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of their said duties.

Sec. 14-203-9: Administration

The City Manager or their designee shall be responsible for implementing and administering this ordinance.

Sec. 14-203-10: Penalty

Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine of up to $500 in accordance with Section 1-12(a)(4) of the City Code of Ordinances for each offense, as well as injunctive relief. Every day a violation continues shall constitute a separate offense. A violation shall be referred to the City Attorney's Office for prosecution if conciliation efforts are unsuccessful.

Sec. 14-203-11: Complaint Process

(a) A person who claims to have been discriminated against in violation of this ordinance may file a complaint with the City Manager or their designee. A complaint must be filed within ninety (90) calendar days after an alleged unlawful practice has occurred.

(b) A complaint shall be in writing on a form provided by the City Manager or their designee, made under oath or affirmation, and shall contain the following information:

1. Name and address of the respondent.
2. Name, address, email address, and signature of the complainant.
3. Date of occurrence of the alleged unlawful practice.
4. Statement of the facts upon which the allegation of an unlawful practice is based.

(c) Within ten (10) business days after the filing of a complaint, the City Manager or their designee shall review the complaint and notify the complainant in writing as to whether the city will:

1. Refer the complainant to another public agency pursuant to subsection (d) below;
2. Deny the complaint due to incomplete information;
3. Deny the complaint because it is legally deficient or untimely;
4. Accept the complaint for investigation.

(d) If the claim for discrimination is within the jurisdiction of a federal or state agency, the complainant shall be referred by the city to the appropriate public agency. The complainant shall be responsible for filing the discrimination complaint within timeframes set out in federal and state law and the city shall take no further action with regards to the complaint.

(e) If, and only if, a federal or state agency to which a claim for discrimination is referred pursuant to subsection (d) of this subpart refuses to materially investigate the claim based upon a lack of jurisdiction, the complainant shall have thirty (30) calendar days, running from the date the complainant receives notice from the federal or state agency, to

resubmit their complaint pursuant to subsection (b) of this section. If a complainant is resubmitting a complaint in accordance herewith, the complaint shall contain a copy of the correspondence or other documentation from the federal or state agency indicating its refusal to investigate or denial of the complaint based on jurisdictional grounds, in addition to the documentation required by subsection (b) of this subpart.

(f) The burden of proof shall be on the complainant that an unlawful act occurred.

Sec. 14-203-12: Investigation

(a) Promptly after a complaint that is not within the jurisdiction of a state or federal agency pursuant to Sec. 14-203-11 (d) or the complainant receives notice from the federal or state agency and has resubmitted their complaint pursuant to Sec. 14-203-11 (e) of this section, the City Manager shall commence an investigation.

(b) The City Manager or their designee shall, in writing:

1. Notify the respondent named in the complaint that a complaint alleging the commission of an unlawful practice has been filed against the respondent;
2. Furnish a copy of the complaint to the respondent; and
3. Advise the respondent of the procedural rights and obligations of the respondent, including the right to file a written, signed, and verified informal answer to the complaint within fifteen (15) business days after service of notice of the complaint.

(c) Not later than the 15th business day after service of the notice and copy of the complaint, a respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

1. Name, address, email address, telephone number, and signature of the respondent or the respondent's attorney, if any; and
2. Concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

(d) The City Manager or their designee may dismiss a complaint at any time if they determine that:

1. The complaint was not filed within the required time;
2. The location of the alleged unlawful practice is not within the City's jurisdiction;
3. The alleged unlawful practice is not a violation of this ordinance;
4. The complainant refuses to cooperate in the investigation of the complaint or enforcement of an executed conciliation agreement;
5. A conciliation agreement has been executed by the complainant and the respondent.

The City Manager or their designee shall, in writing, notify the complainant and the respondent of the dismissal of the complaint and include a statement of the reason for the dismissal.

(e) The City Manager or their designee shall prepare a final investigative report showing, at a minimum, the names and dates of contacts with witnesses; a summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts; a summary description of other pertinent records; and a summary of witness statements. A final report under this section may be amended if additional evidence is discovered. If there are legal questions involved, the complaint will be sent to the City Attorney's Office for review.

(f) After completion of the investigation, the administrator shall make available to the complainant and the respondent, at any time, information derived from the investigation and the final investigation report related to the investigation, except for information that is not subject to disclosure pursuant to state law, federal law, or common law privacy.

(g) The complaint, the investigative report, and any evidence collected therein, shall be subject to public disclosure pursuant to the Texas Public Information Act. Prior to any release, documents related to the complaint/investigation shall be reviewed by the City Attorney's Office to ensure information that is excepted from disclosure by state law, federal law, or common law privacy is redacted. If necessary, the City Attorney may submit the information to the Texas Attorney General's Office for an opinion.

Sec. 14-203-13: Conciliation

(a) If during or after the investigation, the City Manager or their designee determines that there is reasonable cause to believe discrimination occurred, the City shall attempt to conciliate the complaint. In conciliating a complaint, the City Manager or their designee shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the complainant's rights and take action to ensure the elimination of both present and future unlawful practices in compliance with this ordinance. This can include the voluntary discontinuance of the unlawful practice by the respondent and adequate assurances of future compliance with this ordinance combined with an educational component. Nothing said or done during the course of conciliation may be made public or be used as evidence in a subsequent proceeding under this ordinance. For these purposes, complaints and proceedings under this article shall be considered as litigation.

(b) A conciliation agreement executed under this section must be in writing in a form approved by the City Attorney and must be signed and verified by the respondent and the complainant. A conciliation agreement is executed upon its signing and verification by all parties to the agreement. An agreement shall be a public document, subject to any redactions required by state law, federal law, or common law privacy.

(c) A party to an executed conciliation agreement shall not be prosecuted in municipal court for the unlawful practice identified in the agreement unless the complaint notifies the City Manager or their designee within one (1) year of a violation of the agreement for

the same discriminatory practice addressed by the agreement and the City Attorney determines that the agreement has been violated.

(d) If a conciliation agreement cannot be reached, the matter may be reviewed for criminal enforcement pursuant to Section 14-203-10.

Sec. 14-203-14: Defenses

(a) Any applicable federal or state constitutional or statutory defense may be asserted by a person alleged to be in violation of this section.

(b) It is a defense that a person alleged to be in violation of this section was acting pursuant to a court order.

Sec. 14-204-15: Education and Public Information

In order to further the intent and objectives of this ordinance, the City Manager or their designee may conduct educational and public information programs.

SECTION 4. Chapter 15 of the City of Denton Code of Ordinances, entitled "Housing," is hereby repealed in its entirety.

SECTION 5. This Ordinance shall be cumulative of all provisions of ordinances of the City of Denton, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7. The City Secretary is hereby directed to record and publish the attached rule, regulation, and policy in the City's Code of Ordinances as authorized by the Texas Local Government Code.

SECTION 8: This Ordinance shall become effective one hundred-twenty (120) calendar days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this Ordinance was made by Deb Armintor and seconded by Paul Mettzer; this Ordinance was passed and approved by the following vote [5 - 2]:

	Aye	Nay	Abstain	Absent
Gerard Hudspeth, Mayor:		✓		
Vicki Byrd, District 1:	✓			
Brian Beck, District 2:	✓			
Jesse Davis, District 3:		✓		
Alison Maguire, District 4:	✓			
Deb Armintor, At Large Place 5:	✓			
Paul Meltzer, At Large Place 6:	✓			

PASSED AND APPROVED this the 22nd day of March, 2022.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY:

CITY OF DENTON
DENTON, TEXAS

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:



Fair Chance Hiring

Background

- On February 4, Council Member McGee presented a two-minute pitch to consider a Work Session to discuss the prevention of inquiries of an applicant's criminal history prior to making conditional offers of employment unless a law requires an earlier inquiry.
- On February 14, an Informal Staff Report was published in the Friday Report.
- On May 1, the Agenda Committee routed the pitch to a Work Session.

Fair Chance Hiring

- Fair Chance Hiring:
  - The policy or practice of not considering an applicant's criminal history in an employment application until later in the hiring process.
  - This does not limit the authority to withdraw an employment offer for a lawful reason.
- National Employment Law Project (NELP) 2021 data:
  - 37 states and 150 local governments have fair chance hiring laws for themselves as public employers
  - 15 states and 22 local governments extend those laws to private employers within their jurisdiction

State and Federal Regulations

- There is no federal or state law prohibiting a private employer from inquiring about an applicant's criminal history prior to making a conditional offer.
  - Some laws require a criminal background check for certain positions.
    - Peace officers, criminal justice, insurance, childcare, energy, etc.
- Title VII of the Civil Rights Act of 1964 prohibits facially neutral employment practices that cause a discriminatory impact.
- EEOC - An employer that rejects *everyone* with a conviction from all employment opportunities is likely engaging in Title VII discrimination.
- The Equal Employment Opportunity Commission (EEOC) interpretation of Title VII
  - Employers can request criminal history information, provided it does not result in unequal treatment with respect to a protected class.
  - To avoid discrimination, employers conduct an individualized assessment of a candidate's criminal record.
- The EEOC's best practice recommendations suggest employers consider asking criminal history questions later in the hiring process.

Local Regulation

- The City of Denton as an employer does not inquire about criminal history or conduct a background check until after a conditional offer of employment is made.
- Businesses may utilize fair chance hiring practices or policies based on their internal requirements or utilization of best practices.
- Based on the NELP data, most local governments that have enacted Fair Chance Hiring laws only apply to their organization as an employer.
  - An even greater number may utilize this practice outside of formal regulation.

Applies Only to Organization	Applies Across Jurisdiction
Dallas County	City of Austin
City of San Antonio	City of DeSoto
Travis County	
Harris County	

Ordinance Considerations

- Definitions
- Applicability and exemptions
  - Governmental agencies (county, school district, colleges and universities)
  - Positions that have local, state, or federal requirements to disqualify based on criminal history
  - Employer with 15 or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.
- Requirements
- Administration
- Investigation
  - The City does not have the capacity to conduct investigations.
  - Implementation could follow the City's existing Non-Discrimination Ordinance.
- Penalty

Council Direction

- Option 1: Move forward with a citywide ordinance
- Option 2: Move forward with an internal policy formalizing the City’s fair chance hiring efforts (already in practice)
- Option 3: Do not move forward with the pitch

File #: ID 25-1167, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the Internal Auditor.

File #: ID 25-1169, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the Municipal Judge.

File #: ID 25-1396, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Manager.

File #: ID 25-1397, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Attorney.

File #: ID 25-1364, **Version:** 1

AGENDA CAPTION

Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City's attorneys regarding Petitions for Release from the Extraterritorial Jurisdiction; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position.

File #: ID 25-1310, **Version:** 1

AGENDA CAPTION

Proclamation: Gun Safety Awareness Month

File #: ID 25-063, **Version:** 1

AGENDA CAPTION

Consider approval of the minutes of the July 15, 2025 Regular Meeting.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider approval of the minutes of the July 15, 2025 Regular Meeting.

BACKGROUND

The minutes draft is provided for review and formal approval by the City Council.

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – July 15, 2025 Minutes

Respectfully submitted:

Lauren Thoden
City Secretary

CITY OF DENTON CITY COUNCIL MINUTES
July 15, 2025

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, July 15, 2025, at 2:01 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Suzi Rumohr (Virtual) and Council Members Brian Beck, Vicki Byrd, Joe Holland and Jill Jester.
Council Member Brandon Chase McGee arrived at 2:44 p.m.

ABSENT: None

Also present were City Manager Sara Hensley and Deputy City Attorney Susan Keller.

The posted agenda noted the registration process for in-person and public participation at this meeting. However, there were no online registrations or call ins on any items on the agenda.

WORK SESSION

1. Citizen Comments on Consent Agenda Items

No Citizen Comments were received.

2. Requests for clarification of agenda items listed on this agenda for public hearing and individual consideration.

• Clarification:

o Council Member Holland: Consent 4.W (ID25-1192).

o The Mayor expressed appreciation for item 4.Z.

• Pulled For Individual Consideration:

o Mayor Hudspeth: Item 4. H (ID25-1251)

3. Work Session Reports

A. D 25-760 Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 preliminary utility budgets and rates for Solid Waste, Water, Wastewater, Drainage, Electric and Customer Service. [Estimated Presentation/Discussion Time: 60 minutes]

The item was presented, and discussion followed.

Following discussion, consensus was to move forward with staff's recommendation for the utility rate changes and for cost recovery of fees from credit card payments and for staff to provide information on possibilities for a tiered customer approach. Staff to also provide Council with a

comparison breakdown of Water and Wastewater rates and fees with the other cities mentioned on the presentation.

B. ID 25-421 Receive a report, hold a discussion, and give staff direction on the update regarding Denton's Climate Action Plan goals, measures and dashboard. [Estimated Presentation/ Discussion Time: 45 minutes]

The item was presented, and discussion followed.

Following discussion, there was no direction provided as the item was for presentation/discussion purposes.

C. ID 25-1139 Receive a report, hold a discussion, and give staff direction on the proposed amendment and adoption of the Water and Wastewater Impact Fees. [Estimated Presentation/Discussion Time: 60 minutes]

The item was presented, and discussion followed.

Following discussion, City Council consensus was to move forward with staff's recommendation. Mayor Hudspeth requested staff provide a breakdown to City Council of the total cost of all fees by category (Water, Wastewater, Road Impact Fees, including Parkland Dedication Fees).

The work session ended at 4:49 p.m.

The meeting was recessed for a short break at 4:49 p.m. and reconvened at 5:03 p.m.

CLOSED MEETING

1. The City Council convened into a Closed Meeting at 5:03 p.m. consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law, as follows:

1. Closed Meeting:

A. ID 25-760 Deliberations regarding Economic Development - Under Texas Government Code Section 551.087. Receive a report and hold a discussion regarding the potential offer of a financial or other incentive to a business prospect code-named Project Loom which the City seeks to have locate, stay, renovate, or expand in or near the territory of the City and with which the City is conducting economic development negotiations. This discussion shall include commercial and financial information, including an economic development incentive request the City has received from Project Loom.
DELIBERATED

B. ID 25-1225 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's attorneys regarding potential resolution to a claim with Frontier Southwest, Inc.; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal

position. This agenda item is related to Consent Agenda item ID 25-1226 and will be a placeholder if Council members have questions requiring confidential discussion as allowed by law.
NOT DELIBERATED

The closed meeting started at 5:03 p.m. and ended at 5:52 p.m. No votes or actions were taken during the closed meeting.

REGULAR MEETING

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Regular Meeting on Tuesday, July 15, 2025, at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Suzi Rumohr (virtual) and Council Members Brian Beck, Vicki Byrd, Joe Holland, Jill Jester, and Brandon Chase McGee

ABSENT: None

Also present were City Manager Sara Hensley and Deputy City Attorney Susan Keller.

The posted agenda noted the registration process for in-person, call-in, and public participation at this meeting. However, there were no online registrations or call ins on any items on the agenda.

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag
B. Texas

2. PROCLAMATIONS/PRESENTATIONS

A. ID 25-678 Proclamation: Parks and Recreation Month
PRESENTED

3. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

A. Review of procedures for addressing the City Council.

B. Reports from members of the public shall be received through the following two (2) methods. A total of up to seven (7) speakers are permitted to provide public comment and may include any combination of prior registration and open microphone speakers.

1) Scheduled Citizen Reports from Members of the Public

A. ID 25-1181 Ms. Prudence Sanchez regarding support of the city after school program.
PRESENTED

B. ID 25-1213 Ms. Lauren Inman regarding June 3 flooding and city responsiveness.
PRESENTED

C. ID 25-1252 Ms. Danna Zoltner regarding a proposed gas plant.
PRESENTED

D. ID 25-1290 Mr. Gokhan Saginci regarding electric spending.
PRESENTED

2) Open Microphone. This section of the agenda permits any person who has not registered in advance for a citizen report to make comments about public business items not listed on the agenda. Such person(s) shall have registered using the "Virtual White Card" or "By Phone" process outlined by the City on its website or meeting notice.

(2) Additional Citizen Reports (Open Microphone)
Citizen comments received are noted on Exhibit A.

4. CONSENT AGENDA

The Consent Agenda consisted of Items 4.A - AL. During the Work Session held earlier in the day, Item 4.H was pulled for Individual Consideration by Mayor Hudspeth.

Council Member Beck moved to adopt the Consent Agenda, now consisting of Items 4.A to G and I to AL. Motion seconded by Council Member Jester.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr (Virtual) and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

A. ID 25-057 Consider approval of the minutes of the June 17, 2025, Regular Meeting.
APPROVED

B. ID 25-1229 Consider approval of a resolution of the City of Denton appointing three members to the Committee on the Environment.
ASSIGNED RESOLUTION NO. 25-1229

APPOINTMENTS LISTED ON EXHIBIT B

C. ID 25-1230 Consider approval of a resolution of the City of Denton appointing two members to the Tax Increment Reinvestment Zone Number One Board.
ASSIGNED RESOLUTION NO. 25-1230

APPOINTMENTS LISTED ON EXHIBIT B

D. ID 25-1231 Consider approval of a resolution of the City of Denton appointing an alternate member to the Dallas Regional Mobility Coalition.
ASSIGNED RESOLUTION NO. 25-1231

APPOINTMENTS LISTED ON EXHIBIT B

E. ID 25-1232 Consider approval of a resolution of the City of Denton appointing a member and proxy to the North Texas Commission.
ASSIGNED RESOLUTION NO. 25-1232

APPOINTMENTS LISTED ON EXHIBIT B

F. ID 25-085 Consider a nomination/appointment to the City of Denton's Community Services Advisory Committee.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

G. ID 25-1250 Consider a nomination/appointment to the City's Bond Oversight Committee.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

I. ID 25-1239 Consider approval of a resolution of the City of Denton excusing the June 25, 2025, meeting absence of an Economic Development Partnership Board Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1239

J. ID 25-1241 Consider approval of a resolution of the City of Denton excusing the June 25, 2025, meeting absence of a Tax Increment Reinvestment Zone Number Two Board Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1241

K. ID 25-1135 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Cooperation Contract in the form of a Memorandum of Understanding with the State of Texas, Texas Department of Public Safety, authorizing the Denton Police Department to perform Uniform Commercial Vehicle Weight Inspections and Enforcement; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1135

L. ID 25-1136 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Cooperation Contract in the form of a Memorandum of Understanding with the State of Texas, Texas Department of Public Safety, establishing responsibilities, policies, and guidelines for the Denton Police Department to conduct Federal Safety Regulation Inspections; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1136

M. ID 25-1176 Consider adoption of an ordinance of the City of Denton granting a special permit to Sundt Construction, Inc. to allow for work hours outside those ordinarily allowed pursuant to Section 17-20 (c)(3)(f) of the City of Denton Code of Ordinances, with respect to hours of

operation related to Bonnie Brae Phase 3 for the construction of Bonnie Brae Street and joining street connections, located between Airport Road/FM1515 and Roselawn Drive: providing for approval of a special permit for a variance in the hours of operation during weekdays and weekends; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1176

N. ID 25-1030 Consider adoption of an ordinance of the City of Denton granting the North Texas State Fair Association a three-year noise exception for the North Texas Fair and Rodeo which will be held August 15-24, 2025, August 14-23, 2026, and August 13-22, 2027, at 2217 N. Carroll Boulevard; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1030

O. ID 25-1182 Consider approval of a resolution of the City of Denton accepting the donation of works of art, created by The Art Room, to be installed at the American Legion Hall Senior Center; and providing an effective date. The Public Art Committee voted to recommend approval (5-0).
ASSIGNED RESOLUTION NO. 25-1182

P. ID 25-901 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8732 Radio Assessment and Support Services for the Technology Services Department; and providing an effective date (RFP 8732).
ASSIGNED ORDINANCE NO. 25-901

Q. ID 25-1184 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract extension between the City of Denton and SSP Innovations, LLC, through July 26, 2027, to continue the development of system integrations for Denton Municipal Electric; and declaring an effective date (File 7210 - extending a contract with SSP Innovations, LLC, to July 26, 2027). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1184

R. ID 25-1186 Consider 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 DKJ Concrete Construction, Inc., amending the contract approved by City Council on September 20, 2022, in the not-to-exceed amount of $5,250,000.00; said first amendment to continue to provide utility cut restoration services for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8046 - providing for an additional first amendment expenditure amount not-to-exceed $1,312,500.00, with the total contract amount not-to-exceed $6,562,500.00). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1186

S. ID 25-1188 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Trillium Pumps USA, Inc., for the replacement of five Wemco Recessed Impeller Pumps for the Water Reclamation Department, which is the sole provider of these commodities, in accordance with Texas Local Government Code 252.022, which provides that procurement of

commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8751 - awarded to Trillium Pumps USA, Inc., in the not-to-exceed amount of $175,000.00). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1188

T. ID 25-1189 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8767 for 345kV Autotransformers for Denton Municipal Electric; and providing an effective date (RFP 8767). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1189

U. ID 25-1190 Consider 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 repair and replacement of cylinder heads for the Denton Energy Center; and providing an effective date (File 8860 - awarded to Wartsila North America, Inc., in the not-to-exceed amount of $188,483.04). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1190

V. ID 25-1191 Consider 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 and installation of a replacement 2500kva transformer for the Lake Lewisville Water Treatment Plant; and providing an effective date (File 8861 - awarded to Shermco Industries, Inc., in the not-to-exceed amount of $147,500.00). The Public Utilities Board recommends approval (5 - 0).
ASSIGNED ORDINANCE NO. 25-1191

W. ID 25-1192 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Northstar Construction, LLC, for the construction of a neighborhood park in The Villages of Carmel for the Parks and Recreation Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 7985 - awarded to Northstar Construction, LLC, in the not-to-exceed amount of $2,788,364.70).
ASSIGNED ORDINANCE NO. 25-1192

X. ID 25-1193 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive statements of qualifications under RFQ 8664 for a Pre-Qualified Professional List for Events, League, and Award Shirts for the Parks and Recreation Department; and providing an effective date (RFQ 8664).
ASSIGNED ORDINANCE NO. 25-1193

Y. ID 25-1194 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8736 for Putting and Chipping Green Replacement for the Parks and Recreation Department; and providing an effective date (RFP 8736).
ASSIGNED ORDINANCE NO. 25-1194

Z. ID 25-1195 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Freedom Commercial Services, LLC, for abatement of private property nuisances not abated by property owners for the Community Improvement Services Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8796 - awarded to Freedom Commercial Services, LLC, 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 $687,500.00).
ASSIGNED ORDINANCE NO. 25-1195

AA. ID 25-1196 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Questcare Medical Services, PLLC, for the performance of medical direction services for the Denton Fire Department; providing for the expenditure of funds therefor; and providing an effective date (File 8799 - awarded to Questcare Medical Services, PLLC, 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).
ASSIGNED ORDINANCE NO. 25-1196

AB. ID 25-1198 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Johnston Technical Services, Inc., through the Department of Information Resources (DIR) Cooperative Purchasing Network Contract Nos. DIR-CPO-4792 and DIR-CPO-5385, for the purchase of Microwave Radio Network Equipment, Accessories, and Services for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8849 - awarded to Johnston Technical Services, Inc., in the five (5) year not-to-exceed amount of $1,625,000.00).
ASSIGNED ORDINANCE NO. 25-1198

AC. ID 25-1199 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Carahsoft Technology Corporation, through the Department of Information Resources (DIR) Cooperative Contract Nos. DIR-CPO-5687 and DIR-CPO-5683, and through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 220105, for the purchase of various application licenses, software subscriptions, and Software as a Service for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8854 - awarded to Carahsoft Technology Corporation, in the five (5) year not-to-exceed amount of $3,266,000.00).
ASSIGNED ORDINANCE NO. 25-1199

AD. ID 25-1200 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with The Pioneer Manufacturing Company dba Pioneer Athletics, through the Buy Board Cooperative Purchasing Network Contract No. 766-25, for the procurement of athletic field marking paint for the Warehouse; providing for the expenditure of funds therefor; and providing an effective date (File 8874 - awarded to The Pioneer Manufacturing Company dba Pioneer Athletics, in the five (5) year not-to-exceed amount of $300,000.00).
ASSIGNED ORDINANCE NO. 25-1200

AE. ID 25-1205 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8367 for Enterprise Asset Management (EAM) Solution for the Technology Services Department; and providing an effective date (RFP 8367).
ASSIGNED ORDINANCE NO. 25-1205

AF. ID 25-1206 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8504 for Enterprise Land Management software for the Technology Services Department; and providing an effective date (RFP 8504).
ASSIGNED ORDINANCE NO. 25-1206

AG. ID 25-1207 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8538 for CAD RMS Replacement for the Technology Services Department; and providing an effective date (RFP 8538).
ASSIGNED ORDINANCE NO. 25-1207

AH. ID 25-1209 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Robertson's Outdoor Cleaning Solutions, LLC dba Power Wash Plus, for private property graffiti abatement services for the Community Improvement Department; providing for the expenditure of funds therefor; and providing an effective date (IFB 8844 - awarded to Robertson's Outdoor Cleaning Solutions, LLC dba Power Wash Plus, for four (4) years, with the option for one (1) additional one (1) year extension, in the total five (5) year not-to-exceed amount of $165,000.00).
ASSIGNED ORDINANCE NO. 25-1209

AI. ID 25-1216 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Pepper Psychological Services, PLLC, for psychological testing services for the Police and Fire Departments; providing for the expenditure of funds therefor; and providing an effective date (File 8871 - awarded to Pepper Psychological Services, PLLC, 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 $70,000.00).
ASSIGNED ORDINANCE NO. 25-1216

AJ. ID 25-1226 Consider adoption of an ordinance of the City of Denton approving a Settlement Agreement and Release of Claims and Pole Attachment License Agreement between Frontier Southwest, Inc. and the City of Denton, and directing the City Manager and the City's attorneys to effectuate as necessary and appropriate the terms of a Settlement Agreement and Release to effectuate this approval; providing for the expenditure of funds; and declaring an effective date.
ASSIGNED ORDINANCE NO. 25-1226

AK. ID 25-1265 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a Fourth Amendment to an engagement between the City of Denton and King & Spalding, LLP, amending the engagement approved

by the City Attorney on March 17, 2022, in the not-to-exceed amount of $49,500.00; amended by City Manager and City Council; said Fourth Amendment to provide additional legal services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 7560 - providing for an additional Fourth Amendment expenditure amount not-to-exceed $200,000.00, with the total contract amount not-to-exceed $449,000.00).
ASSIGNED ORDINANCE NO. 25-1265

AL. ID 25-1318 Consider approval of a resolution of the City of Denton, Texas calling a public hearing of the City Council on land use assumptions, water and wastewater capital improvements plan, and a proposed amendment to impact fees related to possible adoption of amended water and wastewater impact fees in accordance with Chapter 395 of the Texas Local Government Code; acknowledging the posted notice of the public hearing and requiring additional notice of the public hearing as set forth in the body of this resolution; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1318

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

H. ID 25-1251 Consider a nomination/appointment to the Denton Police Department Chief of Police Advisory Board.

The item was presented, and discussion followed.

Citizen comments received are noted on Exhibit A.

Following discussion, Council Member Beck moved to adopt the item as presented. Motion seconded by Council Member McGee.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

5. PUBLIC HEARINGS

A. Z25-0007a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a change in the zoning district and use classification from Residential 2 (R-2) District to a Mixed-Use Neighborhood (MN) District on approximately 1.09 acres of land generally located on the north side of West University Drive between Willow Lane and Cottonwood Lane in the City of Denton, Denton County, Texas; adopting

an amendment to the City's official zoning map; providing for a penalty in the maximum amount of $2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted 6-0 to recommend approval of the request. Motion for approval by Commissioner Pruett and second by Commissioner McDuff. (Z25-0007a, Kalyans, Julie Wyatt) THIS ITEM HAS BEEN POSTPONED UNTIL THE AUGUST 19, 2025, CITY COUNCIL MEETING

There were no online registrations or call-ins on the item.

The public hearing was opened.

The item was not presented, nor was discussion held as the item was postponed to August 19, 2025.

The public hearing remained open.

B. S25-0002a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas regarding a request for a Specific Use Permit to allow for a Multi-family Residential Use on approximately 4.115 acres of land, generally located on the east side of Fallmeadow Street, fifteen feet east of the northern intersection of Gardenview Circle and Fallmeadow Street, in the City of Denton, Denton County, Texas; adopting an amendment to the City's Official Zoning Map; providing for a penalty in the maximum amount of $2,000.00 for violations thereof; providing for severability; and establishing an effective date. The Planning and Zoning Commission voted [6-0] to recommend approval of the request. Motion for approval by Commissioner Riggs and second by Commissioner McDuff. (S25-0002a, Palladium Denton West, Sean Jacobson)

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

The public hearing was opened, and citizen comments received are noted on Exhibit A.

With no other callers on queue, the public hearing was closed.

Following discussion, Council Member McGee moved to adopt the item as presented. Motion seconded by Council Member Beck.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

ASSIGNED ORDINANCE NO. S25-0002a

C. PDA25-0003b Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas regarding a Planned Development Amendment to establish special sign standards for approximately 4.291 acres out of Planned Development 139, generally located on the southeast corner of Vintage Boulevard and I-35W, in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of $2,000.00 for violations thereof; providing savings and severability clauses and an effective date. The Planning and Zoning Commission voted (5-0-1) to recommend approval of the request. Motion for approval by Commissioner Riggs and second by Commissioner Padron. (PDA25-0003b, Gateway of Denton Signs, Mia Hines)

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

The public hearing was opened and with no callers in the queue, the public hearing was closed.

Following discussion, Council Member McGee moved to adopt the item as presented. Motion seconded by Council Member Byrd.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

ASSIGNED ORDINANCE NO. PDA25-0003b

6. ITEMS FOR INDIVIDUAL CONSIDERATION

A. ID 25-1037 Consider adoption of an ordinance of the City of Denton considering all matters incident and related to the issuance, sale and delivery of up to $142,565,000 in principal amount of "City of Denton General Obligation refunding and improvement bonds, Series 2025"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date. The Public Utilities Board recommends approval (5-0).

Items 6.A and 6.B were collectively read into the record, presented, and discussed, but voted on individually.

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

No citizen comments were received.

Following discussion, Council Member Holland moved to adopt the item as presented. Motion seconded by Council Member McGee.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

ASSIGNED ORDINANCE NO. 25-1037

B. ID 25-1038 Consider adoption of an ordinance of the City of Denton considering all matters incident and related to the issuance, sale and delivery of up to $254,050,000 in principal amount of "City of Denton Certificates of Obligation, Series 2025"; authorizing the issuance of the certificates; delegating the authority to certain city officials to execute certain documents relating to the sale of the certificates; approving and authorizing instruments and procedures relating to said certificates; enacting other provisions relating to the subject; and providing an effective date. The Public Utilities Board recommends approval (5-0).

There were no online registrations or call-ins on the item.

No citizen comments were received.

Following discussion, Council Member Holland moved to adopt the item as presented. Motion seconded by Council Member McGee.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED ORDINANCE NO. 25-1038

C. ID 25-1117 Consider approval of a resolution to appoint a member to the Board of Directors of the Texas Municipal Power Agency, a Texas Joint Powers Agency, to represent the City of Denton, a Texas Home-Rule Municipal Corporation; and declaring an effective date.

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

No citizen comments were received.

Following discussion, Mayor Hudspeth moved to adopt the item as presented. Motion seconded by Council Member Jester.

AYES (5): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Holland, Jester, and McGee

NAYS (2): Council Members Beck and Byrd

Motion carried.

ASSIGNED RESOLUTION NO. 25-1117

D. ID 25-914 Consider adoption of an ordinance of the City of Denton approving an economic development agreement under Chapter 380 of the Local Government Code to promote economic development and to stimulate business activity and economic growth of the City of Denton, between the City of Denton and United States Cold Storage, LP, regarding the expansion of operations and increase in the number of jobs in the City of Denton; authorizing the expenditure of funds therefor in an amount not-to-exceed $1,067,871; and providing an effective date. The Economic Development Partnership Board recommends approval (11-0-1).

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

No citizen comments were received.

Following discussion, Council Member McGee moved to adopt the item as presented. Motion seconded by Council Member Holland.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED ORDINANCE NO. 25-914

E. ID 25-1125 Consider adoption of an ordinance of the City of Denton approving an economic development agreement under Chapter 380 of the Local Government Code to promote economic development and to stimulate business activity and economic growth of the City of Denton between the City of Denton and PR Gypsum, LLC, regarding the expansion of operations and increase in the number of jobs in the City of Denton; authorizing the expenditure of funds therefore in an amount not-to-exceed $236,857; and providing an effective date. The Economic Development Partnership Board recommends approval (9-0).

There were no online registrations or call-ins on the item.

The item was presented, and discussion followed.

No citizen comments were received.

Following discussion, Council Member McGee moved to adopt the item as presented. Motion seconded by Council Member Holland.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED ORDINANCE NO. 25-1125

F. ID 25-1233 Consider approval of a resolution of the City of Denton appointing three members to the Community Partnership Committee.

Items F, G and H were collectively read into the record, presented, and discussed, but voted on individually.

There were no online registrations or call-ins on the items.

The item was presented, and discussion followed.

No citizen comments were received.

Following discussion, Mayor Hudspeth moved to appoint the nominees to the Community Partnership Committee as noted on Exhibit B. Motion seconded by Council Member Beck.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED RESOLUTION NO. 25-1233

G. ID 25-1234 Consider approval of a resolution of the City of Denton appointing three members to the Development Code Review Committee.

There were no online registrations or call-ins on the item.

No citizen comments were received.

Following discussion, Mayor Hudspeth moved to appoint the nominees to the Development Code Review Committee as noted on Exhibit B. Motion seconded by Council Member Beck.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED RESOLUTION NO. 25-1234

H. ID 25-1235 Consider approval of a resolution of the City of Denton appointing two members to the Economic Development Partnership Board and the Tax Increment Reinvestment Zone Number Two Board.

There were no online registrations or call-ins on the item.

No citizen comments were received.

Following discussion, Mayor Hudspeth moved to appoint the nominees to the Economic Development Partnership Board and the Tax Increment Reinvestment Zone Number Two Board as noted on Exhibit B. Motion seconded by Council Member McGee.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

ASSIGNED RESOLUTION NO. 25-1235

7. CONCLUDING ITEMS

Council Members expressed items of interest.

With no further business, the meeting was adjourned at 8:58 p.m.

GERARD HUDSPETH	LAUREN THODEN
MAYOR	CITY SECRETARY
CITY OF DENTON, TEXAS	CITY OF DENTON, TEXAS

MINUTES APPROVED ON: _____

July 15, 2025 City Council Special Called Meeting - EXHIBIT A
Speaker Commentaries/Registrations
Online, Email, Phone

Name	Last	Address	City	Agenda Item	Position	Method	Comments
Mary	Anderson	1924 West Oak	Denton, TX	3.C		Open Mic	Did not speak, but submitted white card in support of Open Mic speaker, Danna Zoltner
Vince	Handler	7409 Brushy Meadow Trl	Aubrey, TX			Open Mic	
Erica	Garland	913 Euston St.	Denton, TX			Open Mic	
Nick	Stevens	417 Amarillo St.	Denton, TX	4.H	Support		
Maxwell	Fisher	2502 Grandview Dr.	Richardson, TX	5.B	Support		Applicant
Wayne	Burgdorf	3000 Race St.	Ft. Worth, TX	5.B	Support		
Pam	Spooner	513 Chateau Ct.	Denton, TX	5.B	Against		

EXHIBIT B - BOARDS & COMMISSIONS - APPOINTEES - July 15, 2025

AGENDA ITEM	BOARD/COMMITTEE/COMMISSION	COUNCIL PLACE	NOMINATED BY CCM	APPOINTED	PRESENT TERM	NEW TERM	STATUS; SPECIFIC REQUIREMENT/ QUALIFICATION
4.B	Committee on the Environment		Mayor	Brian Beck		1 year term (appointed after each election cycle)	City Council Member
4.B	Committee on the Environment		Mayor	Joe Holland		1 year term (appointed after each election cycle)	City Council Member
4.B	Committee on the Environment		Mayor	Brandon Chase McGee		1 year term (appointed after each election cycle)	City Council Member
4.C	Tax Increment Reinvestment Zone 1 Board		N/A	Brian Beck		9/1/2024 -8/31/2026	City Council Member
4.C	Tax Increment Reinvestment Zone 1 Board		N/A	Joe Holland		9/1/2025 -8/31/2027	City Council Member
4.D	Dallas Regional Mobility Coalition - Alternate		Mayor	Jill Jester		Effective 7/15/2025 (no expiration)	City Council Member
4.E	North Texas Commission - Member		N/A	Gerard Hudspeth		Oct. 2025 to Sept. 2026	Mayor
4.E	North Texas Commission - Proxy		Mayor	Sara Hensley		Oct. 2025 to Sept. 2026	City Official
4.F	Community Services Advisory Committee	2	Beck	Kamga Siewe		Unexpired term 9/1/2023 to 8/31/2025; and a 2nd term 9/1/2025 to 8/31/2027	New
4.G	Bond Oversight Committee	ALL	Rumohr	Brand Richter	N/A	Unexpired term ending 12/31/2025	New
4.H	Denton PD Chief of Police Advisory Board	2	Beck	Donald Poer	N/A	Term 9/1/2025 - 8/31/2028	New
6.C	Texas Municipal Power Agency			Jesse Davis		A two year term 2025 - 2027	Denton resident
6.F	Community Partnership Committee		N/A	Vicki Byrd		Effective 7/15/2025	Both a Discover Denton Advisory Board and City Council Member
6.F	Community Partnership Committee		N/A	Joe Holland		Effective 7/15/2025	Both a Discover Denton Advisory Board and City Council Member
6.F	Community Partnership Committee		N/A	Brian Beck		Effective 7/15/2025	City Council Member
6.G	Development Code Review Committee		N/A	Brian Beck	Ends 8/31/2025	9/1/2025 - 8/31/2027	City Council Member
6.G	Development Code Review Committee		N/A	Suzi Rumohr		9/1/2025 - 8/31/2027	City Council Member
6.G	Development Code Review Committee		N/A	Jill Jester		9/1/2025 - 8/31/2027	City Council Member
6.H	Economic Development Partnership Board		N/A	Vicki Byrd		9/1/2025 - 8/31/2027	City Council Member
6.H	Economic Development Partnership Board		N/A	Jill Jester		9/1/2025 - 8/31/2026	City Council Member
6.H	Tax Increment Reinvestment Zone 2 Board		N/A	Vicki Byrd		9/1/2025 - 8/31/2027	City Council Member
6.H	Tax Increment Reinvestment Zone 2 Board		N/A	Jill Jester		9/1/2025 - 8/31/2026	City Council Member

File #: ID 25-064, **Version:** 1

AGENDA CAPTION

Consider approval of the minutes of the July 22, 2025 Special Called Meeting.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider approval of the minutes of the July 22, 2025 Special Called Meeting.

BACKGROUND

The minutes draft is provided for review and formal approval by the City Council.

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – July 22, 2025 Minutes

Respectfully submitted:

Lauren Thoden
City Secretary

CITY OF DENTON CITY COUNCIL MINUTES
July 22, 2025

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, July 22, 2025, at 2:01 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Suzi Rumohr and Council Members Brian Beck, Vicki Byrd, Joe Holland and Jill Jester. Council Member Brandon Chase McGee arrived at 2:52 p.m.

ABSENT: None

Also present were City Manager Sara Hensley and City Attorney Mack Reinwand.

The posted agenda noted the registration process for in-person and public participation at this meeting. While citizen commentary received via the online registration process was not read, each member for the City Council received each online commentary as it was submitted. In-person and online comments received are reflected in the exhibit to the minutes of this meeting.

WORK SESSION

1. Citizen Comments on Consent Agenda Items

Citizen comments received are noted on Exhibit A

2. Requests for clarification of agenda items listed on this agenda for public hearing and individual consideration.

• Clarification:
o None

• Pulled For Individual Consideration:
o None

3. Work Session Reports

A. ID 24-2617 Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 preliminary Capital Improvement Program. [Estimated Presentation/ Discussion time: 60 minutes]

The item was presented, and discussion followed.

Council requested:

- staff to provide a breakdown of the projects that are recommended to be delayed, and the cost implication of the delays; and
- staff to follow up on numbers and growth percentage used in the 2023 bond rate with the numbers provided in the presentation slide on the 2026 preliminary debt rate.

B. ID 25-1272 Receive a report, hold a discussion, and give staff direction on the adoption of the 2024 International Energy Conservation Code appendices for EV Ready and Solar Ready for all new construction. [Estimated Presentation/Discussion Time: 30 minutes]

The item was presented, and discussion followed.

Council requested staff to provide the drop-charges for old and new construction for installation of 110V and 220V type plugs in a garage.

Council Members Byrd, Jester and Holland supported staff recommendations to take no action to change the code. Council Member McGee supported the Health and Building Standards Commission (HABSCO) providing recommended incentives. Mayor Pro Tem Rumohr supported HABSCO providing examples of incentives versus no action. Council Member Beck asked to hear from the HABSCO Chair before giving his recommendation.

The Mayor denied the request.

Council Member Beck appealed.

Mayor Hudspeth denied the appeal.

Council Member McGee made a point of information regarding presentation of material to City Council upon request of Council in the past.

City Attorney Reinwand advised the Mayor, as Chair, has discretion to run the meeting and how Council may act to override the Chair's ruling.

Point of inquiry made by Council Member McGee regarding the process for Council to override the Chair's decision.

The City Attorney Reinwand provided clarification.

Council Member Beck gave direction for staff to take action to implement code changes as mandatory.

Mayor Hudspeth gave direction for staff to take no action resulting in a Council majority direction supporting staff's recommendation to make no changes to the code.
Council majority also (Mayor Hudspeth, Mayor Pro Tem Rumohr, and Council Members Beck and McGee) supported staff requesting HABSCO review the item again and provide findings that staff would present to Council at a future Work Session.

Point of Information made by Council Member Holland.

Clarification provided by Mayor Hudspeth.

HABSCO Chair Nick Stevens provided his comments to Council.

City Manager clarified staff will share this Work Session with HABSCO who may choose to make other recommendations with the understanding that this is not a direction of Council. Any incentives that may be recommended would be presented to the Sustainability Framework Advisory Committee.

The work session ended at 3:30 p.m.

CLOSED MEETING

1. The City Council convened into a Closed Meeting at 3:30 p.m. consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law, as follows:

A. ID 25-1163 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074. Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Manager.
DELIBERATED

B. ID 25-1166 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074. Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Attorney.
DELIBERATED

C. ID 25-1264 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with the City's attorneys regarding potential resolution to a Measured Mile claim with McCarthy Building Companies Inc. for construction phase services for Southeast Denton Package B (SED-B) Improvements for the Capital Projects Department; where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position. This agenda item is related to Consent Agenda item ID 25-1255 and will be a placeholder if Council members have questions requiring confidential discussion as allowed by law.
NOT DELIBERATED

The closed meeting started at 3:30 p.m. and ended at 7:48p.m. No votes or actions were taken during the closed meeting.

SPECIAL CALLED MEETING

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Special Called Meeting on Tuesday, July 22, 2025, at 7:48 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Gerard Hudspeth, Vicki Byrd, Joe Holland, Jill Jester, Brandon Chase McGee, Brian Beck, and Suzi Rumohr.

ABSENT: None.

Also present were City Manager Sara Hensley and Deputy City Attorney Susan Keller.

The posted agenda noted the registration process for in-person and public participation at this meeting. While citizen commentary received via the online registration process was not read, each member for the City Council received each online commentary as it was submitted. In-person and online comments received are reflected in the exhibit to the minutes of this meeting..

4. CONSENT AGENDA

During the Work Session held earlier in the day, no items were pulled for Individual Consideration.

Council Member Jill Jester moved to adopt the Consent Agenda as presented. Motion seconded by Council Member Suzi Rumohr.

Motion carried unanimously.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Meltzer and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

A. ID 25-1300 Consider a nomination/appointment to the City of Denton Mobility Committee.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

B. ID 25-1298 Consider a nomination/reappointment to the City of Denton Library Board.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

C. ID 25-1301 Consider a nomination/reappointment to the City of Denton Library Board.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

D. ID 25-1329 Consider a nomination/reappointment to the City of Denton Health and Building Standards Commission.
APPROVED

APPOINTMENT LISTED ON EXHIBIT B

E. ID 25-1307 Consider approval of a resolution of the City of Denton excusing the July 7, 2025, meeting absence of a Parks, Recreation and Beautification Board Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1307

F. ID 25-1308 Consider approval of a resolution of the City of Denton excusing the July 11, 2025, meeting absence of a Community Services Advisory Committee Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1308

G. ID 25-1309 Consider approval of a resolution of the City of Denton excusing the July 14, 2025, meeting absence of a Public Utilities Board Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1309

H. ID 25-1332 Consider approval of a resolution of the City of Denton excusing the July 14, 2025, meeting absence of a Board of Ethics Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1332

I. ID 25-1333 Consider approval of a resolution of the City of Denton excusing the July 14, 2025, meeting absence of a Board of Ethics Member; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1333

J. ID 25-1129 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute a service agreement related to public, education, and government (PEG) grants with the University of North Texas for its NTTV PEG channel; authorizing the expenditure of funds thereof; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1129

K. ID 25-1130 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute a service agreement related to public, education, and government (PEG) grants with the University of North Texas for its DCTV PEG Channel; authorizing the expenditure of funds thereof; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1130

L. ID 25-1116 Consider approval of a resolution of the City Council of the City of Denton designating individual employees as authorized representatives of the City of Denton as a participant in the Texas local government investment pool ("TexPool"); designating an authorized representative with primary responsibility for transactions and other duties under the agreement; authorizing the Mayor to execute a resolution amending the City of Denton authorized representatives; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1116

M. ID 25-824 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Parkhill, Smith & Cooper, Inc., for the Supervisory Control and Data Acquisition System for the Solid Waste Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8525-003 - Professional Services Agreement for professional services awarded to Parkhill, Smith & Cooper, Inc., in the not-to-exceed amount of $98,300.00). The Public Utilities Board recommends approval (6 - 0).
ASSIGNED ORDINANCE NO. 25-824

N. ID 24-1863 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFQ 8551 for the Denton Renewable Resource Plan (DRRP) Whitepaper; and providing an effective date (RFQ 8551). The Public Utilities Board recommends approval (6 - 0).
ASSIGNED ORDINANCE NO. 24-1863

O. ID 25-1223 Consider 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 Schneider Electric Smart Grid Solutions, LLC, amending the contract approved by City Council on December 13, 2022, in the not-to-exceed amount of $683,277.00; said first amendment to provide for the configuration and implementation of ArcFM Designer XI (DXI) for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 7817 - providing for an additional first amendment expenditure amount not-to-exceed $129,124.00, with the total contract amount not-to-exceed $812,401.00). The Public Utilities Board recommends approval (6 - 0).
ASSIGNED ORDINANCE NO. 25-1223

P. ID 25-1224 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with CyberTech Systems and Software Inc., for a fully managed Amazon Web Services (AWS) cloud environment for the Denton Municipal Electric Technology Operations Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8778 - awarded to CyberTech Systems and Software Inc., in the 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 $2,347,092.00). The Public Utilities Board recommends approval (6 - 0).
ASSIGNED ORDINANCE NO. 25-1224

Q. ID 25-1240 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8758 Mental Health and Wellbeing Program for the Human Resources Department; and providing an effective date (RFP 8758).
ASSIGNED ORDINANCE NO. 25-1240

R. ID 25-1256 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Ferguson Enterprises, LLC, as primary vendor for Sections A-P and R, Core & Main LP as the secondary vendor for Sections A-N and R, and Metron Farnier, LLC, as primary vendor for Section Q, for the purchase of water and wastewater inventory parts to be stocked in the City of Denton Warehouse; providing for the expenditure of funds therefor; and providing an effective date (RFP 8788 - awarded to Ferguson Enterprises, LLC, Core & Main LP, and Metron Farnier, LLC, 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 $12,000,000.00).
ASSIGNED ORDINANCE NO. 25-1256

S. ID 25-1249 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute this Sixth Amendment to a Tower/Ground Lease Agreement with New Cingular Wireless PCS, LLC, successor in interest to AT&T Mobility Texas, LLC and to execute additional amendments as needed and within the limitations set out herein; providing for a severability clause; and providing for an effective date.
ASSIGNED ORDINANCE NO. 25-1249

T. ID 25-1266 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager to execute an agreement by and between the City of Denton, Texas, and Hunter

Ranch Improvement District No. 1 for installation and maintenance of enhanced street signs and poles within Hunter Ranch Improvement District No. 1; and providing an effective date.
ASSIGNED ORDINANCE NO. 25-1266

U. ID 25-1255 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a settlement agreement with McCarthy Building Companies Inc. to resolve a dispute regarding Measured Mile Claim providing for final payment and closeout for construction phase services for Southeast Denton Package B (SED-B) Improvements for the Capital Projects Department.
ASSIGNED ORDINANCE NO. 25-1255

V. ID 25-193 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to sign and submit to the Department of Housing and Urban Development a 2025 Action Plan for Housing and Community Development with appropriate certifications, as authorized and required by the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, as amended; authorizing the Director of Community Services, or designee, to sign releases of liens and subordination agreements upon certain conditions; and providing for an effective date.
ASSIGNED ORDINANCE NO. 25-193

W. ID 25-1355 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a third amendment to an engagement between the City of Denton and Lloyd Gosselink Rochelle & Townsend, P.C., amending the engagement approved by the City Attorney on March 28, 2024, in the not-to-exceed amount of $43,811.00; said third amendment to provide additional legal services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 8554 - providing for an additional third amendment expenditure amount not-to-exceed $43,811.00, with the total contract amount not-to-exceed $243,811.00).
ASSIGNED ORDINANCE NO. 25-1355

X. ID 25-1362 Consider approval of a resolution of the City of Denton suspending the July 31, 2025 effective date of Oncor Electric Delivery Company's requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of cities served by Oncor to hire legal and consulting services and to negotiate with the company and direct any necessary litigation and appeals; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and legal counsel for the Steering Committee.
ASSIGNED ORDINANCE NO. 25-1362

5. ITEMS FOR INDIVIDUAL CONSIDERATION

A. ID 25-1174 Consider approval of a resolution of the City Council of the City of Denton for the appointment of one member to the Board of Managers of the Denco Area 9-1-1 District for a two-year term beginning on October 1, 2025, and ending on September 30, 2027; and providing an effective date.
ASSIGNED RESOLUTION NO. 25-1174

There were no online registrations or call-ins on the item.

The item was presented and discussion followed.

Citizen comments are noted on Exhibit A.

Following discussion, Council Member Beck moved to adopt the resolution nominating Steve Southwell. Motion seconded by Council Member Byrd.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

B. ID 25-1197 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Genuine Parts Company dba NAPA Integrated Business Solutions through the Sourcewell Cooperative Purchasing Network Contract No. 090624-GPC, for the purchase of products and services for the on-site parts facility for the Fleet Services Department; authorizing the expenditure of funds therefor; and providing an effective date (File 8806 - awarded to Genuine Parts Company dba NAPA Integrated Business Solutions, 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 $35,112,000.00).
ASSIGNED RESOLUTION NO. 25-1197

There were no online registrations or call-ins on the item.

The item was presented and discussion followed.

No citizen comments were received on the item.

Following discussion, Council Member Jester moved to adopt the item as presented. Motion seconded by Council Member Holland.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

C. ID 25-1257 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Construction Manager at Risk contract with Core Construction Services of Texas, Inc., for construction phase services for the Fire Stations 5 & 6 Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8559 - awarded to Core

Construction Services of Texas, Inc., including the Guaranteed Maximum Price in the not-to-exceed amount of $23,730,000.00).
ASSIGNED RESOLUTION NO. 25-1257

There were no online registrations or call-ins on the item.

The item was presented and discussion followed.

No citizen comments were received.

Following discussion, Council Member Jester moved to adopt the item as presented. Motion seconded by Council Member Rumohr.

AYES (7): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (0): None

Motion carried unanimously.

6. CONCLUDING ITEMS

Council Members expressed items of interest.

With no further business, the meeting was adjourned at 8:08 p.m.

_____	_____
GERARD HUDSPETH	LAUREN THODEN
MAYOR	CITY SECRETARY
CITY OF DENTON	CITY OF DENTON

MINUTES APPROVED ON: _____

July 22, 2025 City Council Special Called Meeting - EXHIBIT A
Speaker Commentaries/Registrations
Online, Email, Phone

Name	Last	Address	City	Agenda Item	Item #	Position	Method	Comments
Deb	Armintor	2003 Mistywood	Denton	Consent	25-193	Support	In person	
Steve	Southwell	995 Downey Dr	Lewisville	IC	25-1174	Support	In person	

EXHIBIT B - BOARDS & COMMISSIONS - APPOINTEES
July 22, 2025

BOARD/ COMMITTEE/ COMMISSION	COUNCIL PLACE	NOMINATED BY CCM	APPOINTED	PRESENT TERM	NEW TERM	STATUS & QUALIFICATION OR PREFERENCE, IF ANY
Mobility Committee	ALL	Suzi Rumohr	Jane Zygiel	N/A	Unexpired Term (January 9, 2024 through August 31, 2026)	NEW
Library Board	2	Brian Beck	Kerol Harrod	Term 1 (September 1, 2023 through August 31, 2025)	Term 2 (September 1, 2025 through August 31, 2027)	Reappointed
Library Board	5	Brandon Chase McGee	Patricia Peters	Term 1 (September 1, 2023 through August 31, 2025)	Term 2 (September 1, 2025 through August 31, 2027)	Reappointed
Health and Building Standards Commission	1	Vicki Byrd	Eric Dafoe	Term 1 (July 1, 2023 through June 30, 2025)	Term 2 (July 1, 2025 through June 30, 2027)	Reappointed

File #: ID 25-087, **Version:** 1

AGENDA CAPTION

Consider a nomination/appointment to the City of Denton Animal Shelter Advisory Committee.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider a nomination to the City of Denton Animal Shelter Advisory Committee.

BACKGROUND

This item provides for the appointment or reappointment of a member to a City board/ commission/committee whose term ended resulting in the existing member holding over from a previous term, or for appointment to an existing vacancy on the board resulting from a resignation.

Only nominees who have been fully vetted and qualified are presented for appointment.

The nomination of Erica McComas was received from Mayor Pro Tem Rumohr (District 3) for a vacancy on the Animal Shelter Advisory Committee. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2027.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary

File #: ID 25-1328, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City Council of the City of Denton confirming the City Manager's reappointment of Darhyl Ramsey to the Civil Service Commission to serve for the term beginning September 1, 2025, and ending on August 31, 2028; and providing an effective date.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: **Human Resources**

CM/DCM/ACM: **Sara Hensley**

DATE: **August 19, 2025**

SUBJECT

Consider approval of a resolution of the City Council of the City of Denton confirming the City Manager's reappointment of Darhyl Ramsey to the Civil Service Commission to serve for the term beginning September 1, 2025, and ending on August 31, 2028; and providing an effective date.

BACKGROUND

Police and Fire personnel of the City of Denton are governed by Chapter 143 of the Texas Local Government Code and have been since the late 1940s. With the adoption of Chapter 143, the City is required to implement a Civil Service Commission.

Chapter 143.006(b) of the Texas Local Government Code states, "The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality. Members serve staggered three-year terms with the term of one member expiring each year."

Per Chapter 143.006(c), a person appointed to the Commission must:

1) be of good moral character;
2) be a United States citizen;
3) be a resident of the municipality who has resided in the municipality for more than three years;
4) be over 25 years of age; and
5) not have held a public office within the preceding three years.

The current Commissioners are Darhyl Ramsey, John Baines, and Dianne Baker. Commissioner Ramsey has served on the Commission since August of 2004, Commissioner Baines has served since August of 2017, and Commissioner Baker has served since September of 2024. The City Manager has reappointed Commissioner Ramsey based on his experience. Pursuant to Chapter 143, the City Manager is requesting that Council confirm Commissioner Ramsey's reappointment for a term to expire on August 31, 2028.

RECOMMENDATION

The City Manager has elected to reappoint Darhyl Ramsey to the Civil Service Commission and is recommending that Council confirms this reappointment. A brief biography has been attached.

EXHIBITS

1. Agenda Information Sheet
2. Darhyl Ramsey's Vita
3. Resolution

Respectfully submitted:
Megan Gilbreath
Director of Human Resources, Civil Service Director

Darhyl S. Ramsey

Dr. Darhyl Ramsey is a professor emeritus of music education at the University of North Texas. He holds degrees in music education from Carson-Newman College (BM) and the University of Iowa (MA, Ph.D.).

He retired after 32 years at the University of North Texas but continues to serve in an adjunct capacity. Prior to coming to Denton, he taught at UT-San Antonio and the Pennsylvania State University. He was a band director in the public schools in Virginia.

He is an elder at St. Andrew Presbyterian church where he is a member of several committees.

Dr. Ramsey is a member of the Denton Lake Cities Rotary Club. He is a past president and past Community Service Chair. He now serves as the treasurer for the organization.

He is a 2006 graduate of Leadership Denton. He served as the chair for the Interfaith Ministries board from 2013 – 2021.

Home Contact Information

[redacted]
Darhyl.ramsey@cityofdenton.com

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENTON CONFIRMING THE CITY MANAGER'S REAPPOINTMENT OF DARHYL RAMSEY TO THE CIVIL SERVICE COMMISSION TO SERVE FOR THE TERM BEGINNING SEPTEMBER 1, 2025 AND ENDING AUGUST 31, 2028; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 143.006(b) of the Texas Local Government Code states, "The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality."; and

WHEREAS, Chapter 143.006(c), provides that a person appointed to the Commission must:

(1) be of good moral character;
(2) be a United States citizen;
(3) be a resident of the municipality who has resided in the municipality for more than three years;
(4) be over 25 years of age; and
(5) not have held a public office within the preceding three years; and

WHEREAS, after determining that Darhyl Ramsey met the requirements in Chapter 143.006(c), the City Manager reappointed Darhyl Ramsey to serve as a Civil Service Commissioner; and

WHEREAS, the City of Denton City Council deems it in the public's best interest to confirm the City Manager's reappointment of Darhyl Ramsey to the Civil Service Commission to serve for the term beginning September 1, 2025 and ending August 31, 2028.

NOW THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The City Council hereby confirms the City Manager's reappointment of Darhyl Ramsey to the Civil Service Commission to serve for the term beginning September 1, 2025 and ending August 31, 2028.

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

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____

Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Susan Keller Digitally signed by Susan Keller Date: 2025.08.01 09:18:46 -05'00'

File #: ID 25-1405, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Community Services Advisory Committee.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider a nomination to the City of Denton Community Services Advisory Committee.

BACKGROUND

This item provides for the appointment or reappointment of a member to a City board/ commission/committee whose term ended resulting in the existing member holding over from a previous term, or for appointment to an existing vacancy on the board resulting from a resignation.

Only nominees who have been fully vetted and qualified are presented for appointment.

The nomination of Dale Tampke was received from Mayor Pro Tem Rumohr (District 3) for a vacancy on the Community Services Advisory Committee. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2027.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary

File #: ID 25-1406, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Sustainability Framework Advisory Committee.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider a nomination to the City of Denton Sustainability Framework Advisory Committee.

BACKGROUND

This item provides for the appointment or reappointment of a member to a City board/ commission/committee whose term ended resulting in the existing member holding over from a previous term, or for appointment to an existing vacancy on the board resulting from a resignation.

Only nominees who have been fully vetted and qualified are presented for appointment.

The nomination of Adam Briggle was received from Mayor Pro Tem Rumohr (District 3) for a vacancy on the Sustainability Framework Advisory Committee. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2027.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary

File #: ID 25-1407, **Version:** 1

AGENDA CAPTION

Consider a nomination/appointment to the City of Denton Zoning Board of Adjustment.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 5, 2025

SUBJECT

Consider a nomination to the City of Denton Zoning Board of Adjustment.

BACKGROUND

This item provides for the appointment or reappointment of a member to a City board/ commission/committee whose term ended resulting in the existing member holding over from a previous term, or for appointment to an existing vacancy on the board resulting from a resignation.

Only nominees who have been fully vetted and qualified are presented for appointment.

The nomination of C. Scout Register was received from Mayor Pro Tem Rumohr (District 3) for a vacancy on the Zoning Board of Adjustment. The vacancy is for an unexpired term commencing September 1, 2023 and ending August 31, 2025 and a following term commencing September 1, 2025 and ending August 31, 2027.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary

File #: ID 25-740, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton prohibiting parking on the north side of Paisley Street between Mack Drive and Oak Valley between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on School days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Transportation Services Division

DCM: Cassey Ogden

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton prohibiting parking on the north side of Paisley Street between Mack Drive and Oak Valley between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on School days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

BACKGROUND

Staff received a request from residents living on Paisley Street, across from Alexander Elementary School, to consider prohibiting parking along the north side of Paisley Street between Mack Drive and Oak Valley during student drop-off and pick-up times, 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM. After auditing the location and observing the current parking situation, staff determined that on-street parking in this area poses safety concerns for motorists, cyclists, and pedestrians and disturbance for neighbors during student drop-off and pick-up.

RECOMMENDATION

Staff recommend the adoption of the ordinance restricting parking along the north side of Paisley Street between Mack Drive and Oak Valley from 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM (School days only).

PUBLIC OUTREACH

Staff conducted a virtual meeting Via Zoom on June 25, 2025, to receive community feedback. A local resident named Mr. Ken strongly supported the proposal, citing numerous dangerous traffic situations he had personally witnessed. He described multiple safety issues, including limited visibility for drivers, teachers blocking parking areas, children crossing streets unsafely, and frequent close calls with potential accidents.
Another member of the community, Ms. Heather Collard, had a phone conversation the day after the meeting with staff and expressed her concerns over the safety of the children crossing the road. She demonstrated strong support for the proposal.

ESTIMATED SCHEDULE OF PROJECT

No-Parking signs will be installed 30 days after the City Council approves the ordinance. Additionally, the Denton Police Department will begin enforcing the no-parking rules on the designated section of Paisley Street 30 days after the installation of the signs.

FISCAL INFORMATION

Materials for this project will be funded through the Transportation Services via the Traffic Operations general operating budget.

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Location Map
Exhibit 3 – Ordinance

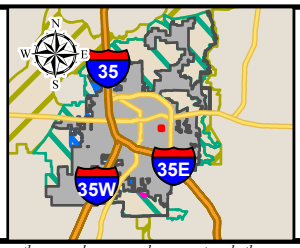
Respectfully submitted:
Farhan Butt
Deputy Director of Transportation Services

Prepared by:
Sahar Esfandyari
Senior Transportation Planner

Paisley St. No-Parking Zone



No Parking Area



0 40 80 160 Feet

CITY OF DENTON
Development Services - GIS
Date: 4/18/2025

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property bou Although every effort was made to ensure the accuracy of this data, no such guarantee is given or implied. Utilization of this map indicates the understanding that there is no guarantee to the accuracy of this data.

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF DENTON PROHIBITING PARKING ON THE NORTH SIDE OF PAISLEY STREET BETWEEN MACK DRIVE AND OAK VALLEY BETWEEN 7:00 AM TO 8:00 AM AND 2:30 PM TO 3:30 PM ON SCHOOL DAYS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED $200 FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE SHALL BE GOVERNED BY CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF DENTON; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, parking of parents' cars on the north side of Paisley Street, across from Alexander Elementary School, causes disturbances for the local residents; and

WHEREAS, crossing the street to pick up children increases traffic during pickup and drop-off times; and

WHEREAS, the presence of parked cars and the need to cross the road raises safety concerns for motorists, pedestrians, and students; and

WHEREAS, the Transportation Services Division reviewed the request for Restricted Areas and concluded that parking restrictions are necessary to enhance safety for pedestrians and cyclists, while also improving traffic flow; and

WHEREAS, City Council may instruct the traffic engineer to designate non-parking areas within the City pursuant to Chapter 18, Article IV, Sec. 18-96(a) of the Denton Code of Ordinances; NOW THEREFORE

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1: The recitations contained in the preamble of this ordinance are hereby incorporated by reference as if fully set out herein.

SECTION 2: As of the effective date of this Ordinance and when signs and/or markings, or any combination thereof, are in place giving notice thereof, no person shall park on the north side of Paisley Street between Mack Drive and Oak Valley between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on school days.

SECTION 3: The provisions of Section 2 prohibiting the parking of vehicles shall apply on the designated portion of the above-named street, except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the direction of a police officer or official traffic control device.

SECTION 4: All provisions of the ordinances of the City of Denton in conflict with the provisions of this ordinance as related to the above parking restriction are hereby repealed, and all other provisions of the ordinances of the City of Denton not in conflict with the provisions of this ordinance, shall remain in full force and effect.

SECTION 5: If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton hereby declares it would have enacted such remaining portions despite any invalidity.

SECTION 6: Save and except as amended hereby, all the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 7: Any person found liable of violating this Ordinance by a court of competent jurisdiction shall be fined a sum not to exceed two hundred dollars ($200). Each day that a provision of this ordinance is violated shall constitute a separate offense. The disposition of parking citations issued pursuant to this Ordinance shall be governed by Article IV, Division 3 titled "Parking Violations Division" of Chapter 18 of the Code of Ordinances.

SECTION 8: This Ordinance, providing for a penalty shall become effective 30 days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinances to be published twice in the Denton Record-Chronicle, the official newspaper in the City of Denton, Texas, within 10 days of the date of its passage.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Hilary McMahon

File #: ID 25-741, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on north and south side of Gardenview between Brook Street and Evers Parkway between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on school days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

AGENDA INFORMATION SHEET

DEPARTMENT: Transportation Services Division

DCM: Cassey Ogden

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on north and south side of Gardenview between Brook Street and Evers Parkway from 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on school days; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

BACKGROUND

Staff received a request from the Principal of Evers Park Elementary School to consider prohibiting parking along the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on the north and south sides of Gardenview between Brook Street and Evers Parkway during student drop-off and pick-up times, 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM. After auditing the location and observing current parking situations, staff determined that on-street parking in this area poses safety concerns for motorists, cyclists, and pedestrians, as well as disturbance for neighbors.

RECOMMENDATION

Staff recommend adoption of the ordinance restricting parking along the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on the north and south sides of Gardenview between Brook Street and Evers Parkway from 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM Monday to Friday (School days only).

PUBLIC OUTREACH

Staff conducted a virtual meeting Via Zoom on June 24, 2025, to receive community feedback. During the meeting, a community member expressed frustration about having to move their cars during restricted hours. Other participant emphasized their expectation of having parking rights on the street.

ESTIMATED SCHEDULE OF PROJECT

No Parking signs will be installed 30 days after the City Council approves the ordinance. Additionally, the Denton Police Department will begin enforcing the no-parking rules on the designated locations 30 days after the installation of the signs.

FISCAL INFORMATION

Materials for this project will be funded through the Transportation Services via the Traffic Operations general operating budget.

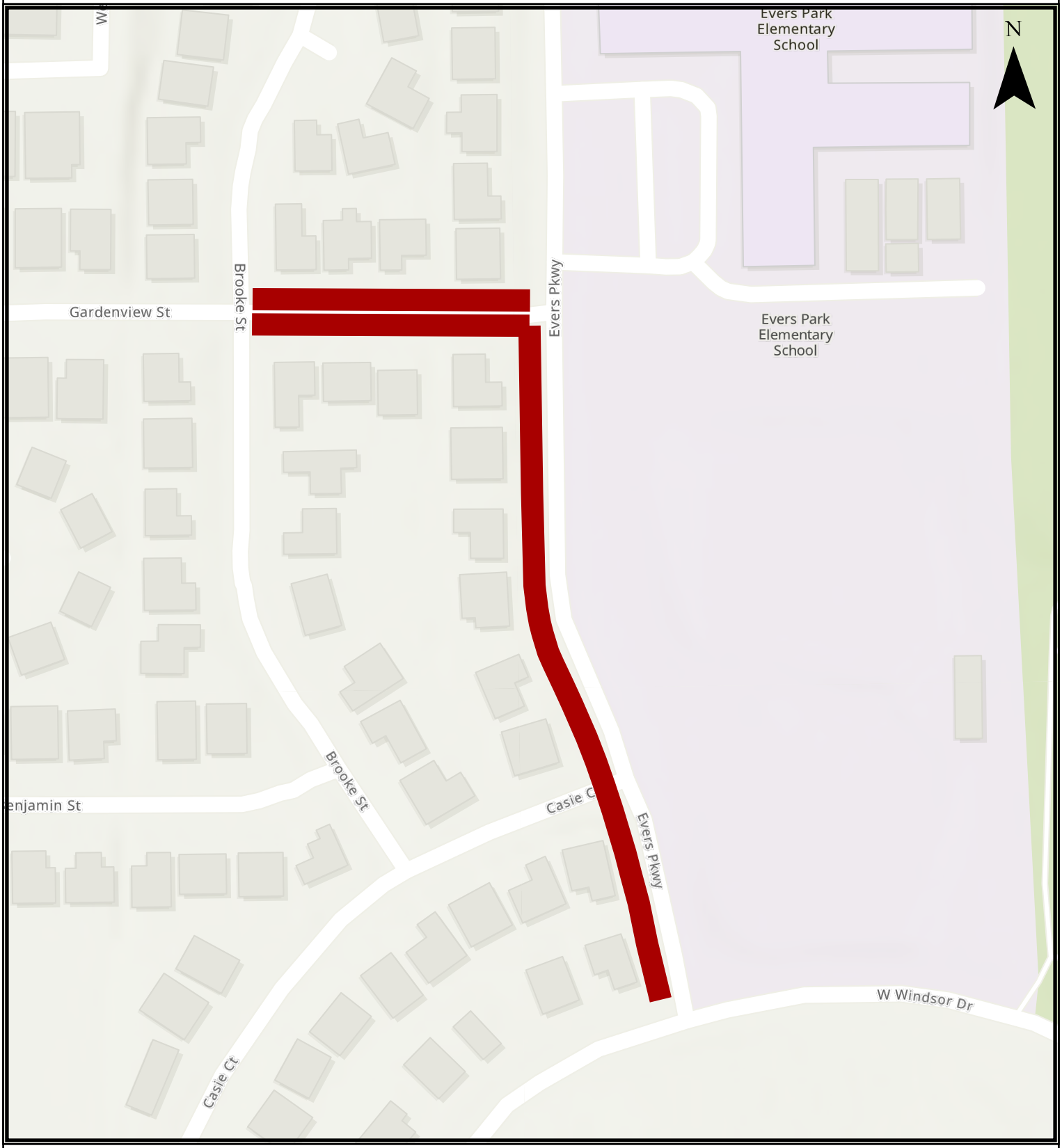
EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Location Map
Exhibit 3 – Ordinance

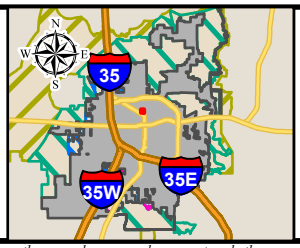
Respectfully submitted:
Farhan Butt
Deputy Director of Transportation Services

Prepared by:
Sahar Esfandyari
Senior Transportation Planner

Gardenview and Evers No-Parking Zones



No Parking Area



0 30 60 120 Feet

CITY OF DENTON
Development Services - GIS
Date: 4/18/2025

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property bou
Although every effort was made to ensure the accuracy of this data, no such guarantee is given or implied. Utilization of this map indicates the understanding that there is no guarantee to the accuracy of this data.

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF DENTON PROHIBITING PARKING ON THE WEST SIDE OF EVERS PARKWAY BETWEEN W WINDSOR DRIVE AND GARDENVIEW STREET, AND ON NORTH AND SOUTH SIDE OF GARDENVIEW BETWEEN BROOK STREET AND EVERS PARKWAY BETWEEN 7:00 AM TO 8:00 AM AND 2:30 PM TO 3:30 PM ON SCHOOL DAYS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED $200 FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE SHALL BE GOVERNED BY CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF DENTON; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, parking of parents' cars on the west side of Evers Parkway, across from Evers Park Elementary School, and on north and south side of Gardenview between Brook Street and Evers Parkway, causes disturbances for the local residents; and

WHEREAS, crossing the street to pick up children increases traffic during pickup and drop-off times; and

WHEREAS, the presence of parked cars and the need to cross the road raises safety concerns for motorists, pedestrians, and students; and

WHEREAS, the Transportation Services Division reviewed the request for Restricted Areas and concluded that parking restrictions are necessary to enhance safety for pedestrians and cyclists, while also improving traffic flow; and

WHEREAS, City Council may instruct the traffic engineer to designate non-parking areas within the City pursuant to Chapter 18, Article IV, Sec. 18-96(a) of the Denton Code of Ordinances; NOW THEREFORE

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1: The recitations contained in the preamble of this ordinance are hereby incorporated by reference as if fully set out herein.

SECTION 2: As of the effective date of this Ordinance and when signs and/or markings, or any combination thereof, are in place giving notice thereof, no person shall park on the west side of Evers Parkway between W Windsor Drive and Gardenview Street, and on the north and south side of Gardenview between Brook Street and Evers Parkway between 7:00 AM to 8:00 AM and 2:30 PM to 3:30 PM on school days.

SECTION 3: The provisions of Section 2 prohibiting the parking of vehicles shall apply on the designated portion of the above-named street, except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the direction of a police officer or official traffic control device.

SECTION 4: All provisions of the ordinances of the City of Denton in conflict with the provisions of this ordinance as related to the above parking restriction are hereby repealed, and all other provisions of the ordinances of the City of Denton not in conflict with the provisions of this ordinance, shall remain in full force and effect.

SECTION 5: If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton hereby declares it would have enacted such remaining portions despite any invalidity.

SECTION 6: Save and except as amended hereby, all the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 7: Any person found liable of violating this Ordinance by a court of competent jurisdiction shall be fined a sum not to exceed two hundred dollars ($200). Each day that a provision of this ordinance is violated shall constitute a separate offense. The disposition of parking citations issued pursuant to this Ordinance shall be governed by Article IV, Division 3 titled "Parking Violations Division" of Chapter 18 of the Code of Ordinances.

SECTION 8: This Ordinance, providing for a penalty shall become effective 30 days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinances to be published twice in the Denton Record-Chronicle, the official newspaper in the City of Denton, Texas, within 10 days of the date of its passage.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Hilary McMahon _____

File #: ID 25-1133, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Cooperation Contract in the form of a Memorandum of Understanding (MOU) between the City of Denton and the Denton Independent School District (DISD), for reimbursement to the City in the estimated amount of $508,392 for compensation and benefits of six Student Resource Officers (SROs) assigned at DISD for the period of July 1, 2025, through June 30, 2026; and providing an effective date.

AGENDA INFORMATION SHEET

DEPARTMENT: **POLICE**

CM/ DCM/ ACM: **Sara Hensley, City Manager**

DATE: **August 5, 2025**

SUBJECT

Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute an Interlocal Cooperation Contract in the form of a Memorandum of Understanding (MOU) between the City of Denton and the Denton Independent School District (DISD), for reimbursement to the City in the estimated amount of $508,392 for compensation and benefits of six Student Resource Officers (SROs) assigned at DISD for the period of July 1, 2025, through June 30, 2026; and providing an effective date.

BACKGROUND

The Student Resource Officer (SRO) Program is a cooperative partnership between the City of Denton and DISD which assigns police officers to designated middle and high schools within city limits. Student Resources Officers work their assigned campus on a full-time basis with the purpose of providing a "student centric" approach towards building a positive relationship between police officers and students.

The MOU is reviewed and approved annually, which outlines the mission, goals and financial aspects of the SRO program. The current MOU expires on June 30, 2025, and provides for nine (9) SROs at DISD middle and high schools, The City receives a reimbursement at the rate of fifty (50) percent for those nine (9) SROs assigned to a campus during the academic year. The Denton Police Department also assigns a Sergeant to the SRO Program, but one hundred (100) percent of the Sergeant's salary and benefits is paid for by the City.

Representatives of DISD and the City discussed the successor MOU that would be effective from July 1, 2025, through June 30, 2026. Due to budgetary constraints for both the City and DISD, but to ensure a sufficient police presence on these campuses and to increase staffing for the Denton Police Department, representatives of the City and DISD agreed to reduce the number of SROs on these DISD campuses from nine (9) to six (6). In addition, the DPD Sergeant will no longer be assigned to the SRO Program but the SROs will report to a DPD Sergeant. The amount reimbursed by DISD to the City for the six (6) SROs for the 2025-2026 school year is $508,392.

While the number of SROs assigned to these DISD campuses will be reduced from nine (9) to six (6), safety will not be sacrificed as the SROs will supplement DISDs School Security Officers. DISD retains supervision of its School Security Officers. **HOWEVER,** pursuant to the Interlocal Cooperation Contract between the City and DISD regarding Texas Education Code 37.0814 (Armed Security Officer Required) - Ordinance No. 24-1541 - effective June 17, 2024, if a law enforcement response for a criminal matter is required, such as an active shooter, and should DPD respond, DPD shall be in charge of the law enforcement response and DISD School Security Officers shall obey any instructions given to them by DPD unless a reasonable officer would deem that order illegal or unethical.

Approval of the successor MOU requires approval by the DISD Board of Trustees and the City Council. The DISD Board of Trustees approved the MOU on July 29, 2025. If the new MOU is approved by both governing bodies, it will be effective on July 1, 2025, and expire on June 30, 2026.

RECOMMENDATION

Staff recommends Council approve the Interlocal Cooperation Contract for the SRO Program with DISD, in the form of the 2025-2026 Memorandum of Understanding.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On August 20, 2024, Council approved Ordinance 24-1252, authorizing the annual SRO MOU with DISD effective July 1, 2024, through June 30, 2025.

On January 14, 2025, Council approved Ordinance 24-2598, which provided for reimbursement to the City in the estimated amount of $309,703 for compensation and benefits of nine Student Resource Officers (SROs) assigned at DISD for the period of February 3, 2025 through June 30, 2025, replacing the MOU with DISD for SROs that was effective on July 1, 2024, and; Reassigning the Police Lieutenant that was assigned to the SRO Program back to the Police Department.

FISCAL INFORMATION

Denton Independent School District
2025-2026 academic year total estimate $508,392
General Fund Revenue – 1000.4632

EXHIBITS

Exhibit 1: AIS – SRO Program 2025-2026
Exhibit 2: Ordinance & MOU – SRO Program 2025-2026

Respectfully submitted:
Jessica Robledo
Interim Chief of Police

Prepared by:
Shanika Mayo
Assistant Director
Police Finance & Administration

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL COOPERATION CONTRACT IN THE FORM OF A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF DENTON AND THE DENTON INDEPENDENT SCHOOL DISTRICT (DISD), FOR REIMBURSEMENT TO THE CITY IN THE ESTIMATED AMOUNT OF $508,392 FOR COMPENSATION AND BENEFITS OF SIX STUDENT RESOURCE OFFICERS (SROs) ASSIGNED AT DISD FOR THE PERIOD OF JULY 1, 2025, THROUGH JUNE 30, 2026; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton ("City") and the Denton Independent School District ("DISD") desire to enter into a contract to provide Student Resource Officers (SRO); and

WHEREAS, the mission of the SRO Program is the reduction and prevention of school related crime committed by juveniles and young adults, while providing safety and security for the students, faculty and staff; and

WHEREAS, on January 14, 2025, the City Council approved Ordinance No. 24-2598, an Interlocal Cooperation Contract in the form of a Memorandum of Understanding (hereafter referred to as the "2024 MOU"), providing that for the remainder of the 2024-2025 academic year (February 3, 2025, through June 30, 2025), DISD agreed to reimburse the City for the annual salary and fringe benefits of nine (9) Student Resource Officers at a rate of fifty (50) percent, effective July 1, 2024, through June 30, 2025, and reassigned the SRO Lieutenant back to the Denton Police Department; and

WHEREAS, due to financial considerations for both DISD and the City, representatives of DISD and the City discussed a successor MOU for the school year beginning on July 1, 2025, through June 30, 2026, and agreed to reduce the number of SROs assigned to DISD campuses from nine (9) to six (6) and the DPD Sergeant assigned to the SRO Program will no longer perform that function for DISD; and

WHEREAS, while the number of SROs assigned to DISD campuses will be reduced from nine (9) to six (6), safety will not be sacrificed as the SROs will supplement DISDs armed School Security Officers pursuant to the Interlocal Cooperation Contract between the City and DISD regarding Texas Education Code 37.0814 (Armed Security Officer Required) - Ordinance No. 24-1541 - effective June 17, 2024; and

WHEREAS, representatives of the City and DISD have agreed to the MOU (hereafter referred to as the "2025-2026 MOU"), attached hereto as Exhibit "A," effective July 1, 2025, through June 30, 2026; and

WHEREAS, the MOU was approved by the DISD Board of Trustees on July 29, 2025; and

WHEREAS, the City and DISD agree to and by the execution hereof are bound to the mutual obligations outlined in the 2025-2026 MOU attached hereto as Exhibit "A" and made a part hereof by reference; and

WHEREAS, the City Council of the City of Denton hereby finds that the Interlocal Cooperation Contract, in the form of the 2025-2026 MOU between the City and DISD, serves a municipal and public purpose, is in the public interest, and of a benefit to the citizens of the City of Denton;

NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1: The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2: That the City Manager, or her designee, is hereby authorized to execute the Interlocal Cooperation Contract, in the form of the 2025-2026 MOU with the DISD, which is attached hereto as Exhibit "A" and made a part hereof for all purposes, to carry out the duties and responsibilities of the City under that MOU.

SECTION 3: That all prior actions taken by the City in furtherance of the 2025-2026 MOU are hereby ratified.

SECTION 4: This Ordinance shall become effective immediately upon its passage and approval by the City Council, with the 2025-2026 MOU effective July 1, 2025, and terminating on June 30, 2026.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING
(MOU)

This Memorandum of Understanding (MOU) is between Denton Independent School District (hereinafter "DISD") and the City of Denton, a Texas home rule municipal corporation (hereinafter "City").

Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between the participating entities listed above. This MOU constitutes an Interlocal Cooperation Contract pursuant to Chapter 791 of the Texas Local Government Code, to assist the Parties with performing their governmental functions. Any costs associated from this MOU shall be made from current revenues then available to each Party.

I. Purpose

This MOU establishes and delineates the mission of the Student Resource Officer Program, herein referred to as the SRO Program, as a joint cooperative effort, whereby the City hereby wishes to provide one or more Student Resource Officers for the SRO Program, who will supplement DISD's School Security Officers, and DISD wishes to share the costs of the City's providing Student Resource Officers. Additionally, the MOU formalizes relationships between the participating entities to provide a "student centric" approach towards building a positive relationship between police officers and students.

II. Mission

The mission of the SRO program is to create and maintain a safe, secure, and orderly learning environment for students, school officials, teachers, and staff. The SROs will establish trusted communication between DISD School Security Officers, students, parents, teachers, and school officials. SROs will serve as positive role models to instill good moral standards, judgment and discretion, respect for others, and a sincere concern for the school community. SROs will promote awareness of the law to enable students to become better informed and effective citizens, while empowering students with the knowledge of law enforcement efforts and obligations, as well as consequences for violating the law. SROs will serve as a resource for students, school officials, and parents and will provide information on available community resources. The following goals are established to accomplish this mission.

III. SRO Program Goals

The following goals are established to accomplish the mission of the SRO Program:

1) Promote a safe environment for students, faculty, and staff.
2) Reduce criminal offenses committed by juveniles or young adults by utilizing both proactive and reactive law enforcement measures.
3) Establish a positive approach with students, faculty, administrative staff, and parents.
4) Work cooperatively with DISD School Security Officers.

IV. Organizational Structure

A. Composition

The SRO program will consist of full-time Denton Police Department (DPD) personnel who are certified peace officers for the State of Texas and meet all requirements as set forth by DPD General Orders. SROs will be assigned to the following schools:

- Denton High School
- Ryan High School
- Guyer High School
- Calhoun Middle School
- Strickland Middle School
- McMath Middle School

B. Operational Procedures

The daily operation and administrative control of the SRO Program is the responsibility of DPD. Responsibility for the conduct of SROs, both personally and professionally, remains with the DPD. D P D shall retain supervision of SROs to oversee the SRO Program. DISD shall retain supervision of its School Safety Officers. **HOWEVER,** pursuant to the Interlocal Cooperation Contract between the City and DISD regarding Texas Education Code 37.0814 (Armed Security Officer Required) - Ordinance No. 24-1541 - effective June 17, 2024, if a law enforcement response for a criminal matter is required, such as an active shooter, and should DPD respond, DPD shall be in charge of the law enforcement response and DISD School Security Officers shall obey any instructions given to them by DPD unless a reasonable officer would deem that order illegal or unethical.

C. SRO Duties

SROs, first and foremost, are Law Enforcement Officers. SROs are responsible for carrying out all duties and responsibilities of a police officer and shall at all times, through the chain of command, remain under the exclusive control of DPD. SROs are enforcement officers in regard to CRIMINAL matters only. SROs shall not enforce any "school or house rule," as they are not school disciplinarians and should not assume this role. SROs will not become involved in administrative matters of the DISD which are not criminal matters. SROs are to be used as a law enforcement resource to assist students, faculty, staff, and all persons involved with the DISD. SROs may be called upon to teach a variety of law enforcement related subjects to students, school staff, and officials. Teaching is not only a formal opportunity to educate the campus population, but also another method to build rapport with students, school staff, and officials.

DPD SROs responsibilities will include, but not limited to:

1) Enforcing criminal law and protecting the students, staff, and public at large against criminal activity, and taking enforcement action on criminal matters when appropriate;

2) Taking initial reports of crimes committed on campus and, if practical, investigating these crimes according to the case clearance criteria of DPD;

3) Providing information concerning law enforcement topics to students, school officials and staff;

4) Providing mentoring/coaching on a limited basis, to students, school officials, and staff;

5) As time allows, presenting information in the classroom on a variety of topics including, but not limited to, narcotics, personal safety, criminal law, leadership and life skills; and

6) Assisting staff with unusual or temporary problems related to law enforcement matters which may require SROs on occasion to be assigned to monitor halls, buses, lunchroom, etc. on the school campus, but at no time will an SRO be regularly assigned to monitor such areas.

V. School District Responsibilities

DISD shall provide the SRO of each campus with the following facilities and materials deemed necessary to the performance of the SRO's duties:

1) An air conditioned and properly lighted, private office, which may be used for general business purposes, located as close as possible to the main entrance of the school

2) A desk with drawers, chair, and a locking filing cabinet

3) A computer and printer

A. Reimbursement

Effective July 1, 2025, through June 30, 2026, DISD agrees to reimburse the City of Denton for the annual salary and fringe benefits at a rate of fifty (50) percent for six (6) SROs. Reimbursement of the SRO's annual salary is inclusive of any overtime, longevity pay, assignment pay, certification pay, holiday pay, and any other pay each assigned SRO may be eligible to receive under the Meet and Confer Agreement between the City of Denton and the Denton Police Officers Association and/or under Chapter 143 of the Texas Local Government Code for SROs assigned to the following campuses:

- Denton High School
- Ryan High School
- Guyer High School
- Calhoun Middle School
- Strickland Middle School
- McMath Middle School

The amount of reimbursement set forth in Section V Paragraph A of this Memorandum of Understanding shall, effective the date of the execution hereof, be as set forth in Attachment A hereto and made a part of this MOU by reference. The amount of such reimbursement shall thereafter be adjusted not less frequently than annually in accordance with the setting of annual salary and benefits for the SROs by the Denton City Council.

VI. Denton Police Department Responsibilities

DPD will endeavor to have SROs available for duty at their assigned school each day that school is in session during the regular school year. There is no requirement for DPD to furnish substitute officers on days when the assigned SRO is absent.

DPD agrees to invoice DISD quarterly for all monies owed as a result of this MOU, and to submit appropriate payroll documentation with the invoice. All invoices will be due immediately and should be paid within thirty (30) days of receipt by DISD.

VII. Termination

This MOU may be terminated by either party upon thirty (30) days' written notice in writing to the other party at the addresses provided below. Further, this MOU will automatically terminate in accordance with provision VIII, Timeframe, below. DISD shall be responsible for its respective share of the SROs ongoing costs incurred as of the termination date of this MOU.

VIII. Timeframe

This MOU will commence on July 1, 2025, and will terminate on June 30, 2026, at the end of the 2025-2026 school year.

Agreed to in cooperation with the City of Denton Police Department and the Denton Independent School District.

AUTHORIZED SIGNATURES:

_____ _____

Sara Hensley, City Manager
City of Denton
215 E. McKinney
Denton, TX 76201

Date

Dr. Susannah Holbert O'Bara
Superintendent of Schools
Denton Independent School District
1307 N. Locust
Denton, Texas 76201

Date

ATTEST:
Lauren Thoden, City Secretary
City of Denton

By: _____

APPROVED AS TO FORM:
Mack Reinwand, City Attorney
City of Denton

By: _____

Attachment A

FY 2025-2026
Estimated DISD Quarterly Billing Plan

2025		2026		Total
FIRST QUARTER (Jul, Aug, Sep)	**SECOND QUARTER** (Oct, Nov, Dec)	**THIRD QUARTER*** (Jan, Feb, Mar)	**FOURTH QUARTER** (Apr, May Jun)	
$117,341	$134,984	$119,072	$136,996	$508,392

Note: FY 2025- 2026 estimate includes 50% reimbursement of salary/benefits for six (6) SROs located at DISD High Schools and Middle Schools.

File #: ID 25-1222, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street. The general area of focus is located east of I-35 and south of UNT campus, City of Denton, Texas; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

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

AGENDA INFORMATION SHEET

DEPARTMENT: Transportation Services Division

DCM: Cassey Ogden

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton prohibiting parking on the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street. The general area of focus is located east of I-35 and south of UNT campus, City of Denton, Texas; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed $200 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date.

BACKGROUND

Staff received a request from the University of North Texas Facilities and Maintenance Department to consider prohibiting parking along the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street to provide more safety for pedestrians. After auditing the location and observing current parking situations, staff determined that on-street parking in this area poses safety concerns for motorists, cyclists, and pedestrians.

RECOMMENDATION

Staff recommend adopting the ordinance that restricts parking on the specified roads due to safety concerns for pedestrians.

PUBLIC OUTREACH

Staff conducted a virtual meeting Via Zoom on June 26, 2025, to receive community feedback. The meeting commenced at 5 PM, and staff members waited for 20 minutes for community members to join the meeting; however, no community members attended. Staff received support letters for this request from the UNT Police Department and the UNT Facilities Department. The letters are included as Exhibit 3.

ESTIMATED SCHEDULE OF PROJECT

No Parking signs will be installed 30 days after the City Council approves the ordinance. Additionally, the Denton Police Department will begin enforcing the no-parking rules on the designated locations 30 days after the installation of the signs.

FISCAL INFORMATION

Materials for this project will be funded through the Traffic Operations general operating budget.

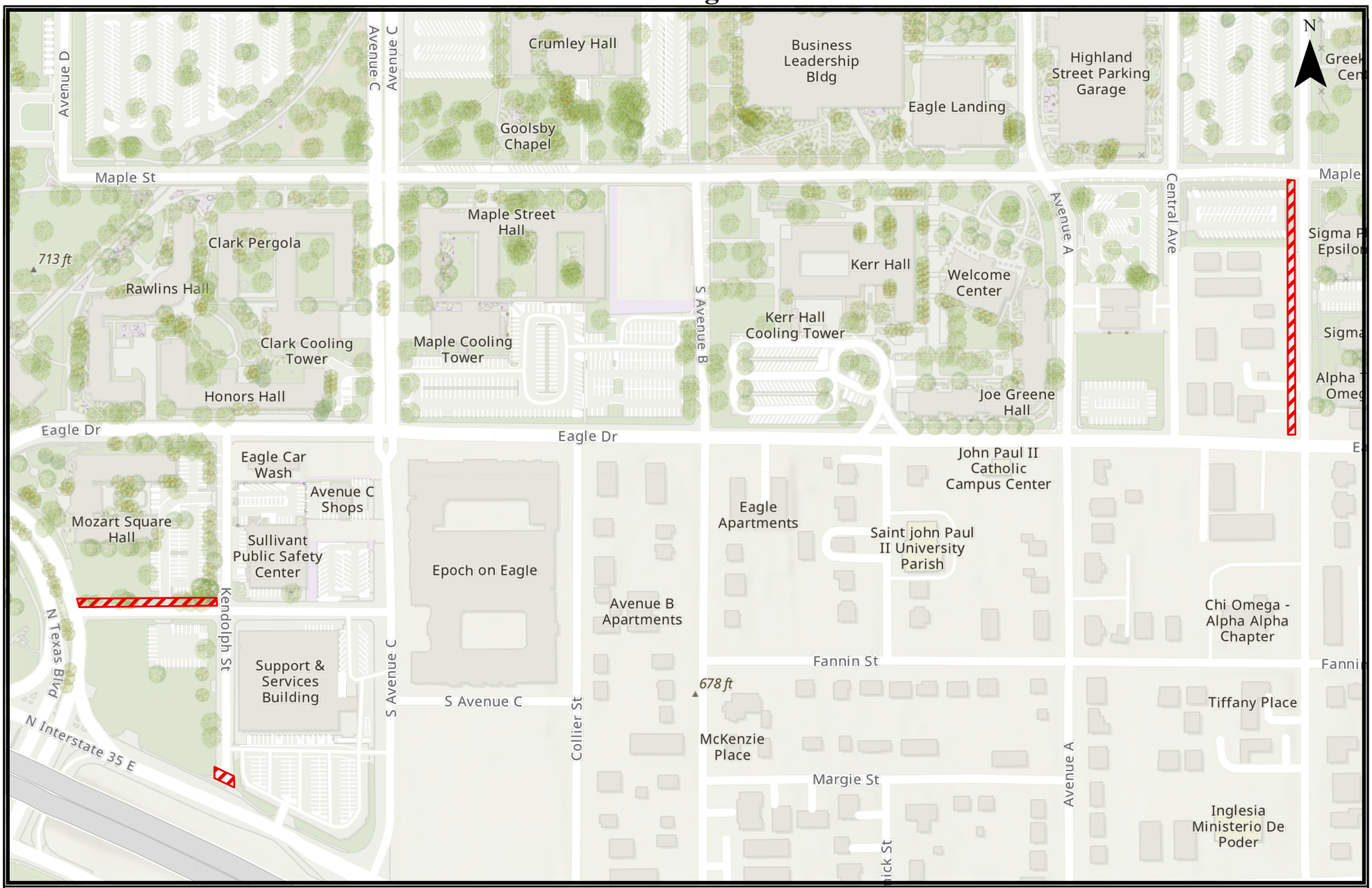
EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Location Map
Exhibit 3 – Support Letters
Exhibit 4 – Ordinance

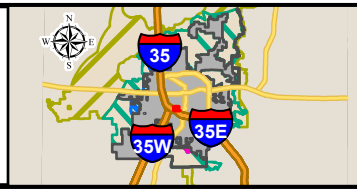
Respectfully submitted:
Farhan Butt
Deputy Director of Transportation Services

Prepared by:
Sahar Esfandyari
Senior Transportation Planner

University of North Texas
No Parking Areas



No Parking



0 95 190 380 Feet

CITY OF DENTON
Development Services - GIS
Date: 6/3/2025

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
Although every effort was made to ensure the accuracy of this data, no such guarantee is given or implied. Utilization of this map indicates the understanding that there is no guarantee to the accuracy of this data.

UNT
UNIVERSITY OF
NORTH TEXAS

UNT POLICE DEPARTMENT

July 31, 2025

Dear Mayor Hudspeth, City Council Members, and City Manager Hensley,

On behalf of the University of North Texas Police Department, I want to share our support for the city street parking adjustments around the UNT campus as proposed in your new parking ordinance.

The changes will support the safety of UNT community members, City residents and visitors to the City of Denton and our campus.

We sincerely appreciate your continued collaboration with our campus to ensure a great experience for all those who travel to or visit UNT.

In gratitude,
Ramona Washington
Chief of Police
UNT Police Department

Sullivant Public Safety Center | 1700 Wilshire Street | Denton, Texas 76201-6572
TEL 940-565-3010 | FAX 940-369-8788 | TTY 940-369-8652 | police.unt.edu

Commission on Accreditation for Law Enforcement Agencies, Inc. ● 13575 Heathcote Boulevard, Suite 320 ● Gainesville, Virginia 20155

DIVISION OF FINANCE
& ADMINISTRATION
Facilities Department

Dear Mayor Hudspeth, City Council Members, and City Manager Hensley,

On behalf of the University of North Texas, I want to express our sincere gratitude for the thoughtful and proactive street parking adjustments around the UNT Denton Campus. These changes are a clear demonstration of your commitment to the safety of everyone in our community.

Thank you for your continued efforts to make Denton safer and more navigable for our students, residents, and visitors.

Respectfully,

Jeff Brown

Associate Vice President, Facilities

DIVISION OF FINANCE
& ADMINISTRATION
Facilities Department

1155 Union Circle #311040
Denton, Texas 76203-5017

940-565-3992

www.unt.edu
facilities.unt.edu

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF DENTON PROHIBITING PARKING ON THE WEST SIDE OF CENTRAL AVENUE BETWEEN MAPLE STREET AND EAGLE DRIVE, THE NORTH SIDE OF WILSHIRE STREET BETWEEN NORTH TEXAS BOULEVARD AND KENDOLPH STREET, AND THE DEAD-END SECTION OF SOUTH KENDOLPH STREET. THE GENERAL AREA OF FOCUS IS LOCATED EAST OF I-35 AND SOUTH OF UNT CAMPUS, CITY OF DENTON, TEXAS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED $200 FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE SHALL BE GOVERNED BY CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF DENTON; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the University of North Texas's Facility and Maintenance Department has requested a parking restriction on the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street (hereafter, "the Restricted Areas"); and

WHEREAS, the presence of parked cars creates safety concerns for motorists, pedestrians, and students crossing the road, as well as hindering the traffic flow; and

WHEREAS, The Transportation Services Division reviewed the request for Restricted Areas and concluded that parking restrictions are necessary to enhance safety for pedestrians and cyclists, while also improving traffic flow; and

WHEREAS, City Council may instruct the traffic engineer to designate non-parking areas within the City pursuant to Chapter 18, Article IV, Sec. 18-96(a) of the Denton Code of Ordinances; NOW THEREFORE

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1: The recitations contained in the preamble of this ordinance are hereby incorporated by reference as if fully set out herein.

SECTION 2: As of the effective date of this Ordinance and when signs and/or marking, or any combination thereof, are in place giving notice thereof, no person shall park on the west side of Central Avenue between Maple Street and Eagle Drive, the north side of Wilshire Street between North Texas Boulevard and Kendolph Street, and the dead-end section of south Kendolph Street.

SECTION 3: The provisions of Section 2 prohibiting the parking of vehicles shall apply on the designated portion of the above-named street, except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the direction of a police officer or official traffic control device.

SECTION 4: All provisions of the ordinances of the City of Denton in conflict with the provisions of this ordinance as related to the above parking restriction are hereby repealed, and all other provisions of the ordinances of the City of Denton not in conflict with the provisions of this ordinance, shall remain in full force and effect.

SECTION 5: If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton hereby declares it would have enacted such remaining portions despite any invalidity.

SECTION 6: Save and except as amended hereby, all the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

SECTION 7: Any person found liable of violating this Ordinance by a court of competent jurisdiction shall be fined a sum not to exceed two hundred dollars ($200). Each day that a provision of this ordinance is violated shall constitute a separate offense. The disposition of parking citations issued pursuant to this Ordinance shall be governed by Article IV, Division 3 titled "Parking Violations Division" of Chapter 18 of the Code of Ordinances.

SECTION 8: This Ordinance shall become effective 30 days after the City Council approval for sign installation and providing for a penalty 30 days after sign installation, and the City Secretary is hereby directed to cause the caption of this ordinances to be published twice in the *Denton Record-Chronicle*, the official newspaper in the City of Denton, Texas, within 10 days of the date of its passage.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Hilary McMahon _____

File #: ID 25-1243, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the city of Denton granting the Denton Black Chamber of Commerce a noise exception pursuant to section 17-20 of the city of Denton code of ordinances for the Denton Blues Festival, which will be held on September 19-21, 2025, Friday from 6:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 11:00 p.m., and Sunday from 10:00 a.m. to 10:00 p.m. at Quakertown Park; granting an exception for sound levels and a variance in the hours of operation on said dates; and providing an effective date.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Parks and Recreation

ACM: Christine Taylor, Assistant City Manager

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton granting the Denton Black Chamber of Commerce a noise exception pursuant to Section 17-20 of the City of Denton Code of Ordinances for the Denton Blues Festival, which will be held on September 19-21, 2025, Friday from 6:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 11:00 p.m., and Sunday from 10:00 a.m. to 10:00 p.m. at Quakertown Park; granting an exception for sound levels and a variance in the hours of operation on said dates; and providing an effective date.

BACKGROUND

The 24th Annual Denton Blues Festival is organized by the Denton Black Chamber of Commerce, a nonprofit 501(c)(3) organization that serves to preserve the blues and further the reputation of Denton as a music entertainment destination. This event is held annually at Quakertown Park.

This free festival will include live music and performances, karaoke, children's activities, arts and crafts, and over 20 booths. Event organizers anticipate 8,000 in attendance.

The Denton Black Chamber of Commerce requests an exception to the noise ordinance in sound levels from 65 to 70 dba on September 19-21, 2025, Friday from 6:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 11:00 p.m., and Sunday from 10:00 a.m. to 10:00 p.m. at Quakertown Park, granting an increase in sound levels and a variance in the hours of operation on said dates for Friday from 6:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 11:00 p.m., and Sunday from 10:00 a.m. to 10:00 p.m., with sound not to exceed 70 decibels at Quakertown Park.

RECOMMENDATION

Staff recommends approval, as the event organizers have consistently demonstrated the ability to responsibly operate the Denton Blues Festival at Quakertown Park at amplified sound levels without materially disturbing persons of ordinary sensibilities in the immediate vicinity.

PRIOR ACTION/REVIEW

On August 16, 2022, City Council approved a three-year exception to the noise ordinance for the Blues Festival under Ordinance 22-148

On August 20, 2019, City Council approved an exception to the noise ordinance for the Blues Festival under Ordinance 19-1851.

On August 3, 2021, City Council approved an exception to the noise ordinance for the Blues Festival under Ordinance 21-1618

EXHIBITS
Exhibit 1- Agenda Information Sheet
Exhibit 2- Ordinance

Respectfully submitted:
Gary Packan, Parks and Recreation Director

Prepared by:
Autumn Natalie, Program Area Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON GRANTING THE DENTON BLACK CHAMBER OF COMMERCE A NOISE EXCEPTION PURSUANT TO SECTION 17-20 OF THE CITY OF DENTON CODE OF ORDINANCES FOR THE DENTON BLUES FESTIVAL, WHICH WILL BE HELD ON SEPTEMBER 19-21, 2025, FRIDAY FROM 6:00 P.M. TO 10:00 P.M., SATURDAY FROM 12:00 P.M. TO 11:00 P.M., AND SUNDAY FROM 10:00 A.M. TO 10:00 P.M. AT QUAKERTOWN PARK; GRANTING AN EXCEPTION FOR SOUND LEVELS AND A VARIANCE IN THE HOURS OF OPERATION ON SAID DATES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 17-20 of the Code of Ordinances of the City of Denton, the City Council may make exceptions upon application for sound levels or hours of operation when the public interest will be served thereby; and

WHEREAS, The Denton Black Chamber of Commerce has made an application to the City Council for an exception to the provision of Section 17-20 of the Code of Ordinances regarding sound levels and hours of operation, in connection with Blues Festival annual event held at Quakertown Park, with said request being for the following dates: September 19-21, 2025; and

WHEREAS, upon prior application and approval by the City Council of the City of Denton, the Denton Black Chamber of Commerce has consistently demonstrated an ability to responsibly operate the Denton Blues Festival at Quakertown Park, at amplified sound levels restricted in Section 17-20 of the Code of Ordinances of the City of Denton, Texas, within the public interest, and without materially disturbing persons of ordinary sensibilities in the immediate vicinity thereof; and

WHEREAS, based upon past history, the City Council of the City of Denton, finds that granting a noise exception for this event, subject to the restrictions contained herein, would serve the public interest; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. Pursuant to Section 17-20 of the Code of Ordinances, Denton Black Chamber of Commerce is hereby granted an exception to said section's amplified sound prohibition, subject to the following restrictions:

1. The limitations imposed by Section 17-20 of the Code of Ordinances of the City of Denton, is granted only in connection with the operation of the Denton Blues Festival at Quakertown Park for the following dates: September 19-21, 2025.

2. Denton Black Chamber of Commerce agrees to take full responsibility for ensuring that the conditions of this exception are met and to take all reasonable measures necessary to avoid disturbing persons of ordinary sensibilities in the immediate vicinity of the event.

3 Denton Black Chamber of Commerce agrees to cease using amplified loudspeakers on Friday at 10:00 p.m., Saturday at 11:00 p.m., and Sunday at 10:00 p.m.

4. Under no circumstances shall the Denton Black Chamber of Commerce employ the use of amplified loudspeakers past 10:00 p.m. on Friday, 11:00 p.m. on Saturday, and 11:00 p.m. on Sunday.

5. Under no circumstances shall The Denton Black Chamber of Commerce employ the use of amplified loudspeakers that exceeds 70 dba for an outdoor event when measured from the perimeter of the source as measured by an approved measuring instrument.

6. This Ordinance confers no personal or property rights, and may be amended, modified, suspended, or revoked in whole or in part at the will of the City Council of the City of Denton, without any advance warning, hearing, or compensation, for any reason at all, or for no reason.

7. This Ordinance shall be strictly construed as an exception granted pursuant to Section 17- 20 of the Code of Ordinances of the City of Denton. The City of Denton expressly reserves unto itself and all other persons any and all legal remedies, both civil and criminal, relating to excessive noise in correction with this annual event, and hereby disclaims any promissory, or equitable estoppel which might in any way impede the pursuit of such remedies by any person.

SECTION 2. This Ordinance shall be effective immediately upon its passage and approval and shall expire upon the completion of the Denton Blues Festival on Sunday, September 21, 2025, unless sooner repealed, modified, or rescinded.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY



BY: _____

File #: ID 25-1208, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with AssetWorks Inc., through the GSA Cooperative Network Contract No. GS-35F-317GA, for fuel management and telematics software for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8812 - awarded to AssetWorks Inc., 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 $1,890,000.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with AssetWorks Inc., through the GSA Cooperative Network Contract No. GS-35F-317GA, for fuel management and telematics software for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8812 – awarded to AssetWorks Inc., 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 $1,890,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The City of Denton Fleet Services Department is establishing a contract for a new fuel management and telematics software system to enhance tracking and oversight of the fleet's life cycle costs, maintenance needs, and fuel usage. This software, in conjunction with the asset management software system, will maintain detailed records for vehicles and equipment, including fuel consumption, mileage, hours, idle time, and location services. A crucial aspect of Denton's fleet infrastructure is its network of three city-owned fuel depots, serving as central fueling points for the city's diverse fleet. To maximize security and inventory control, the new software system will integrate with GPS-secured fueling technology at these depots. This integration will ensure that fuel dispensing is restricted to authorized vehicles, verified through GPS location and vehicle identification data, and that every fueling transaction is precisely recorded, linking fuel dispensed to specific vehicles, times, and locations. The software will also provide real-time updates on fuel levels at each depot, enabling proactive replenishment and minimizing stockouts while reducing the risk of unauthorized fuel access and theft, enhancing overall security and accountability.

The existing fuel management and telematics software lacks the necessary functionality to efficiently capture and analyze critical fleet data. Its limitations hinder Fleet Services' ability to track asset performance, schedule maintenance effectively, and generate accurate reports for budgeting and planning. The current system does not fully integrate key data points, making it difficult to assess vehicle maintenance needs and fuel consumption. These inefficiencies result in increased operational costs, reduced service reliability, and challenges in making data-driven decisions.

By leveraging data-driven insights, the new software, with the added security and inventory control of GPS-secured fueling at the city-owned depots, will evaluate and track asset location, fuel consumption, and other critical reporting metrics. This aligns with the department's strategic plan, improving budgeting accuracy and optimizing fleet sustainability. Implementing this system will enhance operational efficiency, streamline asset tracking, and support data-informed decision-making for fleet and fuel management.

The contract value is based on historical spending levels with prior vendors and includes estimates for future assets and service needs, with the inclusion of the city-owned fuel depot integration and GPS-secured fuel dispensing factored into the cost analysis.

Estimated Contract Expenses

Category	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	Total
One-Time Costs	$500,000	$ -	$ -	$ -	$ -	$500,000
Recurring Subscription	150,000	280,000	285,000	290,000	295,000	1,300,000
Sub Total	**$650,000**	**$280,000**	**$285,000**	**$290,000**	**$295,000**	**$1,800,000**
Contingency 5%	32,500	14,000	14,250	14,500	14,750	90,000
Total	**$682,500**	**$294,000**	**$299,250**	**$304,500**	**$309,750**	**$1,890,000**

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

RECOMMENDATION

Award a contract with AssetWorks Inc., for asset management software for the Fleet Services Department, in a three (3) year, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,890,000.

PRINCIPAL PLACE OF BUSINESS

AssetWorks Inc.
Wayne, PA

ESTIMATED SCHEDULE OF PROJECT

This is an initial three (3) year contract with options to extend the contract for two (2) additional one (1) year periods, with all terms and conditions remaining the same. This GSA contract expires on March 23, 2027.

FISCAL INFORMATION

These products and services will be funded through Capital Fund accounts and Fleet Operations Fund 820100. Requisition #170749 has been entered into the Purchasing software system in the amount of $439,112.58. 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: 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: Marcella Lunn at 940-349-8333.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ASSETWORKS INC., THROUGH THE GSA COOPERATIVE NETWORK CONTRACT NO. GS-35F-317GA, FOR FUEL MANAGEMENT AND TELEMATICS SOFTWARE FOR THE FLEET SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8812 – AWARDED TO ASSETWORKS INC., 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 $1,890,000.00).

WHEREAS, pursuant to Local Government Code 271.103, the U.S. General Services Administration's (GSA) Cooperative Program 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 U.S. General Services Administration's (GSA) Cooperative Program 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 numbered items in the following numbered purchase order for materials, equipment, supplies, or services, shown in the "File Number" listed hereon, and on file in the office of the Purchasing Agent, are hereby approved:

FILE NUMBER	VENDOR	AMOUNT
8812	AssetWorks Inc.	$1,890,000.00

SECTION 2. By the acceptance and approval of the above numbered items set forth in the attached purchase orders, the City accepts the offer of the persons submitting the bids to the U.S. General Services Administration's (GSA) Cooperative Program 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 U.S. General Services Administration's (GSA) Cooperative Program, and the purchase orders issued by the City.

SECTION 3. Should the City and persons submitting approved and accepted items set forth in this ordinance wish to enter into a formal written agreement as a result of the City's ratification of bids awarded by the U.S. General Services Administration's (GSA) Cooperative Program, 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 U.S. General Services Administration's (GSA) Cooperative Program, and the quantities and specified sums contained in the City's purchase orders and related documents referenced herein are approved and accepted.

SECTION 4. By the acceptance and approval of the above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

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

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 636C67F9-0420-4F16-BDF5-B610E21F798B

Docusign City Council Transmittal Coversheet

COOP	8812
File Name	Fuel Management and GPS
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

Docusign Envelope ID: 636C67F9-0420-4F16-BDF5-B610E21F798B

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND ASSETWORKS INC.
(File # 8812)

THIS CONTRACT is made and entered into this date _____, by and between AssetWorks Inc. a Delaware corporation, whose address is 1001 Old Cassatt Road, Ste. 204, Berwyn, PA 19312, 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 his 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 in accordance with the Supplier's quote, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit "C"**. 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) the GSA Cooperative MAS Contract GS-35F-317GA with AssetWorks Inc. **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) AssetWorks Order Form Q-14535-4, Assetworks FuelFocus SOW, and Master Subscription Agreement **(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***

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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.

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SUPPLIER

BY: Signed by: Greg Richards DD8A77D09189442... _____
AUTHORIZED SIGNATURE

Printed Name: Greg Richards _____

Title: General Manager _____

(610) 687-9202
_____
PHONE NUMBER

Greg.Richards@assetworks.com
_____
EMAIL ADDRESS

greg.richards@assetworks.com
_____
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by: _____ Thomas Gramer _____
F704F8861750ADC...
SIGNATURE PRINTED NAME

Director _____
TITLE

Fleet _____
DEPARTMENT

File 8812

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Exhibit A
Special Terms and Conditions

1. Contract Term

The contract term will be three (3) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) 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 $1,890,000. Pricing shall be per Exhibit B (GSA Cooperative MAS Contract GS-35F-317GA) as further detailed in Exhibit C (AssetWorks Order Form Q-14535-4 and Assetworks FuelFocus SOW) on file at the office of the Purchasing Agent.

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Exhibit C

AssetWORKS

ORDER FORM

AssetWorks Inc.
1001 Old Cassatt Road Suite 204
Berwyn, PA 19312

Order #: Q-14535-4
Date: 5/22/2025
Expires On: 6/30/2025

To
Tom Gramer
City of Denton
601 East Hickory Street
Denton, TX 76205
(940)349-8424
tom.gramer@cityofdenton.com

This pricing is pursuant to GSA Contract #: GS-35F-317GA between AssetWorks and the above named Customer.

Annual FuelFocus SaaS License Fee

Description	QTY	Unit Cost	Total
SaaS - FuelFocus (per ICU) **GSA# 760** ($71.79 per mo X 12 mo=$861.48) https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=760&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	7	USD 861.48	USD 6,030.36
Veeder Root Integration License (Not in GSA as SaaS yet. Being added, but given the GSA appropriate discount) NOTE: Item not currently on the Federal Supply Schedule and provided as an Open Market item. https://www.acquisition.gov/far/subpart-8.4 (see section f)	2	USD 555.00	USD 1,110.00
		FuelFocus Annual Saas Total:	USD 7,140.36

FuelFocus Hardware (One Time Purchase)

Part #	Description	QTY	UNIT PRICE	Line Total
2500-AE10-4J10-11AB-AW	FuelFocus Controller - RFID Ready - SS - 4 Hose RFC2500 (includes pedestal) **GSA# AW-ICU4-RF-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-ICU4-RF-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	5	USD 10,786.71	USD 53,933.55
2500-AE10-2R00-1GAJ	FuelFocus Controller - RFID Ready - SS - 2 Hose RFC1500 (includes pedestal) **GSA# AW-ICU2-RF-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-ICU2-RF-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	1	USD 8,596.73	USD 8,596.73
2500-602-KIT-A	Front Panel Option - HID **GSA# AW-HID-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-HID-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	6	USD 361.51	USD 2,169.06

SOLA120	SOLA HD Active Tracking Filter and Surge Suppression **GSA# AW-UPS-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-UPS-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	6	USD 282.90	USD 1,697.40
G1043506	Enclosed Power Relay, 6-Pin, 120VAC, DPST-NO **GSA# AW-BSE-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-BSE-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	12	USD 30.79	USD 369.48
RPC-RF-50-BX-SET	RFID Antenna - High Power w/mast 2.4GHz FJ3 **GSA# AW-FJ3-WAF-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-FJ3-WAF-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	2	USD 1,169.75	USD 2,339.50
KBX4-ANNN-NEXX-UXXX	FJ3 RF Vehicle ID Box Programmer **GSA# AW-FJ3-PROG-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-FJ3-PROG-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	1	USD 1,643.97	USD 1,643.97
RID-DMR-07-SET	Nozzle Transponders - Universal FJ3 **GSA# AW-FJ3-UNVRSL-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-FJ3-UNVRSL-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	12	USD 348.56	USD 4,182.72
WIFI-BT05-KIT-02	WiFi Card **GSA# AW-MBL-PC-W7-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-MBL-PC-W7-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	2	USD 329.17	USD 658.34
	AW Cable Comm Cable (For BT05) – Discounted – **GSA# AW-CC-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-CC-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA	2	USD 103.70	USD 207.40
Hardware Shipping	Hardware Shipping Fee	1	USD 2,250.00	USD 2,250.00
			Total:	USD 78,048.15

Fuel Truck MFC (One Time Purchase)

Part #	Description	QTY	UNIT PRICE	Line Total
MBL-AEMJ-NNNC-BNDX	RFC-2500 Mobile Refueler with RFID - No options (with Free RFID Promo Upgrade) **GSA# AW-MFC-01** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=AW-MFC-01&mfrName=ASSETWORKS%20INC.&contractNumber=GS-35F-317GA)	1	USD 13,556.52	USD 13,556.52
			Total:	USD 13,556.52

Professional Services

Description	QTY	Hourly Rate	Line Total
Remote Fuel Project Management Services **GSA# PS-630** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-630&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	43	USD 235.77	USD 10,138.11
Remote Project Kickoff & Technical Readiness Meeting Services **GSA# PS-120** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-120&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	4	USD 216.12	USD 864.48
Remote FuelFocus-EAM/FA Webservice Software Installation Services **GSA# PS-130** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-130&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	2	USD 216.12	USD 432.24
Remote FuelFocus Prompt Configuration Services **GSA# PS-120** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-120&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	8	USD 216.12	USD 1,728.96
Hardware Installation Services (Onsite) – Secure Fueling **GSA# PS-240** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	8	USD 216.12	USD 1,728.96
Remote FuelFocus-EAM/FA System Setup Services **GSA# PS-150** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-150&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	24	USD 216.12	USD 5,186.88
Hardware Installation Services (Onsite) (6 ICUs; 1 Trip) **GSA# PS-240** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	72	USD 216.12	USD 15,560.64
Remote FuelFocus ICU Site Startup Services **GSA# PS-250** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	38	USD 216.12	USD 8,212.56
Remote FuelFocus ICU Training Services **GSA# PS-500** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-500&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	8	USD 216.12	USD 1,728.96
Remote Go Live Support Services **GSA# PS-220** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-220&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	16	USD 216.12	USD 3,457.92
Remote Post Go Live Services **GSA# PS-230** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-230&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	8	USD 216.12	USD 1,728.96
Hardware Installation Services - Onsite Professional Services Contractor - 3rd party contractor is Stovall - **GSA# PS-240** https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	64	USD 216.12	USD 13,831.68
Travel Services for Onsite Hardware Installation (2 Trips) 28hrs - GSA#PS-240	28	USD 216.12	USD 6,051.36
		Total:	USD 70,651.71

AssetWorks GPS Hardware

Part #	Description	QTY	
79V-002	ME79 GPS & Secure Fueling Device	1,000	Included in AssetWorks GPS Bundle
7-OBD-2IO-SF	ME79 Cable with OBDII (16-Pin), 2 IO Leads and Secure Fueling (for light/medium duty vehicles)	TBD	Included in AssetWorks GPS Bundle
7-J1939-2IO-SF	ME79 Cable with J1939 (9-Pin), 2 IO Leads and Secure Fueling (for heavy duty vehicles)	TBD	Included in AssetWorks GPS Bundle
RID-EM-04-02	Secure Fueling Cable Assembly - cabling for connection between ME79 device and FIA	1,000	Included in AssetWorks GPS Bundle
		AssetWorks GPS Hardware Total:	Included in AssetWorks GPS Bundle

Annual GPS/Secure Fueling SaaS

Description	QTY	Monthly Fee/Unit	Line Monthly Total	Annual Fee
AssetWorks GPS Bundle (includes Hardware, Monthly Subscription, and Telematics Module/Cloud) https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?gsin=11000100885159	1,000	USD 17.95	USD 17,950.00	USD 215,400.00
AssetWorks Telematics Integration License - Includes Telematics Module/Cloud (AW Client) for integration between AW GPS and FleetFocus FA	1,000	INCL.	INCL.	Included in AssetWorks GPS Bundle
AssetWorks GPS Secure Fueling Bundle - includes ME79 Install Cable, Secure Fueling Software Module (FIA is not included) *NOTE: Item not currently on the Federal Supply Schedule and provided as an Open Market item.* https://www.acquisition.gov/far/subpart-8.4 *(see section f)*	1,000	USD 3.95	USD 3,950.00	USD 47,400.00
			AssetWorks GPS SaaS Total:	USD 262,800.00

Telematics Services (One Time Fees)

Description	Line Total
Telematics Cloud Interface Adaptor Implementation Services (Single Provider – 32 hours x $216.12)) https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?gsin=11000100885078	USD 6,915.84
Telematics Services Total:	USD 6,915.84

Year One FuelFocus/AssetWorks GPS/ Secure Fueling Project Total: USD 438,375.26

FuelFocus Hardware & Fuel Truck MFC	(One Time Purchases)	USD 91,604.67
FuelFocus Implementation Services & Telematic Services	(One Time Fees)	USD 77,567.55
Annual FuelFocus SaaS & Annual GPS/Secure Fueling SaaS	(Annual Recurring SaaS)	USD 269,940.36

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New FuelFocus Customer - AssetWorks Professional Services Standard Assumptions

- This is a high-level Professional Services estimate. A detailed statement of work (SOW) and project plan can be provided upon request and is required before contract signing. The final signed SOW which specifies scope and pricing terms takes precedence over the “New FuelFocus Customer - AssetWorks Professional Services Standard Assumptions”.
- Costs are for a fixed fee project.
- Invoices are due on existing contract terms.
- All first-year SaaS fees will be invoiced upon contract execution.
- AssetWorks will provide the following professional services:
  - Project Management
  - Project Kick-off and hardware order review
  - FuelFocus™ application and FleetFocus webservice installation
  - FleetFocus software configuration and data entry consulting
  - Standard ICU prompt configuration
  - Fuel site preparation (removal of existing system and replacement of such unit with the FuelFocus system) to ensure the site will be ICU-ready. AssetWorks assumes all existing pumps have functioning and compatible pulsers and no pump or dispenser replacements. Customer will be responsible for all conduit runs and wire pulls as needed based on ICU Readiness document.
  - Fuel Island Controller Unit (“ICU”) hardware installation and configuration for up to six (6) ICUs
  - Fuel island deployment testing
  - Basic FuelFocus user training services
  - Go live and post go live support
- The customer will be responsible for:
  - Purchase, installation, and construction of communications infrastructure such as servers, other hardware, or database software
  - FuelFocus hardware procurement
  - Installing TightVNC for remote access to the ICU(s)
  - FuelFocus software configuration and data entry related to fuel island locations, tanks, and hoses
  - Validating fuel transactions were captured correctly during fuel island deployment testing
  - VeederRoot testing (if applicable)
- All training and consulting services are provided remotely via web conferencing, unless otherwise noted in the quote.
- Customer must have a tested network connection at the fuel island. This connection needs to be able to ping the FleetFocus Server successfully.
- Site must have fuel in tanks, dispensers primed and ready to pump fuel for full site certification.
- Customer agrees that Order Form does not include permits, permit fees or site as built drawings.
- All hardware installation utilizes onsite services, unless otherwise noted in the quote.
- Assumes customer is live (or will be live) on FleetFocus in production and all assets are setup and ready to utilize FuelFocus before this project begins.
- All functional and operational groups who will be using and/or impacted by the new system should participate in all sessions, which will be conducted once. Repeating previously conducted sessions (i.e., system setup, system training, etc.) will require a change order for additional project budget.
- Training assumes train-the-trainer approach and one location for training for all groups. The max class size is ten (10) participants. If the size of the organization is smaller and meets this class size for sessions such as technical, supervisor and storekeeper, direct end user training will be utilized over a train the trainer approach.
- Where applicable, standard training materials will be utilized. Quote does not include customized training materials, unless otherwise noted.
- Actual costs might be greater or lesser than those presented in this quote.
- Professional Services engagements have an 8-12 week lead time from execution of contract/order.
- AssetWorks will assign a Project Manager 4-6 weeks after a fully executed and processed order. The Project Manager will engage with the customer to kick-off the project and begin scheduling services. The delivery schedule of the project requirements will be set during the project planning phase. All implementers, consultants and/or trainers for professional services will be secured by the Project Manager within a 4-8 week lead time once the project is kicked off.

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- Current supported version of FleetFocus and FuelFocus is required and adheres to the minimum versions as noted in AssetWorks Product documentation located on the Customer Care site.
- Customer will make appropriate technical resources available to AssetWorks' consultants and provide necessary and appropriate personnel at meetings to define project requirements.
- Customer will appoint a single point of contact for project duration that will have project management responsibilities and decision-making authority. This person will be the focal point of contact for AssetWorks' Professional Services and Customer Care teams.
- If additional scope is added or required, a change order will be requested of the customer.
- Travel: If travel is required and quoted, expenses will be reimbursed as incurred, unless otherwise noted. Expenses include actual costs for lodging, air, and ground travel and per diem rates for meal expenses (corporate rate/government agreement).
- In the event the customer schedules onsite services and two (2) calendar weeks prior to the arrival date, and due to circumstances within the customer's control, AssetWorks' scheduled personnel are unable to perform such services, AssetWorks will be entitled to payment for each such scheduled personnel based on an eight (8) hour day. AssetWorks provides onsite services based on an eight (8) hour minimum per day per person.
- If this order is abandoned, paused, or cancelled by the customer for any reason mid-effort, the customer will be billed for all AssetWorks time incurred at the current contracted labor rate.

Notes & Assumptions – AssetWorks GPS/Secure Fueling

- Prices for GPS components are in USD dollars and valid for 90 days. All applicable shipping, sales/use taxes are additional and payment of such is the sole responsibility of the purchaser.
- Unless quoted herein, installation is responsibility of customer or can be quoted by AssetWorks.
- Pricing is based on a 60-month term for SaaS service for each device.
- SaaS subscription will be billed monthly upon device activation. Activation is considered upon installation or 60 days from shipping, whichever occurs first.
- Hardware fees will be billed at time of shipment due net 30.
- Professional services costs are on a fixed fee basis and will be invoiced on a milestone basis

Telematics Cloud Integration (Single Provider) Scope and Assumptions

- AssetWorks will provide remote professional services to install and configure the AssetWorks Telematics Cloud integration to FleetFocus. AssetWorks GPS will utilize the Telematics Cloud platform for the integration as of version 24.x.
- With AssetWorks GPS as the GPS/AVL provider, there is an additional bi-directional Asset Synchronization service that will be implemented using MAXQueue. Not all asset fields are available to be synced as part of this integration. Specific data fields are identified in Product documentation.
- The project will utilize existing functionality and out-of-box FleetFocus settings and design features within the current supported versions of the FleetFocus product. Configuration services include meetings with the customer to review DTC management-related workflows.
- Data is limited to meters, DTCs, and GPS data.
- Assumes fleet assets are setup in FleetFocus and ready for configuration to support AssetWorks Telematics Cloud functionality.
- Customer will be responsible for identifying which trouble codes to categorize during setup. AssetWorks will not consult on DTCs for the customer. Rather, AssetWorks will provide and train on the tools available to allow the customer to configure DTCs to create work/service requests accordingly.
- Training topics include:
    - Setup of trouble code to create work/service requests
    - Setup of trouble code to create work/service requests with work orders
    - How to see work/service requests in out-of-box reporting
    - Dashboard gadget setup to show service requests and filter by trouble code
- For FleetFocus customers, AssetWorks will enable an out-of-the-box notification that notifies the recipient of newly created service requests or work orders.
- After train-the-trainer training and configuration sessions are complete, the customer will finalize the setup in FleetFocus and is responsible for loading all data required for project success.

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- AssetWorks will configure the integration first in a testing environment to ensure the data is flowing in and displaying where expected in FleetFocus. Upon testing completion, AssetWorks will then configure the integration in the production environment.
- Once go live is determined, the interface will be activated, and the customer will be responsible for the ongoing monitoring of the interface schedule and all error management.
- AssetWorks is responsible to assist the customer setting up the interface(s) for testing and validation that they connect and run successfully, however AssetWorks is not responsible for analyzing the results of the transactions.
- AssetWorks is not responsible for the data management of any legacy telematics data transactions prior to interface activation.
- Costs are for a fixed fee project and do not include applicable taxes. Milestone(s) are to be billed as noted below in the milestone names, with the amounts noted below:
    - Milestone - Installation of Telematics Cloud Integration (Single Provider) in Production Environment: $6,915.84

In the event Customer's business practices require that Customer issue a purchase order number prior to payment of any AssetWorks invoices issued under this Agreement, then such purchase order number must be entered below. Customer's execution of the Order Form without designating a purchase order number shall be deemed Customer's acknowledgement that no purchase order number is required for payment of invoices hereunder.

Purchase Order Number:_____

	Accepted by Customer:		**Accepted by AssetWorks:**
Signature:	_____	**Signature:**	_____
Name (Print):	_____	**Name (Print):**	_____
Title:	_____	**Title:**	_____
Date:	_____	**Date:**	_____

Please sign and email to Allan Richardson at allan.richardson@assetworks.com.

THANK YOU FOR YOUR BUSINESS!

Docusign Envelope ID: 636C67F9-0420-4F16-BDF5-B610E21F798B

AssetWORKS

STATEMENT OF WORK

City of Denton
Q-14535

FuelFocus™ Fuel Management System
June 6th, 2025

Docusign Envelope ID: 636C67F9-0420-4F16-BDF5-B610E21F798B

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FuelFocus Introduction

AssetWorks is pleased to partner with City of Denton ("Denton") to implement AssetWorks' FuelFocus™ fuel management application and hardware. Watch our AssetWorks FuelFocus introduction on YouTube here: https://www.youtube.com/watch?v=gUGjRNACfkg

This Statement of Work ("SOW") identifies the tasks required for the implementation of FuelFocus™ and is based on AssetWorks' current understanding of Denton's requirements and AssetWorks' previous experience with similar engagements. Services include project management, hardware terminations, start up, testing, and training. This SOW assumes the FleetFocus/EAM implementation comes before the FuelFocus implementation in that FleetFocus/EAM will be live before FuelFocus is live (although some tasks on both projects will be in parallel).

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All professional project management and training services described in this Statement of Work are provided on a fixed cost basis by AssetWorks to Denton. Task budgets are developed based on AssetWorks' current knowledge of Denton's expressed requirements and experience with similar AssetWorks implementations and per the line-item quotation provided. AssetWorks Professional Services resources are scheduled on a first come-first served basis. Circumstances may necessitate changes to the tasks and/or time estimates, at which time AssetWorks and Denton will discuss these changes in good faith at their earliest opportunity.

AssetWorks will begin the project upon receiving a signed Professional Services Agreement, a registered contract or purchase order, and official notice to proceed with the project. This Statement of Work will be referenced in the overall FuelFocus Implementation contract and follow the document precedence agreed to in the master contract.

Implementation Summary

The following summary generally describes the services that the AssetWorks Professional Services team will deliver to insure a successful implementation of the FuelFocus application.

- **Project Management and Administration** – AssetWorks will assign a Project Manager to assist Denton with the implementation of FuelFocus™, including conducting a project Kick-Off Meeting, developing and managing the implementation schedule, managing AssetWorks resources and deliverables, conducting regular progress meetings, and providing regular project status reports.
- **Fuel Island Controller Installation**- AssetWorks will terminate, start up, and test the fuel island controller units ("ICU") at each of the new Denton fuel locations. AssetWorks will connect the ICUs, work with Denton on the setup and configuration of each controller, and certify each controller is ready for service.
- **Fuel System Configuration and Training** –AssetWorks will provide training on the setup and use of the integrated FuelFocus system. This will include how to add the new fuel islands, fuel tanks, and fuel inventory. AssetWorks will consult with Denton during the configuration process and help to test the configuration once completed.
- **Fuel Island Deployment** – AssetWorks will provide support during the deployment of the ICU(s) to troubleshoot any hardware and software issues.

Project Implementation Methodology

The following tasks represent those services necessary to minimally implement FuelFocus™ at a customer location. Services include the installation of the FuelFocus™ application and database, project management services, basic training services, and master record data conversion. The proposed project plan assumes that AssetWorks will provide instruction and direction to Denton during the implementation with Denton Project Team responsible for conducting most of the task work.

W.B.S A.1.0 – Project Initiation Services

The project will begin upon receipt of an official notice to proceed.

Project Management and Oversight Services

AssetWorks will provide project management and oversight services to execute the project. The AssetWorks project manager will coordinate all AssetWorks project activities and provide the following project management services: • Coordinate project resources and work so that milestones are met in an efficient manner. Tasks will be designed to reasonably minimize implementation time and cost while taking into consideration resource and time constraints such as Denton staff availability.

- Follow-up on action items and issues.

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- Work with Denton to manage risks throughout the project.
- Serve as the main point of contact for Denton project manager.

The AssetWorks Project Manager will ensure that sufficient resources are available to implement the system and will monitor the project resources to ensure quality delivery of AssetWorks' services in accordance with the project requirements. The AssetWorks Project Manager will also be responsible for preparing periodic billings in accordance with the payment terms established in the License and Professional Services agreements.

Project Kick-Off and Technical Readiness Meeting

The Project Kick-Off Meeting is an orientation training session devoted to Denton's project team that is responsible for the decision-making with regard to the FuelFocus™ system. After completing this session, the project team will understand the implementation process and will be prepared to start collecting the data required to setup and configure the FuelFocus system. AssetWorks and Denton will work together to facilitate the remote project kick-off meeting where we will review the project timeline, identify roles and responsibilities, and discuss status reporting with Denton staff.

The Project Kick-Off Meeting will discuss the following:

- Project plan tasks and timeline
- System Implementation Steps
- Assignment of tasks the customer is responsible for
- Contract deliverables
- Change request procedures
- FuelFocus™ system orientation
- Hardware order review and shipping address confirmation
- Technical site readiness review

Based on discussions during the Kick-Off Meeting, the AssetWorks Project Manager will revise the project tasks and assign AssetWorks' and Denton's project resources to various tasks. Following the Kick-off Meeting, an updated project schedule will be delivered to Denton.

W.B.S A.2.0 – FuelFocus/FA/EAM Software Installation Services (Webservice)

Prior to scheduling the FuelFocus™ installation, the AssetWorks Project Manager will confirm with Denton's Project Manager that the required hardware is available and configured on the customer's network. AssetWorks will contact the appropriate customer technical staff prior to the scheduled installation date to verify that technical environment is prepared. During that call, a pre-installation configuration questionnaire will be completed by the AssetWorks Customer Care team. Please note:

- AssetWorks is not responsible for the purchase and installation of hardware or database software.
- AssetWorks will not be responsible for any construction or communications infrastructure.
- AssetWorks will not install any servers or other hardware.

W.B.S A.3.0 – System Configuration Services

FuelFocus FA/EAM System Configuration and Setup Services

Denton will be responsible for setting and configuring the fuel island locations, tanks, and hoses to support the dispensing of fuel, and issuing fuel cards if used. AssetWorks will provide consulting support during this phase, describing best practices for configuration and answering questions related to system setup and entry. AssetWorks will

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provide standardized documentation templates to help the customer complete their configuration tasks. However, all data entry and configuration will be completed by Denton. Among the tasks to be completed include:

- Setting up products and assignments to existing Equipment and Employees/Operators and adding additional products as necessary.
- Setting existing Locations to be Fuel Sites and adding additional fuel locations as necessary.
- Defining Tanks, Pumps, Hoses, and ICUs.
- Linking card assignments to existing Equipment and Employees/Operators and adding additional employees as necessary.
- Ensuring each of the fuel sites will be ready for network connectivity while the ICU hardware is being assembled and delivered.
- Installing TightVNC or Remote Desktop Protocol ("RDP") as required for remote access to the ICUs.
    - AssetWorks offers two "in-warranty" choices: TightVNC or Microsoft's RDP. If the customer's IT department cannot authorize use of either application, the customer may use its own with a caveat: AssetWorks does not support or test 3rd party applications. As a result, AssetWorks cannot guarantee system stability, so if a 3rd party application is installed on an ICU, the warranty on the flash disk will be voided.

Standard Prompt Configuration Services

AssetWorks will configure standard prompts, over the course of one (1) day, for users to engage with the ICUs based on the authentication hardware that the customer uses (ex: HID (card or fob), MAG, etc.). An ICU is capable of allowing up to four (4) lines with thirty (30) characters each. AssetWorks will work with Denton to determine what the end users should encounter at the fuel island card readers as well as what capturing devices will be allowed for each prompt line. No custom development services are included in this service. If Denton does not utilize a standard reader or requires non-standard prompts, additional effort can be provided upon request.

Telematics Cloud Integration (Single Provider) Configuration

AssetWorks will provide remote professional services to install and configure the AssetWorks Telematics Cloud integration to FleetFocus/AssetWorks EAM. AssetWorks GPS will utilize the Telematics Cloud platform for the integration as of version 24.x.

With AssetWorks GPS as the GPS/AVL provider, there is an additional bi-directional Asset Synchronization service that will be implemented using MAXQueue.

- Not all asset fields are available to be synced as part of this integration. Specific data fields are identified in Product documentation.
- The project will utilize existing functionality and out-of-box FleetFocus/AssetWorks EAM settings and design features within the current supported versions of the FleetFocus/AssetWorks EAM product. Configuration services include meetings with the customer to review DTC management-related workflows.
- Data is limited to meters, DTCs, and GPS data.

Assumes fleet assets are setup in FleetFocus/AssetWorks EAM and ready for configuration to support AssetWorks Telematics Cloud functionality.

Customer will be responsible for identifying which trouble codes to categorize during setup. AssetWorks will not consult on DTCs for the customer. Rather, AssetWorks will provide and train on the tools available to allow the customer to configure DTCs to create work/service requests accordingly.

- Training topics include: ○ Setup of trouble code to create work/service requests
    - Setup of trouble code to create work/service requests with work orders
    - How to see work/service requests in out-of-box reporting
    - Dashboard gadget setup to show service requests and filter by trouble code

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- AssetWorks will enable an out-of-the-box notification that notifies the recipient of newly created service requests or work orders.
- After train-the-trainer training and configuration sessions are complete, the customer will finalize the setup in FleetFocus/AssetWorks EAM and is responsible for loading all data required for project success.
- AssetWorks will configure the integration first in a testing environment to ensure the data is flowing in and displaying where expected in FleetFocus/AssetWorks EAM. Upon testing completion, AssetWorks will then configure the integration in the production environment.
- Once go live is determined, the interface will be activated, and the customer will be responsible for the ongoing monitoring of the interface schedule and all error management.
- AssetWorks is responsible to assist the customer setting up the interface(s) for testing and validation that they connect and run successfully, however AssetWorks is not responsible for analyzing the results of the transactions.
- AssetWorks is not responsible for the data management of any legacy telematics data transactions prior to interface activation.
- Hardware installation is not included.

AssetWorks GPS Configuration, Setup, & Training

A standalone deployment of the AssetWorks GPS system will be provided consisting of GPS hardware and/or dashcams (depending on solution components purchased) for installation in the vehicles and a website/URL logon for the AssetWorks GPS management portal. The AssetWorks GPS system is web based and requires that Customer has internet access with standard web browser technology.

The solution will interface to the vehicles' ECM (Engine Computer Monitor) via "Y" cable installation. In case the ECM is already in use by another device, the GPS unit will be installed in conjunction with the secondary device. If the dashcam option is selected, this will be interfaced to the vehicle via a three-wire installation (power, ground, ignition). Unless quoted herein, installation of pilot equipment is the responsibility of the Customer. AssetWorks can provide pricing for onsite installation services upon request.

AssetWorks will provide the necessary hardware to implement the AssetWorks GPS solution including GPS device(s) and installation cabling. AssetWorks will provide remote installation support, user training, and go live support services. AssetWorks will:

- Provide oversight on the AssetWorks GPS project, including general project administration and AssetWorks resource coordination. The resource will continually monitor the performance of the solution and have regular calls with Customer to assist with the evaluation of the solution and Customer needs.
- Setup the hosting environment in AssetWorks SSAE18 SOC2/ISO27001 certified data center
- Create and provide the AssetWorks GPS URL & login(s) for the cloud-based website.
- Create a System Administrator role within the AssetWorks GPS portal that will allow for Customer managed system configuration.
    - A sample end user/role will also be created as a starting point with limited administrative capabilities and based on common role requirements. The Customer system administrator(s) can add/modify/delete roles and associated privileges as needed. • Configure the AssetWorks GPS Integration to FleetFocus/AssetWorks EAM. AssetWorks will install and configure the Telematics module to ensure the proper handling of incoming data from AssetWorks GPS.
    - The AssetWorks GPS integration is limited to sending meters, alerts, and GPS data as able to be provided by the AssetWorks GPS web service. There is also an Asset Synchronization bidirectional service that will be implemented. Not all asset fields are available between the two systems. Specific data fields will be identified in Product documentation.

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- The FleetFocus/AssetWorks EAM - AssetWorks GPS integration assumes that FleetFocus will be the system of record for assets in AssetWorks GPS.
- The AssetWorks GPS integration will utilize the Telematics Cloud.
- AssetWorks GPS Terms and Conditions will be included on all orders, if applicable.
- Assumes fleet assets are setup in FleetFocus/AssetWorks EAM and ready for configuration to support FleetFocus/AssetWorks EAM - AssetWorks GPS integration functionality.
- After training and configuration sessions are complete, the customer will finalize the setup in FleetFocus/AssetWorks EAM and is responsible for loading all data required for project success.
- Once go live is determined, the interface will be activated, and the customer will be responsible for the ongoing monitoring of the interface schedule and all error management.
- AssetWorks is responsible to assist in setting up the interface(s) for testing and validation that they connect and run successfully.
- AssetWorks is not responsible for the data management of any legacy telematics data transactions prior to interface activation.
- Hardware installation is not included.

- Provide training in the use of AssetWorks GPS program for both administrators and regular users.
  - System Administrator – Scheduled to occur once the initial few vehicles are installed which will provide real data to use for initial training & setup. Expect to provide 2 x 1-hour sessions over first 2-3 weeks of deployment with phone support available as needed during this time for the system administrator(s)
  - Dispatch / General Users – to be scheduled once a significant number of vehicles have been installed and the system administrators are ready to expand system use to additional departments. Expect to provide 2 x 1-hour sessions over 2–3-week period during this phase.
  - Refresher Training – if needed an additional refresher training session can be scheduled (1 x 1hr) once users are comfortable with general system use and may have more advanced use case review.

W.B.S A.4.0 – Hardware Installation Services

Hardware Procurement and Delivery

AssetWorks will order the ICU(s) and related hardware for delivery to Denton's delivery site. Hardware delivery typically takes place within four to six (4-6) weeks from the date the order is placed following the project kick-off meeting. AssetWorks assumes all hardware will be delivered to one (1) central location for disbursement to individual locations by Denton. Upon acceptance of delivery, Denton will be responsible for reviewing and taking inventory of all fuel hardware parts shipped.

Fuel Site Preparation

AssetWorks' subcontractor will be responsible for the removal of the existing system and replacement of such unit with the FuelFocus System. AssetWorks assumes all existing pumps have functioning and compatible pulsers; there are no pump or dispenser replacements included in the pricing. AssetWorks' subcontractor will provide material and labor to remove existing pedestals and install AssetWorks FuelFocus pedestals. AssetWorks' subcontractor estimate is based on:

- Using existing conduit and conductors that are in good working order.
- Using existing data transfer infrastructure between FMS, tank monitor, network switch, and AssetWorks server that are in good working order.

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- Existing pumps, pulsers, dispensers, and tank monitors that are in good working order.

Any additional conduit/conductor work will incur additional costs, will be above-ground, and placed in a manner to reduce trip hazards. Issues involving data transfer infrastructure, cabling, network, or IT will incur additional costs.

AssetWorks will supply an onsite technician for terminations, start up, and testing. AssetWorks will assist Denton with remote start up services per site.

Onsite FuelFocus™ ICU Installation

Once hardware has been delivered to Denton, AssetWorks will schedule and coordinate with AssetWorks' subcontractor to prepare each site for the installation of the FuelFocus solution. AssetWorks will schedule an FMS technician to come onsite and complete installation of up to seven (7) ICU(s). AssetWorks will provide technical services to install the ICU(s) and assumes the site will be Island Controller Ready with all necessary conduit and wires pulled. Denton will work with AssetWorks on the dispenser terminations.

Onsite Secure Fueling (ME79 + cabling) Installation & Diagnostic Training Services

AssetWorks will train the customer onsite, up to one (1) day, on how to install and troubleshoot the secure fueling devices purchased within the contract in a garage setting. Denton will be responsible for all installation of the WAF devices. Before training can occur, the hardware must be delivered and available to the location where it will be installed. Denton can reference AssetWorks' YouTube video for additional installation support:

Before Secure Fueling training can occur,

- The hardware must be delivered and available at the location where it will be installed.
- The ICU(s) must be successfully communicating with FleetFocus FA/AssetWorks EAM.
- The ICU(s) must have a minimum version of 5.16.0.31.
- The AssetWorks Telematics Integration between AssetWorks GPS and FleetFocus FA/AssetWorks EAM will need to be completed and live in a production environment.

W.B.S A.5.0 – Testing Services

Testing Overview

Transactions completed at the fuel island will be verified inside of the FuelFocus application as proof of a successful installation and configuration. A series of test transactions will be completed to ensure that the hardware and the fuel location are properly configured and communicate with the application server. Once each fuel site has been installed, tested, and brought online, the system will be considered live in full production.

Each transaction, whether manually entered or captured wirelessly, will be verified by customer to ensure that:

- The vehicle number was correctly captured and validated.
- Any employee number/pin was captured and validated.
- The correct products were dispensed up to the maximum allowed capacity.
- Meter reading readings were correctly recorded.

If the vehicles are WAF-enabled, tests will also be conducted to ensure that any meter information was accurately communicated and processed by the FuelFocus application. Engine meter readings will be compared to dashboard odometer readings and off-set adjustments will be made in FuelFocus by Denton to synchronize the readings.

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Remote FuelFocus ICU Startup Services

After onsite hardware installation and system configuration is complete, AssetWorks will begin the transition to production based upon the project schedule. This can generally be accomplished in one to two (1-2) days provided that the tested network connection is available without delay. All reasonable efforts will be made to minimize production downtime using the following steps:

1. AssetWorks arrives at location and barricades the Fuel Island from use.
2. AssetWorks contacts the Denton representative to download existing ICU to extract all data.
3. AssetWorks' subcontractor disconnects and locks all power to fuel island as needed for a safe conversion.
4. AssetWorks' subcontractor marks all wiring to existing systems and disconnects.
5. AssetWorks' subcontractor removes existing pedestal and installs new AssetWorks FuelFocus pedestal.
6. AssetWorks installs fuel controller head and completes final terminations of all wiring.
7. AssetWorks continues testing until one (1) successful bypass occurs.
8. Remote AssetWorks resource connects to ICU via onsite AssetWorks technician's computer and installs necessary software and configurations of the ICU.
9. With a Denton representative present, AssetWorks executes two (2) test transactions per hose to serve as acceptance criteria for a fully operational system. AssetWorks will consider the successful test results as proof that AssetWorks has delivered FuelFocus™ to Denton subject to the Software License Agreement.
10. If the agreement includes VeederRoot, AssetWorks will confirm the VeederRoot connection to the ICU only. Any VeederRoot alarm testing or notifications within the Fleet Software will be Denton's responsibility.

W.B.S A.6.0 – Training Services

Training Overview

AssetWorks will provide up to one (1) day of training preparation, system administration training, and ICU user training. These hours include preparation time for the instructor as well as with the customer in advance of training sessions. Training assumes train-the-trainer approach completed one (1) time for all groups. The max class size is ten (10) participants. If the size of the organization is smaller, direct end user training can be utilized over a train-thetrainer approach. This will be determined in a discussion prior to training between the AssetWorks Project Manager and the Denton Project Manager.

Training Preparation

AssetWorks will provide its standard training plan and training materials then begin scheduling and planning for the training. Denton is authorized to tailor the standard training materials to apply branding and match workflows specific to Denton. AssetWorks' training materials assume all users are familiar with a Windows environment, as the AssetWorks training will not include any Windows or remedial computer training. AssetWorks will provide a master electronic version for the Denton Project Manager. Denton will produce and provide copies (across all roles) of the final training materials for use during the training sessions. Denton will be authorized to reproduce and use any training materials for ongoing training within Denton.

AssetWorks assumes that Denton's training facility has enough workstations and remote access to the FuelFocus ICU Software for the training sessions. All training will be held remotely.

FuelFocus User Training Delivery

AssetWorks will train Denton fuel managers and fuel personnel on FuelFocus functionality. The Project Team will be responsible for having the appropriate key personnel from each functional area available for the training sessions. The

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goal is to train Denton on the FuelFocus™ module and all of various functions and workflows that the application can support. Training and preparation for go live cannot begin until the customer installs TightVNC or Microsoft RDP for remote access to the ICUs.

Class ID	Training Includes	Estimated Duration	Participants
FleetFocus System Administrator Training	• Fuel Orders, Fuel Receipts and Pricing • FuelFocus Reporting • Error Handling	Two (2) Hours	• Fleet Manager • Admin Office • Fuel Manager • Fuel Personnel
FuelFocus ICU Training	• ICU Software Training • Troubleshooting	Two (2) Hours	• Fleet Manager • Admin Office • Fuel Manager • Fuel Personnel

W.B.S A.7.0 – Deployment Services

Project Go Live Support Services

AssetWorks will provide up to one (1) day of remote go-live support over the course of two (2) consecutive weeks for the launch of the new Software to Denton's employees. Denton can leverage these services during standard business hours to address any non-critical questions or support needs that may arise from using the Software to support live operations. Denton will be transitioned to Customer Care following go live.

Post Go Live Services

AssetWorks will also provide a thirty (30)-day remote post go live check-in for the Professional Services team to assist in areas of follow-up and further training required. The post go live check-in will take place over the course of one (1) day to ensure adoption and acceptance of the new system. At the completion of post go live support, the project will be considered complete and project closure will be processed.

Responsibilities and Deliverables

The following outlines the deliverables for each project task as outlined in this Statement of Work:

W.B.S Number	AssetWorks' Responsibilities	Customer's Responsibilities	Deliverables
WBS A.1.0 Project Initiation Services	• Review system implementation Steps • Assign customer's tasks • Review contract deliverables and change management procedures • Develop and maintain project schedule • Lead project kick-off meeting • Review project plan tasks and timeline during project kick-off	• • Assign project resources • Provide input for Customer-led activities Assist with developing and • maintaining the project schedule • Ensure all appropriate staff • attend the Kick-Off Provide database backup Procure and install all necessary hardware	• • • Finalized project schedule Project Kick-Off Meeting Hardware Order Review Meeting

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	• Perform orientation on the FuelFocus™ system		
W.B.S A.2.0 FuelFocus Software Installation Services (FA/EAM Webservice)	• Install the FuelFocus Software in Customer's FA/EAM test and production environments	• Provide access to environments • Manage servers, databases, backup procedures, database maintenance practices, and Windows environments and security • Install AssetWorks pre-requisite Software (e.g., ODBC connections, Internet Information Services (IIS), database servers, etc.)	• Installed FuelFocus Software (Webservice) in Customer's FA/EAM test and production environments
W.B.S A.3.0 System Configuration Services	• Provide system configuration consulting and standardized documentation templates for configuration of the FuelFocus system • Customizing standard ICU prompts based on what the	• Data entry and configuration of the fuel island locations, pumps, tanks, and hoses in FA/EAM Set • up products and assignments to existing equipment and employees/operators in FA/EAM	• FA/EAM properly configured to support the new • FuelFocus system Standard prompts customized for ICU(s)
	• customer's end users should encounter at the fuel island card readers Configure Telematics Cloud Interface	• Link card assignments to equipment and employees/operators in FA/EAM • Ensure each fuel site is ready for network connectivity and install TightVNC or RDP for remote access to the ICU(s) Work with • AssetWorks to customize standard ICU prompts	• Telematics Cloud Interface Configured

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W.B.S A.4.0 Hardware Installation Services	• Order the ICU(s) and related hardware for delivery to one (1) central delivery site Perform • Fuel Site Preparation • Schedule and coordinate with onsite subcontractor to prepare each site for ICU installation • Perform onsite ICU installation and load the ICU(s) with the latest Firmware • Perform secure fueling training for installation and troubleshooting	• Review and take inventory of all fuel hardware parts received at the delivery site • Install secure fueling devices	• Hardware is delivered to customer's delivery site Fuel Site Preparation • Complete ICU Installation • Complete Secure Fueling Device Training and Installation Complete
W.B.S A.5.0 Testing Services	• Complete series of test transactions to ensure the hardware and fuel location are communicating properly with the application server Conduct • WAF tests to ensure meter information is accurately communicated • Complete ICU Site Startup Services • If applicable, confirm the VeederRoot connection to the ICU(s)	• Maintain access to the environments Verify network connectivity to the webservice and test • transactions completed by AssetWorks Make any required adjustments • to odometer readings for WAF synchronization If applicable, perform VeederRoot alarm testing	• Testing Complete ICU Site Startup Complete
W.B.S A.6.0 Training Services	• Deliver System • Administrator training • Deliver ICU User training Provide standard plan and training materials in electronic format	• Provide trainers/end users to be trained • Provide training facilities with network connectivity for each participant per class • Reproduce training materials and provide printed copies for all class participants and instructor	• Training Delivery Complete
W.B.S A.7.0 Deployment Services	• Provide FuelFocus production go live support • Provide 30-day post go live check-in	• Provide frontline support for end user questions • Escalate issues to AssetWorks	• FuelFocus Software operational and functional in Customer's

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	• Lead and support deployment activities, including scheduling, coordinating, and communicating progress related to deployment • Finalize and close all contract deliverables	• Update the production system to ensure all records are up to date Ensure data correctness • Confirm connectivity, logins, etc. • Confirm finalization and closure • of all contract deliverables Clear any outstanding project balance •	production environment

Project Resourcing

AssetWorks' FuelFocus Project Team

The AssetWorks project team is a team of highly experienced AssetWorks staff who has been "field-hardened" in fleet operations and real world implementations. Many AssetWorks senior managers have been with the company since 1979. Most of the AssetWorks Professional Services employees have fleet operations backgrounds as Fleet Managers, Shop Supervisors, Mechanics, and Inventory Managers. This real world experience is invaluable in helping our customers implement the application and our ability to understand their needs. The proposed FuelFocus project team will consist of the following key positions:

- Professional Services Manager
- Project Manager
- Implementation Consultant
- Senior Technical Product Specialist

Professional Services Manager

The AssetWorks Professional Services Manager will have the ultimate responsibility for the success of Denton's FuelFocus implementation. The Professional Services Manager reports to the Vice President of Operations and has direct oversight over the Project Manager and day-to-day operations while the Project Manager will oversee the AssetWorks Project Team, including the onsite implementation team and the AssetWorks development and support resources. The Professional Services Manager reviews and approves all project billing and is available to meet periodically with Denton's executive team to review the project status, discuss challenges facing the project, and identify opportunities to advance the project. The Professional Services Manager will be the first to handle any issue escalations with support from the Vice President of Operations. The Vice President of Operations has sole responsibility within AssetWorks for accepting all contract change orders.

Project Manager

Every AssetWorks software implementation will have a dedicated Project Manager that is assigned to the project from start to finish. The AssetWorks Project Manager is the primary point of contact for the customer and has day-to-day responsibility for the successful completion of the project and reports to the Professional Services Manager. The Project Manager is responsible for coordinating resources and activities to ensure that the project is completed successfully and on schedule by directing the daily activities of the project and managing the rest of the project team. Project management activities include:

- Developing the implementation schedule.
- Coordinating all AssetWorks' resources necessary for project implementation.
- Monitoring performance quality in design, coding, testing, training, and implementation efforts.

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- Supporting project team inquiries and direct AssetWorks' support group efforts as necessary.
- Providing regular management update reports.

The Project Manager may serve as the Implementation Consultant, or an additional Implementation Consultant will be assigned to conduct all training sessions and will assist with system setup and configuration questions and issues. The Project Manager will also coordinate with AssetWorks' Implementation Consultant for the implementation of the software and with AssetWorks' Senior Technical Product Specialist for the installation of the ICUs.

Implementation Consultant

The AssetWorks Implementation Consultant is responsible for supporting the customer's setup and configuration of the FleetFocus and FuelFocus system at the customer site. The customer will be responsible for the setup of site locations, fuel types, tanks, pumps, hoses, purchasing (receipts, etc.), fuel cards, employee/operator setup for fuel, etc. with support from the Implementation Consultant. This role also remotely supports the onsite efforts of the AssetWorks Senior Technical Product Specialist.

Senior Technical Product Specialist

AssetWorks' Senior Technical Product Specialists have responsibility for overseeing the installation of the Fuel Island Controllers. They will work with Denton and any fuel system subcontractors to ensure that the fuel islands are properly equipped and configured to accept the installation of the fuel ICU(s). Once installed, they assist with establishing the network connection and working with AssetWorks' Implementation Consultants to support the initial configuration. The Senior Technical Product Specialist will also provide training on the installation of any WAF devices purchased on the contract.

Recommended Denton Project Resources

To best facilitate the implementation, AssetWorks assumes Denton will adequately staff the project with sufficient resources to support the project's successful completion and that all appropriate resources will be committed to the project as of the project start date. AssetWorks recommends that Denton resources include:

Customer Resource	Resource Allocation	Responsibilities
Executive Steering Committee	5% of their time for the full duration of the project	The role of the Executive Steering Committee will be to participate in setting the goals and scope of the project and to participate in quarterly status meetings with the Project Team. The Steering Committee will provide general project oversight and guidance to the Project Team relative to the organization's overall goals and objectives.
Project Manager	20-30% of their time for the full duration of the project	This is the primary contact from Denton who addresses specific project issues and serves as the main point of communication between AssetWorks and Denton. The Project Manager will be responsible for coordinating testing, training, and deployment tasks as well as securing training location(s).

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Application Specialist/Database Administrator(s)	100% of their time during Software Installation, Testing, and Training	This required resource must be familiar with Windows IIS-based web applications and VB and .Net components. During the installation, they will assist with the creation and configuration of the application's web site and database instances. After the installation they will be responsible for applying application upgrades, installing new releases, performing regular database backups, periodically running table maintenance scripts, and maintaining the overall FuelFocus™ application. This resource will serve as the principal technical resource supporting the FuelFocus™ application and will be AssetWorks' primary technical contact. The Application Specialist/Database Administrator(s) typically participate in all System Administration and User training sessions.
Fleet Subject Matter Expert(s)	100% of their time during System Configuration, Testing,	Responsible for meeting with AssetWorks' Implementation Consultant to determine the configuration requirements for FuelFocus. The Subject Matter Expert(s) typically participate in all
	Training, and Deployment	System Administration and User training sessions as well as assist with testing and deployment activities.
Network Engineer(s)	100% of their time during Hardware Installation and Testing	A resource familiar with Windows TCIP networking and security is required at the start of the implementation to assist with configuring the servers, connecting the servers to the network, and managing firewall settings. This resource may also be needed to establish and maintain network connectivity to user workstations. After installation these resources may be called upon to handle network and security issues related to FuelFocus™ and user workstations.

Project Schedule

Project Initiation Timeline Overview

Below is an outline of what to expect following an executed contract with AssetWorks for a FuelFocus project. Named AssetWorks resources are assigned after contract execution.

- Project assigned to an AssetWorks Project Manager after contract execution
- Internal project hand off call between AssetWorks Account Manager, Denton, and AssetWorks Project Manager – within two to three (2-3) weeks of Project Manager assignment
- Project kick off meeting scheduled between AssetWorks Project Manager, Implementation Consultant and Denton - within two to three (2-3) weeks after project hand off call.
- FuelFocus FA system setup meeting between Implementation Consultant and Denton - within two (2) weeks after project kick-off meeting or at a time mutually agreed upon by both parties.
- Webservice installation initiated following the system setup meeting at a time mutually agreed upon by both parties.
- All other project execution activities will follow the project plan and be managed by AssetWorks.

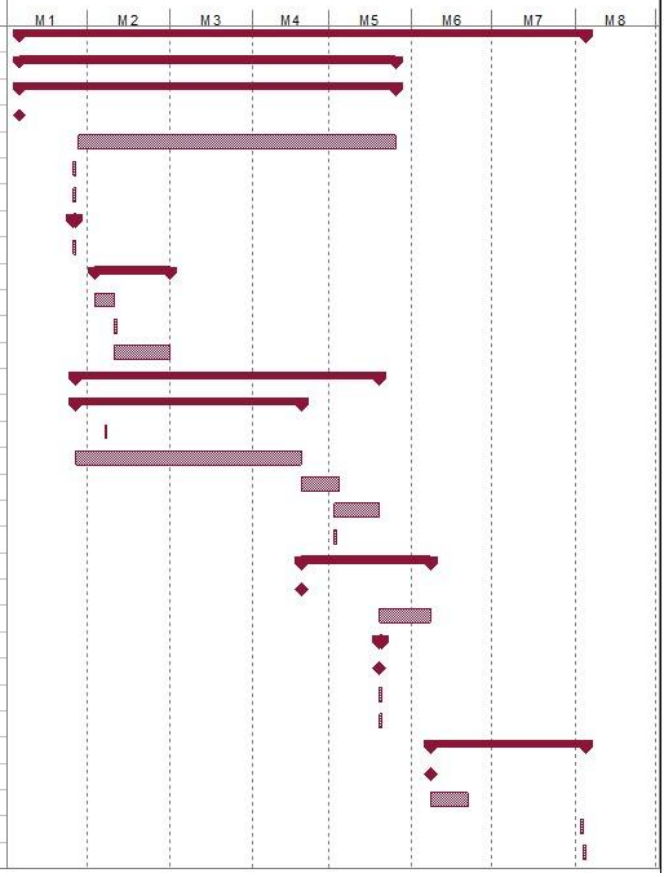
Preliminary FuelFocus Project Schedule

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AssetWorks proposes the following schedule to accomplish the tasks described above. This schedule is subject to change and dependent upon individual conditions and circumstances encountered during the project. AssetWorks will work with Denton's project team during project kick-off to finalize the project schedule, which might extend or reduce the timeline below.

AssetWorks FuelFocus Implementation

ID	WBS	Task Name
1	**A**	**City of Denton AssetWorks FuelFocus Implementation**
2	**A.1**	**Project Initiation Services**
3	A.1.1	Project Management Services
4	A.1.1.1	Contract negotiations complete
5	A.1.1.2	Project Management and Status Reporting
6	A.1.2	Prepare for and Conduct Project Kick-off Meeting
7	A.1.3	Prepare for and Conduct Hardware Order Review Meeting
8	**A.2**	**Software Installation Services**
9	A.2.1	FuelFocus FA/EAM Webservice Installation Services
10	**A.3**	**System Configuration Services**
11	A.3.1	FA/M5/EAM system configuration and setup services
12	A.3.2	Standard Prompt Configuration Services
13	A.3.3	Telematics Cloud Integration Configuration (Single Provider)
14	**A.4**	**Hardware Installation Services**
15	A.4.1	Hardware Procurement and Delivery
16	A.4.1.1	Hardware order review
17	A.4.1.2	Order and schedule shipping on hardware
18	A.4.2	Fuel Site Preparation - Stovall
19	A.4.3	Onsite AssetWorks FuelFocus ICU Installation (7 ICUs)
20	A.4.4	Provide Secure Fueling Installation Training
21	**A.5**	**Testing Services**
22	A.5.1	Deliver Standard Test Plan
23	A.5.2	Remote FuelFocus Site Startup Services
24	**A.6**	**Training Services**
25	A.6.1	Provide Standard Training Materials
26	A.6.2	Provide System Administrator Training
27	A.6.3	Provide ICU User Training
28	**A.7**	**Deployment Services**
29	A.7.1	Commence live operations
30	A.7.2	Provide Go Live Support
31	A.7.3	Provide Post Go Live Support
32	A.7.4	Project Closure



Payment Milestones

Professional services will be provided on a Fixed Fee basis with specific milestone amounts and adheres to the milestone schedule listed below.

Milestone #	Milestone Name	Milestone Amount (USD)
Milestone 1	Remote Fuel Project Management Services Billed Upon Contract Execution GSA# PS-630 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-630&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$10,138.11
Milestone 2	Completion of Remote Project Kickoff & Technical Readiness Meeting Services GSA# PS-120 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-120&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$864.48

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Milestone 3	Completion of Remote FuelFocus-EAM/FA Webservice Software Installation Services in a Production Environment GSA# PS130 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-130&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$432.24
Milestone 4	Completion of Remote FuelFocus Prompt Configuration Services in a Production Environment GSA# PS-120 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-120&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$1,728.96

Milestone 5	Completion of Onsite Secure Fueling Installation Training Services GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$1,728.96
Milestone 6	Completion of Remote FuelFocus-EAM/FA System Setup Services in a Production Environment GSA# PS-150 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-150&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$5,186.88
Milestone 7	Installation of Telematics Cloud Integration (Single Provider) in a Production Environment https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?gsin=11000100885078	$6,915.84
Milestone 8	Completion of Fuel Management System Site Readiness Services 3rd Party Contractor GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$13,831.68
Milestone 9	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #1, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17

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Milestone 10	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #2, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17
Milestone 11	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #3, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17
Milestone 12	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #4, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17
Milestone 13	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #5, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17
Milestone 14	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #6, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.17

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Milestone 15	Completion of Onsite Hardware Installation Services and Remote FuelFocus ICU Site Startup Services (ICU #7, GSA: PS-240 & PS-250) GSA# PS-240 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-240&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA GSA# PS-250 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-250&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,396.18
Milestone 16	Completion of Remote FuelFocus ICU Training Services GSA# PS-500 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-500&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$1,728.96
Milestone 17	Completion of Remote Go Live Support Services GSA# PS-220 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-220&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$3,457.92
Milestone 18	Completion of Remote Post Go Live Services GSA# PS-230 https://www.gsaadvantage.gov/advantage/ws/catalog/product_detail?itemNumber=PS-230&mfrName=ASSETWORKS%20LLC&contractNumber=GS-35F-317GA	$1,728.96
Milestone 19	Completion of Travel Services for Onsite ICU Hardware Installation and Secure Fueling Installation Training Services GSA#PS-240	$6,051.36

Optional Services

Any items listed as optional in the AssetWorks Order Form and not noted in the above Statement of Work can be added upon request. A full scope, deliverables, and pricing will be added into this SOW and presented back to the customer for review prior to any final contract signatures.

Project Assumptions

The following general assumptions apply to this proposed Statement of Work between AssetWorks Inc. (“AssetWorks”) and City of Denton (“Denton”):

General Assumptions

- Professional services will be provided on a Fixed Fee basis with specific milestone amounts and adheres to the milestone schedule listed below.
- For any changes to this Scope of Work as noted above, a signed change order and/or other legally approved amendment must be provided from the customer in order to proceed with the billing of additional costs not contained in this scope of work. The only exception being travel costs as that is variable and travel is provided as an estimate. All travel costs shall be pre-approved by Denton.
- Immaterial or insignificant testing issues that do not prevent Denton from substantially utilizing the Solution to be addressed pursuant in a correction plan, scheduled to be addressed via future maintenance/update or taken under Product Management consideration for a future roadmap item, which in each case do not prevent Denton from substantially using the Solution shall not prevent payment of professional services time and materials billing, fixed fee items with noted milestones, hardware, SaaS and/or hosting monthly fees and/or annual maintenance fees.

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- Any onsite services provided are done so as a minimum of three (3) days onsite and require a minimum of eight (8) hours a day to be billed by an AssetWorks' resource or four (4) hours if the resource is available for an additional half day.
- This Statement of Work assumes the customer is properly licensed/subscribed for the necessary module(s) to utilize any areas which require licensing/subscription as part of the delivery of professional services and custom development services.
- Only the modules identified in the accompanying license/SaaS agreement and also specifically noted in this Statement of Work are to be implemented.
- Modules and/or product enhancement services purchased after implementation has begun will require a change order or separate statement of work for services related to installation, setup, configuration and training.
- All modules and product functionality to be delivered as part of this Statement of Work assumes out of the box usage of FleetFocus. Out of the box usage assumes implementation is limited to only fields and functionality available in FleetFocus at the time of implementation and that implementation adheres to the FleetFocus data type and field length for all available fields, unless noted otherwise.
- Where applicable, standard training materials will be utilized; scope does not include customized training materials.
- Customer will reimburse all pre-approved travel expenses, where noted on Order Form and as incurred by AssetWorks for lodging, airfare, airport parking, ground travel, and per diem rates (GSA or AssetWorks rate, whichever is higher) for the duration of travel. Customer is responsible for any change or cancellation fees assessed to AssetWorks by travel service providers (e.g., rental car, airlines, hotels, etc.) due to Customer's cancellation, postponement or request to change the schedule of approved onsite services.
- This Statement of Work does not include any costs associated with Denton third party vendors or software not already provided by AssetWorks that may be needed to complete the implementation.
- AssetWorks is the author, owner, distributor and sole source provider of fleet management software, professional services and maintenance services for the FuelFocus™ family of products which includes FleetFocus™, FASuite, CAM, AssetWorks EAM, M5, MCMS, FuelFocus, M4 and FleetFocus™. Use of the products is subject to the Software License Agreement.
- Subject to Section 13.5 of the MSA between the parties, if this order is abandoned/paused by Denton for any reason mid-effort, Denton will be billed for all AssetWorks time incurred at the current contracted labor rate.

Customer Resources Assumptions

- All functional and operational groups who will be using and/or impacted by the new system should participate in all the sessions which will be conducted once. Repeating previously run sessions may require a change order for additional project budget.
- Denton will provide the resources described in this Statement of Work to ensure a successful implementation of the products.
- Denton will appoint a single point of contact for the duration of the project. This person should have project management responsibilities and decision-making authority. This person will be the focal point of contact for AssetWorks' Customer Support department.
- All key Denton project team resources will be committed to the project as of the project start date.
- Denton commits to training appropriate functional and technical resources as required.
- Denton is responsible for all manual data entry.
- Denton will have all of the necessary and appropriate personnel at all of the meetings for the purpose of defining the requirements of the system. If additional meetings are required to repeat discussions due to the unavailability of Denton resources, additional cost will be invoiced.

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- AssetWorks will provide onsite training to Denton (as outlined above) in a classroom environment suitable for training. AssetWorks recommends class size to not exceed 10 users to ensure proper attention can be given to individual users and maintain the needed pace to ensure training sessions are completed in a timely manner consistent with the training schedule. If training is proposed as all remote, then web conferencing tools will be used in place but the customer is still encouraged to not exceed 10 users to allow for effective training.
- Denton will be responsible for preparing the training facility. The training facility should include hardware comparable to that found in the actual work place. Some end-user training can take directly in the storerooms or on the shop
- All training sessions will be based on standard application training materials. Denton will be responsible for customizing training materials to meet its implementation requirements.
- Denton will make appropriate technical resources available to AssetWorks' consultants.
- In the event that Denton schedules onsite services and due to circumstances within Denton's control AssetWorks' scheduled personnel are unable to perform such services, AssetWorks will be entitled to payment for each such scheduled personnel on the basis of an 8-hour day.
- AssetWorks will need assistance from Denton to coordinate training and roll-out schedules, communications with field personnel and setting up training sites.

Infrastructure Assumptions

- Denton will provide a project work area and infrastructure at the centralized implementation location appropriate for the size of the combined Denton/AssetWorks project team. This infrastructure should include desks, chairs, telephones, and workstations with network access to printers and to the applications and implementation databases.
- AssetWorks' consulting estimates do not include installation and/or configuration of any computer hardware and peripheral equipment.
- Denton will be responsible for installing and configuring computer hardware and peripheral equipment such as printers and bar code equipment (if applicable).
- Denton is responsible for providing browser access to the FleetFocus and FuelFocus™ application.
- Denton is responsible for providing and maintaining TCP/IP connectivity with sufficient bandwidth from all user workstations to the FuelFocus and FleetFocus™ servers.
- Denton will receive all standard, out-of-the-box reports with the purchase of the reporting module; the reporting module leverages the Crystal Reports Server OEM Edition license. A non-production and production reporting environment will be implemented.
- Denton will utilize a single production FleetFocus™ and FuelFocus database. A test database instance will also be implemented. If using FleetFocus M5, this Statement of Work applies to an implementation for one "company" if using an Oracle as a database type.
- The following information technology services are not included in this Statement of Work: network connections; telecommunications network(s); operating system, network and database administration; disaster recovery planning; the acquisition, installation, testing and tuning of any required hardware, operating software, peripherals and communications infrastructure.

Project Management and Risk Factors

- Denton and AssetWorks will agree on scope, services, and deliverables for optional modules and services prior to the Notice to Proceed.
- Denton project manager will be responsible for obtaining any required authorizations, approvals and/or signoffs by Denton related to project deliverables and project progression in a timeframe in alignment

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with the project work plan. Delays to this process as well as any Denton tasks not completed within the work plan timeframe will be subject to the Change Order Management process, delayed deadlines, and increased services fees.

- This Statement of Work does not include the expenses associated with Denton or Denton resources assigned to the project.
- Denton remains responsible for all integration effort not described in this Statement of Work
- The project schedule is contingent upon the timely attainment of several external milestones that are outside the control of AssetWorks. Examples include but are not limited to the acquisition of the requisite software licenses and hardware and the approval of requisite capital appropriation requests as required.
- Circumstances may necessitate changes to the tasks and/or time estimates, at which time AssetWorks and Denton will discuss these changes in good faith at their earliest opportunity.
- This proposed Statement of Work includes implementation support for only those optional modules, interfaces, and modifications listed in the task list. Any change to the proposed Statement of Work, particularly the implementation services, data conversion, interfaces, and application modifications, will be documented and follow the same procedures for new enhancements or change orders.
- Unless otherwise noted, all integration, enhancement and report development effort quoted in this proposed Statement of Work are an estimate based on AssetWorks' experience providing similar services for other clients based on our current understanding of the requirements. AssetWorks will develop a detailed Development Specification for all services before proceeding with any development.
- This Statement of Work includes services to determine Denton's requirements and preparing the development specifications and quotes for only those development items identified in this Statement of Work. Any requirement analysis and specification work for additional items not identified in this Statement of Work would be done on a time and materials basis.

Project Delays

- AssetWorks and Denton agree that in the event of delay or cancellation of scheduled on-site meetings at Denton request within two weeks of execution, AssetWorks shall be due reimbursement for any travel expenses incurred in preparation for the delayed or cancelled services. In the event that Denton schedules remote and on-site services in excess of three days that are not cancelled in writing at least fourteen (14) days prior to services being performed and due to circumstances within Denton control AssetWorks' scheduled personnel are unable to perform such services, AssetWorks will be entitled to payment for each such scheduled person on the basis of an eight (8) hour day.

Travel Assumptions

- AssetWorks will bill Denton for all actual pre-approved travel expenses directly attributed to onsite services delivered during the project.
- Unless otherwise noted, actual, pre-approved travel expenses will be billed on a monthly basis following the delivery of any onsite services.
- Pre-approved travel expenses are expected to be reimbursed as invoiced and are not subject to any project hold-back or payment deferrals.
- AssetWorks staff members that are scheduled onsite for consecutive weeks will have the option of returning home at the conclusion of the scheduled work week or, with approval from Denton, stay through until the start of the following work week. Expenses incurred during the intervening period will be reimbursed up to the cost of the pre-approved travel expenses that would be incurred returning home between the work weeks.

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- AssetWorks will bill Denton for all expenses for pre-approved travel onsite to provide planned services for which Denton is not prepared to support (e.g., Meeting canceled due to weather; schedule participants are unavailable, scheduled facility is unavailable, etc.)
- All pre-approved travel costs provided in this Statement of Work are estimates and subject to revision based on actual airline, hotel, rental car, and local market conditions.

FMS Site Readiness Terms

- Customer has a separate written and signed agreement with AssetWorks. This Order Schedule is subject to the negotiated AssetWorks Master Subscription Agreement, as applicable, which is incorporated herein by reference.
- This Order Schedule is based on the site being Fuel Management System Ready (FMS). FMS Ready means that all FuelFocus System pedestals will be mounted to the appropriate location. All conduits will be connected between the FuelFocus Controllers and pumps, junction boxes and breaker panels. Assumes all dispensers have pulsers and are fuel system compatible. All wires will be pulled and left disconnected at each end. See full FMS Ready Checklist below.
- This Order Schedule does not include permits, permit fees or site as built drawings.
- Prices are quoted in USD and are subject to any applicable state and/or local sales tax, import duties, PST, VAT. The pricing is based upon the quantities listed at the time of purchase. In the event that the number of licenses, assets or sites changes the pricing is subject to change.
- This is a fixed price contract with payment due within 30 days of the receipt of an invoice. All licenses, hardware, and maintenance will be billed upon date of delivery. All services and travel will be invoiced monthly as incurred. Year 1 maintenance period will begin ninety (90) days from date of delivery.
- Details of the warranty, which includes 1 year parts with telephone help desk support, can be found under Hardware Terms in the AssetWorks Online Master Agreement referenced above. Extended warranty plans are available for subsequent years.
- Customer must have a tested network connection at the fuel island. This connection needs to be able to ping the FleetFocus Server successfully.
- Site must have fuel in tanks, dispensers primed and ready to pump fuel for full site certification.
- The following will apply to all Professional Services under the Order Schedule:
- Additional charges may apply if sites are not ready as described above for both services and travel.
- Travel: Expenses include actual costs for lodging, air, and ground travel and per diem rates for meal expenses (corporate rate/government agreement).
- Professional Services engagements have 4-8 week lead time from execution of contract/order. When Professional Service days are contracted, they are removed from AssetWorks' capacity and considered sold to the customer, and as a result AssetWorks makes financial plans based upon the revenues it expects to achieve from the full performance of the contract. It is impossible for AssetWorks to know in advance whether or under what circumstances it would be able to resell the service days if the customer does not use them, either as the result of delaying or canceling meetings, tasks, or deliverables. In most instances, when customers do not use the contracted time, AssetWorks is unable to resell those days or services. Even when days or services may be resold, it is costly to re-market the services, and such efforts divert effort to do so. While customer days have been held out of AssetWorks' capacity planning, AssetWorks may have turned away or delayed the start of other customers in order to meet AssetWorks' commitment to the customer. For these reasons, AssetWorks and the customer agree that in the event of delay or cancellation of scheduled project tasks and meetings at the customer's request within two weeks of execution, AssetWorks shall be due compensation equal to the contracted amount to deliver the services cancelled including any travel expenses incurred in preparation for the delayed or cancelled services.

FMS Ready Checklist for FuelFocus Island Controller System

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The following represents a checklist of items that need to be performed in order for the customer to be considered Fuel Management System Ready, or "FMS Ready." AssetWorks assumes all FuelFocus Island Controller Unit ("ICU") sites will be FMS Ready before the onsite arrival of any AssetWorks personnel. "FMS Ready" means that all items outlined below, where applicable, have been configured by the customer.

- Failure to comply with these requirements will lead to delays in the projected deployment date. AssetWorks will not be held responsible should the customer fail to meet the FMS Ready requirements below. Additional charges may be incurred for lack of completion.
- The customer should share this document with its electricians to ensure all prerequisite requirements have been completed. When the following requirements have been prepared, the customer will contact AssetWorks to schedule a date to complete final terminations.
- All conduit and wiring requirements below describe what is required for FMS System controller only. AssetWorks assumes the station(s) and dispenser(s) have already been wired.

Core Software Requirements

- The customer will be on a supported version of AssetWorks' proprietary software products and the minimum version required for any new modules or products purchased.
- The customer will be required to upgrade to utilize new features and/or fixes available to facilitate project success. Software and/or hardware upgrade services for on-premises customers are not included, unless otherwise noted on the Order Form.

Pedestal Mounting Requirements

- The customer will be responsible for mounting the fuel management system pedestal(s) and fastening the pedestal(s) to concrete using appropriate concrete anchors.
- Pedestal will not be within 18 inches of a gasoline dispenser and within 5 feet of a CNG dispenser.
- The customer will attempt to aim the final location of the ICU display out of constant direct sunlight.
- The customer is responsible for ADA Compliance, which requires pedestal(s) to be mounted at user-level and not mounted on a raised fuel island.

Pedestal Conduit Requirements

- The customer will run conduit from the master dispenser(s) to the pedestal(s), as needed.
- The customer will arrange the conduit under the pedestal(s) to fit within the following pedestal dimensions:
- Regular base pedestal dimensions: 10.5" x 11.5"
- Wide-base pedestal adapter dimensions: the base internal dimensions are 12" X 27" and taper upward to 10.5" x 11.5"

FMS Controller Electrical, Conduit, and Wiring Requirements

- AssetWorks requires dedicated power from a circuit breaker panel to each FMS Controller. The power for each controller can be pulled off one (1) circuit breaker.
- The customer's electrician will pull cables within the indicated conduit, leaving at least three (3) extra feet above the top of the pedestal(s)as much as possible—to fit in the electrical junction box within the dispensers.
- The customer will provide three (3) 14AWG minimum THHN gas/oil resistant wires for power, neutral, and ground to each FMS Controller from the breaker panel. The customer will terminate the wiring at the panel, wire nut FMS System ends, and mark the breaker. The customer will then lock the breaker in the off position.

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Network Conduit and Wiring Requirements

- AssetWorks requires a dedicated conduit back to the building from each FMS Controller for communication wiring, unless Wi-Fi connectivity will be used.
- The customer will pull whatever cable is appropriate based on the customer's demands and location parameters to ensure a reliable TCP/IP ethernet connectivity to each ICU. This may be a CAT5 cable, fiber optics, or Wi-Fi connectivity.

Optional Tank Monitoring System Wiring Requirements

- If the TLS interface option is chosen, there are two (2) methods of connecting the Veeder Root console to Fuel Focus. The customer will be responsible for procurement, installation, configuration, and programming of either method:
- The first method is via an RS232 serial card. The customer will be responsible for installing a card in the Veeder Root. While this is a less expensive option, the effective communication distance of RS232 cannot exceed fifty (50) feet between the Veeder Root and FuelFocus controller. If RS232 is used, a four (4) conductor shielded cable must be installed between the two in its own conduit or the ICU network conduit.
- The second method is via TCP/IP. The customer will be responsible for installing an ethernet card in the Veeder Root and running a CAT5 network connection to the customer's network for the Veeder Root. This too should be run in its own conduit or in the ICU network conduit.

Dispenser Conduit and Wiring Requirements

- AssetWorks requires one (1) conduit from the pedestal to be terminated in the dispenser AC electrical junction box.
- For one (1)-hose pump/dispensers: The customer will pull four (4) 14AWG minimum THHN gas/oil resistant wires to each pump/dispenser electrical junction box for control wiring. One (1) of these wires should be white to indicate neutral. Dispenser must be able to have authorized wires always wired hot when using WAF technology, and solenoid valve will be used for system control.
- For two (2)-hose pump/dispensers: The customer will pull eight (8) 14AWG minimum THHN gas/oil resistant wires to each pump/dispenser electrical junction box for control wiring. One (1) of these wires should be white to indicate neutral. Dispenser must be able to have authorized wires always wired hot when using WAF technology, and solenoid valve will be used for system control.
- AssetWorks requires either:
- A second conduit from the pedestal to the pulser junction box in the dispenser, or
- The pulser junction box in the dispenser piped through the AC electrical junction box in the dispenser.
- The customer will pull a four (4) conductor 22AWG minimum shielded cable to the dispenser for pulser communication. Please consult with an AssetWorks technician if these distances exceed three hundred (300) feet.
- If absolutely necessary, the shielded DC pulse wire can be run in the AC conduit. The shielded wire must be bonded to ground at one (1) end of the conduit only, and the other end must be capped.

Mobile FMS Site Readiness Requirements

The following represents a checklist of items that need to be performed in order for the customer to be considered Fuel Management System Ready, or "FMS Ready" for mobile fuel tanker units. AssetWorks assumes all FuelFocus Mobile Fuel Controller ("MFC") unit sites will be FMS Ready before the onsite arrival of any AssetWorks personnel. "FMS Ready" means that all items outlined below, where applicable, have been configured by the customer.

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- Failure to comply with these requirements will lead to delays in the projected deployment date. AssetWorks will not be held responsible should the customer fail to meet the Mobile FMS Ready requirements below. Additional charges may be incurred for lack of completion.
- The customer should share this document with its electricians to ensure all prerequisite requirements have been completed. When the following requirements have been prepared, the customer will contact AssetWorks to schedule a date to complete final terminations.
- All cable and wiring requirements below describe what is needed for Mobile FMS System controller only. AssetWorks assumes any dispensers, valves, pulsers, and product pumps have already been wired.

Core Software Requirements

- The customer will be on a supported version of AssetWorks' proprietary software products and the minimum version required for any new modules or products purchased.
- The customer will be required to upgrade to utilize new features and/or fixes available to facilitate project success. Software and/or hardware upgrade services for on-premises customers are not included, unless otherwise noted on the Order Form.

FMS System Enclosure Requirements

- The customer will be responsible for mounting the FMS system enclosure(s) in a weather-protected and easily accessible area of the vehicle(s).

Pulser and Solenoid Valve Requirements

- The customer will verify that all fuel dispensers have 10:1 (electronic or mechanical) pulsers for each hose, per the manufacturer's manual, to support card reader operation.
- The customer will install a 12VDC solenoid valve at the fuel register for each product.

MFC Power and Control Wiring Requirements

- The customer will be responsible for running the following conduit(s) or cable(s) as needed:
- Installing a pre-wired MFC cable to the vehicle's fuse panel or battery
- Ensuring a mechanic terminates the cable and labels fuses, leaving the fuses inside the MFC panel. AssetWorks will install fuses after wiring is complete.
- Running a dedicated ignition wire from the MFC to the vehicle's fuse panel or existing ignition circuit
- Running one (1) conduit or cable from the MFC to be terminated at the solenoid valve for each product
- Running one (1) conduit or cable from the MFC to be terminated at each pulser
- Running all valve and pulser wires inside the MFC and individually labelling them. The customer's installer will leave three (3) feet of extra wiring inside the MFC.

Transfer Tank Control ("TTC") Power and Control Wiring Requirements

- For motor vehicle TTC units, the customer will be responsible for running the following three (3) conduit lines into the controller (Max wire size is 14AWG; Customer must utilize a Ferrule sleeve 2.5MM²/14AWG insulated length 8mm):
- One (1) cable from the car battery to the terminal block (+) using a 3A fuse close to the power source.
- One (1) cable from ignition to the terminal block "Eng / SW" using a 3A fuse close to the power source.
- One (1) cable from the car battery to terminal block (-).
- For units with larger motors, AssetWorks recommends 8 or 10AWG depending on the size of the motor. The customer will confirm sizing with AssetWorks Project Manager or installer prior to installing the three conduit cables specified above.

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Optional Wireless Automated Fueling ("WAF") Antenna Requirements

- The customer will be responsible for:
- Mounting the wireless antenna on a custom bracket that does not block any side of the antenna box. (No metal plates.)
- Mounting the antenna bracket up high enough on the vehicle to give the antenna a bird's-eye view (360 degrees) around the fuel truck.
- Ensuring the antenna is protected from tree branches and other low-hanging objects.
- Running the pre-wired CAT5 cable from the MFC to the antenna box in a conduit or wire loom.
- Connecting CAT5 cable and ground wire to the antenna and installing the cover.

AssetWorks Hardware Terms of Use

Please refer to section 6 (Hardware) of the negotiated AssetWorks Master Subscription Agreement:

Hardware Prices & Specifications. Hardware prices and specifications are subject to change without notice. AssetWorks is not responsible for typographical and/or photographical errors.

Hardware Installation & Configuration. Hardware fees are exclusive of shipping, installation, and/or configuration services unless Order provides otherwise. Customer agrees that installation guides, site readiness requirements, and/or other hardware-specific terms on the Order or otherwise published by the applicable hardware provider are deemed an integral part of this Agreement.

Hardware Warranties. AssetWorks warranty responsibility for Hardware is limited to replacement parts and telephone and/or helpdesk support during the warranty period in accordance with the then-current applicable warranty statements.

AssetWorks GPS
Technical Assistance. Telephone and/or Help desk support is available for AssetWorks GPS hardware issues 8:00AM-5:00pm MST Monday through Friday, by emailing fss.support@assetworks.com or calling 403-777-3760 x2
Warranty on third-party products, where sold as part of the AssetWorks GPS, will be as offered by the original manufacturer's warranty terms and Customer will be subject to these terms.
Activations; Invoicing. Notwithstanding any terms to the contrary, Customer agrees that deactivations of AssetWorks GPS-related units shall take effect in the next applicable subscription period and that fees will not be prorated nor refunded for units deactivated during the applicable subscription period.

FuelFocus, FuelDrive, & KeyValet
Technical Assistance. Telephone and/or Help desk support is available for FuelFocus & FuelDrive hardware issues 8:00AM-5:00pm ET Monday through Friday, by emailing fuelsupport@assetworks.com or calling 610-225-8350 (800-900-8152). Calls left after hours will be returned the next business day. Access to support after warranty period is on a commercially reasonable basis unless Customer is a fully paid subscriber for Maintenance.
Return Policy. Hardware may be returned within thirty (30) days of shipment by requesting a Returned Merchandise Authorization ("RMA") by emailing fuelsupport@assetworks.com or by calling 610-225-8350. RMAs are valid for fifteen (15) days from the date of issuance. Customer must ship the requested hardware, freight pre-paid, with original packing, manuals, and accessories (as applicable) to the RMA-identified return address with AssetWorks-issued RMA affixed and enclosed otherwise no credit will be issued. A minimum restocking fee of 25% will be charged against any return credit issued to Customer. AssetWorks shall refund, replace, or exchange (at its option) such Hardware within fifteen (15) business days of its receipt; provided, however, that AssetWorks reserves the right to reject returns of

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Hardware that are: (a) lacking a valid and/or unexpired RMA; (b) no longer in production; (c) used unless under warranty or other maintenance contract; (d) altered without AssetWorks' specific authorization; or (e) not evaluated by AssetWorks' personnel and/or returned in accordance with this section.

Limited Hardware Warranty. AssetWorks warrants Hardware to be free from defects in materials and workmanship for one (1) year from the date of original purchase; provided, however, that AssetWorks GPS Hardware is warranted for the entire Term ("Warranty Period"). During the Warranty Period, AssetWorks will provide new or rebuilt replacement parts for AssetWorks-verified defects within fifteen (15) business days of AssetWorks' receipt of such Hardware if evaluated by AssetWorks and returned in accordance with these terms. On-site labor and travel costs are not included. Replacements may be re-manufactured or reconditioned and will be warranted for the remainder of the original Warranty Period.

Hardware Warranty Exclusions. AssetWorks Hardware warranties do not cover and shall be void in regards to nor shall AssetWorks be responsible for any damages, costs, and/or repairs attributable in any way to: (i) faulty installation or installation otherwise not in accordance with AssetWorks installation manual or instructions; (ii) use of personnel other than authorized representatives of AssetWorks absent prior written approval from the AssetWorks Project Manager; (iii) water, fire, abuse, theft, vandalism, shipment, accident, operator error or lack of knowledge, power surges or failure, acts of god and force majeure; (iv) any condition not encountered during normal operation; (v) neglecting, misusing, tampering, or adjusting of the Hardware; (vi) Customer's failure to perform normal preventive maintenance; (vii) accessories attachments or other devices not furnished by AssetWorks; (viii) labor, travel, or any costs unrelated to parts; and (ix) expendable items such as magnetic card, printer ribbons, fuses, bulbs, and similar items and supplies subject to ordinary wear and tear.

HARDWARE WARRANTY DISCLAIMER. HARDWARE WARRANTIES ARE PROVIDED IN LIEU OF ALL OTHER RIGHTS, CONDITIONS, AND WARRANTIES. ASSETWORKS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO HARDWARE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTIBILITY, OR NON-INFRINGEMENT. ASSETWORKS DOES NOT WARRANT THAT HARDWARE WILL BE ERROR-FREE OR THAT ANY DEFECTS THAT MAY EXIST IN PRODUCTS CAN BE CORRECTED. IN NO EVENT SHALL ASSETWORKS BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, LOST PROFITS, OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, HOWEVER CAUSED WHETHER OR NOT ASSETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Logistical and Scheduling Support

AssetWorks will need assistance from Denton to coordinate training and roll-out schedules, communications with field personnel and setting up training sites.

Procedures for Handling Change Orders

If there is a change to the scope, or additional requirements to the project, these will be documented in the project change log, and the AssetWorks PM will review these potential changes with the Denton Project Manager to determine the need and priority for the change. If the change is something that will be required, then the next determination would be who will be responsible for executing the change, if the change will result in a change of scope requiring additional support or effort from AssetWorks a formal change order request will be developed and provided

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to Denton for review and approval to be added to the scope of work. Any changes to the scope of work will be reflected in the project decision log and will result in updates to the project scope of work, schedule, and budget, including the addition of any additional milestones. Only after all parties agree on the need for the change, and the plan for integrating the change into the overall implementation project plan, would AssetWorks begin work on this change.

Sole Source Provider

AssetWorks is the author, owner, distributor and sole source provider of fleet management software, professional services, and maintenance services for the FuelFocus™ family of products which includes AssetWorks EAM, FleetFocus, FASuite, G2K, MCMS, M4 and FuelFocus™. AssetWorks is solely authorized or certified to provide this service.

SOW Signature Block

In witness whereof, the parties' authorized representatives hereby agree to this Statement of Work

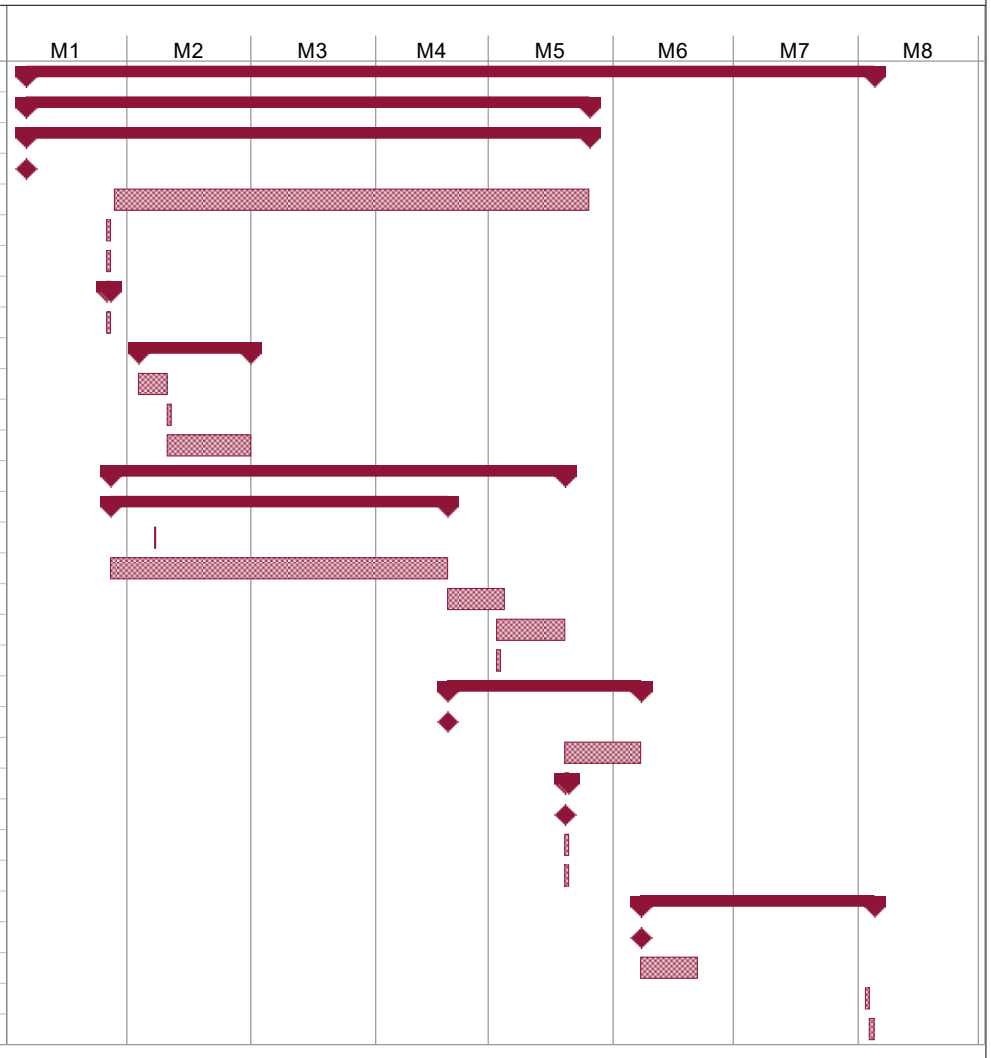
City of Denton Authorized Representative:			
Signature:		Date:	
AssetWorks Authorized Representative:			
Signature:		Date:	

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AssetWorks FuelFocus Implementation

ID	WBS	Task Name
1	**A**	**City of Denton AssetWorks FuelFocus Implementation**
2	**A.1**	**Project Initiation Services**
3	A.1.1	Project Management Services
4	A.1.1.1	Contract negotiations complete
5	A.1.1.2	Project Management and Status Reporting
6	A.1.2	Prepare for and Conduct Project Kick-off Meeting
7	A.1.3	Prepare for and Conduct Hardware Order Review Meeting
8	**A.2**	**Software Installation Services**
9	A.2.1	FuelFocus FA/EAM Webservice Installation Services
10	**A.3**	**System Configuration Services**
11	A.3.1	FA/M5/EAM system configuration and setup services
12	A.3.2	Standard Prompt Configuration Services
13	A.3.3	Telematics Cloud Integration Configuration (Single Provider)
14	**A.4**	**Hardware Installation Services**
15	A.4.1	Hardware Procurement and Delivery
16	A.4.1.1	Hardware order review
17	A.4.1.2	Order and schedule shipping on hardware
18	A.4.2	Fuel Site Preparation - Stovall
19	A.4.3	Onsite AssetWorks FuelFocus ICU Installation (7 ICUs)
20	A.4.4	Provide Secure Fueling Installation Training
21	**A.5**	**Testing Services**
22	A.5.1	Deliver Standard Test Plan
23	A.5.2	Remote FuelFocus Site Startup Services
24	**A.6**	**Training Services**
25	A.6.1	Provide Standard Training Materials
26	A.6.2	Provide System Administrator Training
27	A.6.3	Provide ICU User Training
28	**A.7**	**Deployment Services**
29	A.7.1	Commence live operations
30	A.7.2	Provide Go Live Support
31	A.7.3	Provide Post Go Live Support
32	A.7.4	Project Closure



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AssetWORKS

This Master Subscription Agreement ("**Agreement**") is deemed effective upon the earlier of _____, 2025, or the below date of countersignature ("**Effective Date**") between the **AssetWorks Inc.** ("**AssetWorks**") and **City of Denton, Texas** and/or its authorized intermediary ("**Customer**") identified on the order form and/or statement of work (collectively "**Order**").

0 SCOPE & TERM.

0.1 This Agreement shall continue for three (3) years with the option to renew for 2 one year periods. from the Effective Date ("**Term**") and shall apply to all Orders executed between AssetWorks and Customer (collectively "**Parties**") during the Term. Capitalized terms are defined at the end of this Agreement.

0.2 The following order of precedence shall control in case and to the extent of conflict:

- Exhibit A – Special Terms and Conditions
- Exhibit B – the GSA Cooperative MAS Contract GS-35F-317GA
- Exhibit C – AssetWorks Order Form Q-14535-4, Assetworks FuelFocus SOW and Master Subscription Agreement
- Exhibit D – Certificate of Interested Parties Electronic Filing
- Exhibit E – Insurance Requirements
- Exhibit G – Conflict of Interest Questionnaire

0.3 Customer agrees to pay the fees and AssetWorks agrees to supply the items as detailed on the Order subject to the terms and conditions of this Agreement (as applicable) to the exclusion of any additional or conflicting terms of acceptance.

0.4 No terms or conditions endorsed upon, delivered with, or contained in the Customer's acknowledgement or acceptance of this Agreement or any related Order shall form part of this Agreement except those specifically set forth above and incorporated into this Agreement. Similarly, any additional or amended terms on AssetWorks documents or electronically available will not be applicable to Customer to the extent negotiated herein and subject to the laws of the State of Texas and without waiving any applicable immunity. Customer hereby waives and agrees to waive any right to rely on such terms and conditions.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by authorized representatives as of the Effective Date:

	ASSETWORKS INC.		CUSTOMER
By	_____	By	_____
Name	_____	Name	_____
Title	_____	Title	_____
Date	_____	Date	_____
Address	1001 Old Cassatt Road, Ste. 204	Address	_____
	Berwyn, PA 19312		_____
CC 1:	_____	CC 1:	_____
CC 2:	legal@assetworks.com	CC 2:	_____

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1 SAAS SUBSCRIPTION

1.1 Software-as-a-Service Subscription. If the Order includes SaaS, recurring service, or similar identifier then subject to the terms and conditions of this Agreement including the payment of fees, AssetWorks will provide Customer with subscription-based access to the software/service as detailed on the Order and Documentation during the prepaid Term through an access-restricted website or designated IP address hosted via a third-party data center ("**SaaS**" or "**Service**") for Customer's internal business purposes provided Customer complies with the applicable limitations on use set forth in Section 3 (*Ownership; Restrictions; Utilization Limitations*).

1.1.1 Support. SaaS subscriptions include standard support pursuant to Section 4 (*Maintenance & Support*).

1.1.2 Hosting. SaaS subscriptions include standard hosting services pursuant to Section 5 (*Hosting Services*).

1.1.3 Delivery N/A. Customer agrees that orders for SaaS are services agreements due upon Effective Date for which delivery and acceptance is inapplicable and that no copies of the Software nor license thereto will be delivered nor granted to Customer unless the Order includes license to Software, in which case the license as set forth in Section 2 shall apply to such Software.

2 SOFTWARE LICENSE

2.1 Restated Software License. If the Order includes license to Software, then subject to the terms and conditions of this Agreement including the payment of fees, AssetWorks grants to Customer a non-exclusive, non-transferable, non-sublicensable, perpetual license to use the Software as detailed on the Order and Documentation up to the number of units or in the amount, quantity, and/or tier or as otherwise specified on the Order (e.g. Active Equipment Unit, Concurrent License, Enterprise License) for Customer's internal business purposes provided Customer complies with the applicable restrictions set forth in Section 3 (*Ownership; Restrictions; Utilization Limitations*). Customer's license is for (1) copy or image of the Software within one (1) business entity for production purposes on approved database and application servers ("**Customer Environment**"). Customer shall not copy nor use the Software for any other purpose except: (a) for archival purposes; (b) in connection with a disaster recovery program; or (c) for testing operation of the Software outside of a live production environment.

2.1.1 Support N/A. For additional fee, Customer may obtain standard support pursuant to Section 4 (*Maintenance & Support*).

2.1.2 Hosting N/A. For additional fee, Customer may obtain hosting services pursuant to Section 5 (*Hosting Services*).

3 OWNERSHIP; RESTRICTIONS; UTILIZATION LIMITATIONS;

3.1 Restrictions; Limitations. To the extent permitted by law and unless Parties agree otherwise, Section 1 (*SaaS Subscription*) and Section 2 (*Software License*) are conditioned on the following limitations and restrictions. Customer shall not knowingly attempt, permit, nor knowingly encourage any third party to: (a) copy, modify, enhance, translate, change data structures, create derivative works from, distribute, publicly display or perform, sublicense, transfer, sell, rent, lease, or assign the Software or Documentation or otherwise encumber the Service; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive or modify the software or Source Code, underlying data structure, ideas, know-how, algorithms, or other trade secrets relevant to the Service; (c) engage in any activities that interfere or disrupt any computer, software, network, or other device used to provide the Service or otherwise impacting the Service or data contained therein; (d) gain unauthorized access; (e) remove any proprietary notices, labels, or markings from the Software or Documentation; (f) use the Software or Service by more than one (1) business entity, in processing work for third parties, or for any purpose other than its internal business purposes, which does not include use by any parent, subsidiary, or affiliate of Customer nor any third party other than Customer's Users; (g) use the Service in a manner that violates laws or rights of others such as by inputting Excluded Data into the Service; (h) use the Software or Service as part of a fail-safe design for dangerous or emergency applications or as part of control measures required for hazardous materials, life support systems, munitions, or weapons; (i) perform benchmark, availability/uptime, performance, or pen tests without prior consent; (j) use the Software or Service to compete with AssetWorks; (k) engage in web- or data scraping on or related to the Service, including without limitation collection of information through unapproved third-party vendor, bot, web crawler, or any software that simulates human activity; and (l) use the Service and/or Software in excess of the licensed quantity or tier (e.g. Active Equipment Unit, Concurrent License, Enterprise License, etc.).

3.2 Ownership. Customer will not obtain any ownership rights, title, or interest to the Software or Services nor to any improvements, enhancements, derivatives, or modifications thereto. Any software, systems, methods, inventions, technology, and any intellectual property rights ("**IPR**") developed or otherwise arising during this Agreement shall remain exclusively owned by AssetWorks and/or its licensors. Notwithstanding anything to the contrary, AssetWorks shall have the right to collect and analyze data and other information relating to the provision, use, and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data), and AssetWorks will be free (during and after the term hereof) to: (a) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other AssetWorks offerings, and (b) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

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4 MAINTENANCE & SUPPORT

4.1 Annual Support Subscription (i.e. Maintenance-as-a-Product). Subject to the terms and conditions of this Agreement, AssetWorks will provide the latest updates, modifications, and enhancements (including correction of errors) which relate to the operation and performance of the Software or SaaS (hereinafter referred to collectively as the "**Service(s)**") as they are developed and made generally available in accordance with the maintenance and support schedule published by AssetWorks (collectively "**Maintenance**" or "**Support**"). Subscriptions to Maintenance include:

4.1.1 Technical Assistance. AssetWorks will make available technically qualified personnel to respond to all reasonable support requests made by Customer during normal business hours published by AssetWorks Customer Care (excluding legal holidays).

4.1.2 Technical Literature. AssetWorks will make available all technical literature (i.e. Documentation) in electronic format that is relevant to the operation of the Service within the scope of Customer's operations.

4.1.3 Correction of Deviations. AssetWorks will take reasonably necessary steps to correct errors and/or malfunctions ("**Deviation(s)**") without undue delay that, in the mutual and reasonable opinion of the Parties, constitute a serious impediment to the normal intended use of the Service as set forth in the Documentation. Corrections to Deviations which do not rise to this level will be distributed to Customer in accordance with AssetWorks' normal maintenance schedule.

4.1.4 Software Revisions & New Versions. The Software may be revised by AssetWorks to correct Deviations and/or for upgrades, enhancements, improvements, or modifications designed to improve performance and/or increase capabilities of the Software. Revisions may be mandatory or optional and are included at no cost with annual subscription to Maintenance. New products or versions may also be added to the Software from time to time by AssetWorks. Compared to revisions, new products substantially improve the performance, functionality, and capability of the Software. AssetWorks has sole discretion to determine which revisions are mandatory and which updates shall be issued as new products for additional fee.

4.2 Maintenance Exclusions. Unless the Order provides otherwise, subscriptions to Maintenance do not include: (a) custom programming, consulting, configuration services, migration or upgrade support; (b) on-site support or installation, travel, hotel, and per-diem expenses related thereto; (c) support of any software other than the Software accessed as part of the Service; (d) training; (e) support for third-party integrations; (f) support of Customer's computer equipment, servers, printers, or problems which arise therefrom; (g) remediation of issues resulting from: Customer's misuse of the Software or data files in contravention of the Documentation, failure to implement a mandatory revision or update the Software to a current or supported version when recommended, failure to obtain or decision to otherwise previously forgo Maintenance; (h) diagnostic assistance for issues unrelated to a Deviation; and (i) any Professional Services which AssetWorks ordinarily performs pursuant to SOW.

4.3 Additional Software Maintenance Fee. Customer agrees that Maintenance fees shall automatically increase in an amount equal to twenty-five percent (25%) of the non-discounted, then-current Software fee for additional licenses supplied during the Term. AssetWorks shall invoice and Customer agrees to pay additional maintenance for Software licenses upon the Order Effective Date. Customer agrees to pay additional maintenance for the cost of any custom-developed software, custom report, or custom notification upon delivery pursuant to the Order. For SaaS, additional custom maintenance will be added to the annual SaaS fee or added into the per-unit SaaS fee.

4.4 Maintenance Re-enrollment Fee. In the event Customer subscribes to Maintenance anytime after the Effective Date or otherwise fails to pay for Maintenance in advance of the annual term, then in addition to the annual subscription fee due in advance for the next year, Customer also agrees to pay a late-subscription fee (which Customer hereby agrees is fair and reasonable) along with back-maintenance in a total amount equal to One Hundred and Ten Percent (110%) of the Maintenance fees otherwise payable.

4.5 Mandatory Revisions; Termination. AssetWorks reserves the right to terminate Maintenance if Customer does not implement a mandatory revision within sixty (60) days' notice or such longer period as AssetWorks may provide.

4.6 Other Fees & Expenses. If on-site Maintenance is required, Customer agrees to pay reasonable travel, hotel, and per-diem expenses which shall be invoiced and paid as incurred.

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5 HOSTING SERVICES.

5.1 Scope of Services. AssetWorks provides hosting services via a third-party data center ("**Hosted Environment**") inclusive with subscriptions to SaaS and to support installation and upgrade management of Software licensed by Customer ("**Hosting Services**"). If the Order includes Hosting Services or SaaS, then the Service for purpose of the Agreement includes the following:

5.1.1 Application. Application refers to AssetWorks' proprietary software and third-party software if specified on the Order.

5.1.2 Support Software. Support Software includes the operating system, utilities, database software, and all necessary licenses required to operate the Application as detailed in the Documentation.

5.1.3 Hosted Environment Hardware. Server infrastructure using redundant web and database servers is deployed within the Hosted Environment. If required, Customer will provide the telecommunications equipment, communications line, and services for connecting Customer's site to the Hosted Environment.

5.1.4 Database Instances. AssetWorks will maintain a single production database instance to provide daily, real-time transaction data to Users and will populate a test database (if applicable) with Customer's production data up to four (4) times in any twelve (12) month period at no additional cost. If applicable, updates or patches are first introduced to the test environment and Customer is responsible to test and report errors within ten (10) days otherwise the new release or patch will then be discharged in the production environment. AssetWorks may use the test environment to troubleshoot or configure and test new functionalities or reports. A Reporting Database may be provided for an additional fee on a 24-hour refresh.

5.1.5 Custom Reports. For an additional fee, AssetWorks will certify a Customer-built report for scheduling execution from within the Application directly against the production database, certifying that the report performs within appropriate performance guidelines and does not cause unacceptable response time issues. Once certified, AssetWorks will install the report into Customer's production environment to make it available for execution submission from within the Application.

5.1.6 Backups. Hosted Environment database and incremental file Service backups are performed daily with local retention at fifteen (15) to thirty (30) days, local workloads enabled with cloud tiering to Microsoft Azure Blob storage for archive data from thirty-one (31) to ninety (90) days; target recovery time objective (RTO) is forty-eight (48) hours or maximum of four (4) business days; Recovery Point Objective (RPO) under one (1) minute.

5.1.7 Hours of Service Operation. Application will be accessible and available to Customer and capable of normal operating functions twenty-four (24) hours-per-day, seven (7) days-per-week, except for periods of scheduled maintenance and AssetWorks' approved outages with prior customer notification. AssetWorks will not be held responsible for inaccessibility arising from communications problems occurring beyond AssetWorks' external network interface nor will those hours of inaccessibility count as unavailable.

5.1.8 Hosted Environment Maintenance. AssetWorks will complete routine maintenance, including application upgrades, on the Hosted Environment according to the published schedule. Upgrade/patch notifications are normally sent two (2) business days in advance and generally occur during off-hours. All routine, additional, and emergency maintenance will be considered a period of scheduled maintenance. AssetWorks will endeavor to provide at least thirty (30) days' notice to any changes in the schedule. If additional non-emergency maintenance outside of the scheduled maintenance window is required, AssetWorks will notify Customer in writing and Parties will mutually agree on the downtime.

5.1.9 Data Classification. The Hosted Environment maintains SSAE-16 SOC 2 certification/ISO27001 compliance as a facility housing CUI (Controlled Unclassified Information) data based on the DOJ assessment using NIST 800-53 guidelines for FISMA (Federal Information Standards Management Agency) standards. (SC Information Service = [(confidentiality, MODERATE), (integrity, LOW), (availability, LOW)].

5.2 Customer Responsibilities. The Service specifically excludes the following items which Customer agrees to be responsible for:

5.2.1 Maintenance Exclusions. All items listed within section 4.2 (*Maintenance Exclusions*) including (but is not limited to) remediation of issues which do not constitute a Deviation. AssetWorks shall have no obligation but may attempt to correct such situations at Customer's expense.

5.2.2 Proper Use. Use reasonable efforts to ensure the Service is used in accordance with this Agreement and in a manner that does not violate nor threaten to violate applicable laws or rights of others (such as by inputting Excluded Data into the Service) and promptly notifying AssetWorks upon discovery of misuse or suspected misuse by Customer, its Users, or any third party.

5.2.3 Unauthorized Access. Customer shall take reasonable steps to prevent unauthorized access to the Service such as by protecting passwords and securely managing log-in credential. Customer shall notify AssetWorks as soon as practicable of any suspected unauthorized use of the Service or breach of its security and shall use best efforts to stop said breach.

5.2.4 Key Personnel. Assigning primary and alternate Customer-designated key personnel to coordinate all communications and activities related to the Services on a regular basis.

5.2.5 Customer Resources. Customer will: (i) provide, maintain, and make available to AssetWorks, at Customer's expense and in a timely manner, the resources, personnel, and documentation described in the Order and reasonably requested by AssetWorks; (ii) designate qualified representatives with project management responsibilities and/or decision-making authority to regularly consult with AssetWorks; (iii) assign primary and alternate Customer key personnel to coordinate all communications; and (iv) meet all Order assumptions (e.g. site readiness) and be responsible for any delays or additional fees should any Order assumptions not be met.

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5.2.6 Customer Credentials & Application-level Security. Providing up-to-date User identification data, determining the appropriate security profile for each User, keeping all User identifications and passwords secure ("**Customer Credentials**"), and promptly notifying AssetWorks upon suspicion that Customer Credentials were compromised. Customer is solely responsible for application-level security and for secure management of Customer Credentials.

5.2.7 Customer's Site. Installation, operation, and maintenance of all workstation software, existing data communications and configurations, LAN, hardware, or other application software required at Customer's site. Customer will provide access to its site and obtain any license or approvals necessary for any on-premise performance.

5.2.8 Customer's Environment. Ensuring Software deployed to the Customer Environment (if applicable) complies with the Documentation and does not exceed the licensed quantity, tier, or other Order restriction.

5.2.9 Testing updates, fixes, and upgrades. Testing updates or patches and reporting any errors within ten (10) days of their introduction to the test environment or otherwise during the mutually agreed testing period.

5.2.10 Diligent Troubleshooting. Customer must perform analysis of suspected problems to determine their specific nature and possible causes before calling AssetWorks for assistance. Notwithstanding this diligence requirement, Customer is responsible for informing AssetWorks of any problems encountered in a timely manner.

5.3 Service Level Objectives.

5.3.1 Availability. AssetWorks will use commercially reasonable efforts to provide Services with an average of 99% Availability for each quarter during the Term. For purposes of the Agreement, "**Availability**" during any quarter refers to Customer's Users' ability (i.e. documented inability) to log into the production environment during such quarter calculated as follows:

$$X = (Y - Z) / Y * 100$$

"**X**" is the Availability of the production environment during the quarter;
"**Y**" is the total number of hours in such quarter minus the number of hours during such quarter that the Customer is unable to log in because of: **(a)** regularly scheduled maintenance windows and other times for which Customer received reasonable notice in advance thereof; **(b)** Force Majeure, third-party integrations, and other circumstances outside AssetWorks' reasonable control ; **(c)** non-performance of hardware, software, Customer's internet service provider (ISP) connections, and/or non-performance of equipment that is neither provided nor certified by AssetWorks except as such non-performance is directly caused by AssetWorks; and
"**Z**" is the number of hours in such quarter during which Customer is unable to log into the production environment (exclusive of items set forth in the definition of "**Y**" above and de minimis outages); provided that AssetWorks was notified or reasonably should be aware of Customer's inability to log into the production environment.

5.3.2 Service Credit. In the unlikely event Availability is less than ninety-nine percent (99%) during any two (2) consecutive quarters, Customer will receive a service credit (i.e. fee adjustment) of five percent (5%) of the applicable Service fees paid, subject to Customer delivering written notice (detailing the alleged unavailability, time/duration, location/users impacted (if applicable), and description of resolution attempts) within fifteen (15) days of the relevant quarter's end in writing to AssetWorks' office address and subject to Customer's compliance with the terms of this Agreement. Upon receipt of such notice, AssetWorks shall have thirty (30) days to investigate the contention and, if it is determined that AssetWorks did in fact fail to meet the applicable Availability level, Customer will receive the appropriate service credit to its account during the next invoice cycle. THE SERVICE CREDIT SET FORTH ABOVE SHALL BE CUSTOMER'S SOLE REMEDY AND ASSETWORKS' ENTIRE LIABILITY IN THE EVENT OF A BREACH OF THESE SERVICE LEVEL OBJECTIVES.

5.4 Performance Reports. Unless the Order or applicable law requires otherwise, AssetWorks will provide standard performance reports and availability metrics to Customers via biannual conference calls (i.e. Teams). Customer acknowledges and agrees that: (i) all such performance reports constitute sensitive trade secret and confidential information of AssetWorks not to be shared without approval; and (ii) any greater frequency, customized reporting, and/or actual delivery of performance documentation will require additional engagement and fee. AssetWorks acknowledges that the Customer must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Determination of the public nature of the material is subject to the Texas Public Information Act, chapter 552, *Texas Government Code*

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6 HARDWARE

6.1 Hardware Prices & Specifications. Hardware prices and specifications are subject to change without notice. AssetWorks is not responsible for typographical and/or photographical errors.

6.2 Hardware Installation & Configuration. Hardware fees are exclusive of shipping, installation, and/or configuration services unless Order provides otherwise. Customer agrees that installation guides, site readiness requirements, and/or other hardware-specific terms on the Order or otherwise published by the applicable hardware provider are deemed an integral part of this Agreement.

6.3 Hardware Warranties. AssetWorks warranty responsibility for Hardware is limited to replacement parts and telephone and/or helpdesk support during the warranty period in accordance with the then-current applicable warranty statements.

6.4 AssetWorks GPS

6.4.1 Technical Assistance. Telephone and/or Help desk support is available for AssetWorks GPS hardware issues 8:00AM-5:00pm MST Monday through Friday, by emailing fss.support@assetworks.com or calling 403-777-3760 x2

6.4.2 Warranty on third-party products, where sold as part of the AssetWorks GPS, will be as offered by the original manufacturer's warranty terms and Customer will be subject to these terms.

6.4.3 Activations; Invoicing. Notwithstanding any terms to the contrary, Customer agrees that deactivations of AssetWorks GPS-related units shall take effect in the next applicable subscription period and that fees will not be prorated nor refunded for units deactivated during the applicable subscription period.

6.5 FuelFocus, FuelDrive, & KeyValet

6.5.1 Technical Assistance. Telephone and/or Help desk support is available for FuelFocus & FuelDrive hardware issues 8:00AM-5:00pm ET Monday through Friday, by emailing fuelsupport@assetworks.com or calling 610-225-8350 (800-900-8152). Calls left after hours will be returned the next business day. Access to support after warranty period is on a commercially reasonable basis unless Customer is a fully paid subscriber for Maintenance.

6.5.2 Return Policy. Hardware may be returned within thirty (30) days of shipment by requesting a Returned Merchandise Authorization ("RMA") by emailing fuelsupport@assetworks.com or by calling 610-225-8350. RMAs are valid for fifteen (15) days from the date of issuance. Customer must ship the requested hardware, freight pre-paid, with original packing, manuals, and accessories (as applicable) to the RMA-identified return address with AssetWorks-issued RMA affixed and enclosed otherwise no credit will be issued. A minimum restocking fee of 25% will be charged against any return credit issued to Customer. AssetWorks shall refund, replace, or exchange (at its option) such Hardware within fifteen (15) business days of its receipt; provided, however, that AssetWorks reserves the right to reject returns of Hardware that are: (a) lacking a valid and/or unexpired RMA; (b) no longer in production; (c) used unless under warranty or other maintenance contract; (d) altered without AssetWorks' specific authorization; or (e) not evaluated by AssetWorks' personnel and/or returned in accordance with this section.

6.6 Limited Hardware Warranty. AssetWorks warrants Hardware to be free from defects in materials and workmanship for one (1) year from the date of original purchase; provided, however, that AssetWorks GPS Hardware is warranted for the entire Term ("Warranty Period"). During the Warranty Period, AssetWorks will provide new or rebuilt replacement parts for AssetWorks-verified defects within fifteen (15) business days of AssetWorks' receipt of such Hardware if evaluated by AssetWorks and returned in accordance with these terms. On-site labor and travel costs are not included. Replacements may be re-manufactured or reconditioned and will be warranted for the remainder of the original Warranty Period.

6.7 Hardware Warranty Exclusions. AssetWorks Hardware warranties do not cover and shall be void in regards to nor shall AssetWorks be responsible for any damages, costs, and/or repairs attributable in any way to: (i) faulty installation or installation otherwise not in accordance with AssetWorks installation manual or instructions; (ii) use of personnel other than authorized representatives of AssetWorks absent prior written approval from the AssetWorks Project Manager; (iii) water, fire, abuse, theft, vandalism, shipment, accident, operator error or lack of knowledge, power surges or failure, acts of god and force majeure; (iv) any condition not encountered during normal operation; (v) neglecting, misusing, tampering, or adjusting of the Hardware; (vi) Customer's failure to perform normal preventive maintenance; (vii) accessories attachments or other devices not furnished by AssetWorks; (viii) labor, travel, or any costs unrelated to parts; and (ix) expendable items such as magnetic card, printer ribbons, fuses, bulbs, and similar items and supplies subject to ordinary wear and tear.

6.8 HARDWARE WARRANTY DISCLAIMER. HARDWARE WARRANTIES ARE PROVIDED IN LIEU OF ALL OTHER RIGHTS, CONDITIONS, AND WARRANTIES. ASSETWORKS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO HARDWARE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTIBILITY, OR NON-INFRINGEMENT. ASSETWORKS DOES NOT WARRANT THAT HARDWARE WILL BE ERROR-FREE OR THAT ANY DEFECTS THAT MAY EXIST IN PRODUCTS CAN BE CORRECTED. IN NO EVENT SHALL ASSETWORKS BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, LOST PROFITS, OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, HOWEVER CAUSED WHETHER OR NOT ASSETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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7 PROFESSIONAL SERVICES.

7.1 Scope. AssetWorks will provide the professional services detailed on the Order Form and/or SOW (collectively "**Order**") or otherwise requested by Customer ("**Professional Services**" or "**PS**").

7.2 Professional Services Fees. Customer agrees to pay the Professional Services fees as follows:

7.2.1 Each Order will be on a time and material basis, a fixed price basis, or a hybrid of both as specified in the Order. The Order may include a definitive list of deliverables ("Deliverables") that must be completed by AssetWorks. In some instances, the Order will include a date by which Deliverables must be completed.

7.2.2 In the event that Professional Services result in greater AssetWorks duties than required by the Order, Customer will work closely and in good faith with AssetWorks to modify the Order to ensure that fees are increased reflect increased Customer requirements.

7.2.3 Unless specifically addressed in the Order, all travel and expenses will be extra and billed as incurred.

7.2.4 Customer will bear the expense of its failure to meet all assumptions noted on the Order.

7.3 Subcontractors. AssetWorks may engage subcontractors to assist in performing Professional Services without the prior written consent of Customer so long as AssetWorks supervises such subcontractors as if AssetWorks performed the Professional Services.

7.4 Customer acknowledges that AssetWorks performance is dependent on the timely disclosure of all relevant information and the timely performance of the Customer's obligations under this Agreement, including without limitation, the Customer's obligations in Clause 12 below. AssetWorks will not be liable for any delays, losses, damages or costs which the Customer suffers as a direct or indirect consequence of its failure to disclose information or perform any obligations and the Customer accepts full responsibility therefore. AssetWorks will be entitled to charge the Customer additional charges from time to time for any work or idle time in relation to or on account of: (i) the Customer's failure to perform as set out above, or (ii) providing services detailed on the Order. For the purposes of this Clause "idle time" shall be the aggregate time of all AssetWorks personnel assigned to the Project, calculated on an 8 (eight) hour Working Day.

7.5 Changes. If the parties cannot agree on a change related to a delay or project extension due to any reason beyond the control of AssetWorks, then AssetWorks shall have the right to stop work and receive a day-for-day extension pending agreement on such change or resolution via the dispute resolution process.

7.6 SOW Termination. AssetWorks may terminate or suspend performance of Professional Services under any Order for its convenience and/or effective immediately upon written notice if Customer fails to make any payment in full as and when due hereunder. Termination of an Order will not terminate this Agreement which shall survive for any Order still pending upon termination of this Agreement. Customer agrees to pay unbilled Professional Services provided to Customer up to the date of termination regardless if Customer accepted the Deliverable or if the milestone was achieved.

8 FEES & PAYMENT

8.1 Fees. Customer agrees to pay the fees detailed on the Order within thirty (30) days of receipt of invoice as follows:

8.1.1 **Software license** fees are due and payable upon the Effective Date and thereafter upon license increase, if applicable.

8.1.2 **Service subscription fees for Maintenance/Support, Hosting, SaaS, and other recurring services** are due and payable upon the Effective Date and annually in advance thereafter absent 90-days' written notice. Unless Order provides otherwise, fees are based on Services purchased and not actual usage; quantities purchased cannot be decreased during the relevant subscription term. Existing customers migrating to Hosting and/or SaaS shall be billed upon notification from AssetWorks that the Hosting/SaaS environment has been established.

8.1.3 **Professional Services Fees**, including one-time implementation or set-up fees identified on the Order, shall be billed either on a fixed-fee basis upon achievement of milestones pursuant to a mutually agreed project plan, on a time-and-materials basis monthly in arrears, or on a hybrid-fixed-T&M basis, in each case as detailed on the Order; and

8.1.4 **Hardware** shall be billed at cost upon delivery through an AssetWorks-selected common carrier, F.O.B. destination, with Customer responsible for any fees related to shipping such as custom duties, shipping insurance, etc.

8.2 Invoices; No Refunds. Customer agrees to pay the fees set forth on the Order within thirty (30) days of receipt of invoice, to the AssetWorks Contracting Entity identified on the Order, in the currency of the Order, preferably by electronic funds transfer (EFT) via Funds Transfer (Fed Wire) or Direct Deposit (ACH), without deduction, withholding, or offset. For late payment, Customer agrees to pay interest absent notice or demand in an amount equal to the lower of: (a) statutory interest in the prompt payment act applicable to Customer; (b) eighteen percent (18%) per annum compounded monthly; or (c) the maximum interest rate permitted by applicable law. All fees are nonrefundable unless Parties agree otherwise. Customer agrees to pay an administrative fee of 5% per invoice if: (d) invoice must be uploaded to a Customer or third-party portal; or (e) invoice requires custom preparation or presentation.

8.3 Additional Maintenance/Support Fee. As per section 4.3 above, Customer agrees that Maintenance/Support and SaaS subscription fees shall automatically increase based on additional software licenses, SaaS subscriptions, or custom-developed software.

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8.4 Taxes. Amounts due under this Agreement are payable to AssetWorks without deduction net of any tax, tariff, duty, or assessment imposed by any government authority (national, state, provincial, or local), including without limitation any sales, use, excise, ad valorem, property, withholding, or value-added tax, whether or not withheld at the source (collectively, "Sales Tax"). Except as forbidden by applicable law, AssetWorks may require that Customer submit applicable Sales Taxes to AssetWorks unless Customer gives AssetWorks a valid tax exemption certificate within thirty (30) days of the Effective Date. AssetWorks' failure to include any applicable tax in an invoice will not waive or dismiss the parties' rights or obligations pursuant to this section. If applicable law requires withholding or deduction of Sales Taxes or any other tax or duty, Customer shall separately pay AssetWorks the withheld or deducted amount, over and above the fees on the Order. In the event a taxing authority conducts an audit of this Agreement and determines that an additional tax should have been imposed or a refund of tax is due (other than those taxes levied on AssetWorks income), Customer shall reimburse AssetWorks, or AssetWorks shall reimburse such refund to Customer, for any such additional tax or any such refund, as applicable, including interest and penalties thereon. City of Denton is exempt from federal excise taxes, state taxes, and city sales tax and will furnish a tax exemption certificate upon request.

8.5 Data Processing Audit. Eight hours per year shall be allocated to support Customer or its designee in an audit of records during business hours at AssetWorks location. Additional hours, if needed, will be billed at then-current hourly rates with Customer responsible for all out-of-pocket expenses incurred in connection with such audits.

9 CONFIDENTIAL INFORMATION. For purpose of this Agreement, Parties agree that "Confidential Information" means all information clearly marked as confidential during the Term. Each Party will maintain all Confidential Information in confidence and will use it solely in the discharge of its obligations under this Agreement. Nothing herein will be deemed to restrict a Party from disclosing Confidential Information to its employees and subcontractors in the discharge of such obligations. Confidential Information will not include information that: (a) is or becomes generally known or available to the public through no fault of the recipient; (b) is known to the recipient at the time of its receipt from the disclosing party; (c) the disclosing party provides to a third party without restrictions on disclosure; (d) is subsequently and rightfully provided to the recipient by a third party without restriction on disclosure; (e) is independently developed by the recipient, without reference to the disclosing party's Confidential Information; or (f) is required to be disclosed pursuant to a government agency or court ordered subpoena, provided the recipient promptly notifies the disclosing party of such order to allow disclosing party reasonable time to seek protective order or other appropriate relief. Because of the unique nature of the Confidential Information, each Party agrees that irreparable harm may occur in the event the recipient fails to comply with its confidentiality obligations herein, that monetary damages may be inadequate to compensate the disclosing party for such breach, and that the disclosing party may accordingly be entitled to injunctive relief. AssetWorks acknowledges that the Customer must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Determination of the public nature of the material is subject to the Texas Public Information Act, chapter 552, *Texas Government Code*

10 WARRANTIES & DISCLAIMERS

10.1 Software Warranty. AssetWorks warrants the Software licensed or included with Hardware shall perform substantially in accordance with the Documentation for ninety (90) days from delivery which in any event shall not exceed one (1) year from the Effective Date. During the Software warranty period, in the event there exists a Deviation or nonconformance to the Documentation, which in the mutual and reasonable opinion of AssetWorks and Customer, constitutes a serious impediment to the normal intended use of the Software, AssetWorks' sole responsibility shall be to correct the Deviation or nonconformance with due dispatch. Corrections to Deviations or nonconformance which do not rise to this level shall be corrected and distributed by AssetWorks in accordance with the published maintenance schedule provided Customer is subscribed for Maintenance.

10.2 Service Subscription Warranty. AssetWorks warrants the Service shall function substantially in conformance with the Documentation for so long as Customer pays in advance the subscription fee for the applicable Service (e.g. Maintenance, Hosting, and/or SaaS).

10.3 Professional Services Warranty. AssetWorks warrants that Professional Services will be performed with the degree of skill and judgement normally exercised by recognized professional firms performing substantially similar services. In the event of any breach of the foregoing warranty, AssetWorks will at its expense and discretion either: (a) correct the non-conforming Deliverables; or (b) refund to Customer the portion of Professional Services fees attributable to the non-conforming Deliverables. No Professional Services warranty claim will be effective unless Customer delivers to AssetWorks written notice detailing the non-conformities within sixty (60) days after tender of the non-conforming Deliverables. The remedy set forth in this section is the sole and exclusive remedy for breach of the foregoing Professional Services warranty. Customer represents and warrants that Customer has the right to use and furnish any information, specifications, data, or intellectual property that Customer has provided or will provide in order for AssetWorks to perform under this Agreement.

10.4 WARRANTY DISCLAIMER. Except to the extent set forth herein, CUSTOMER ACCEPTS THE SERVICE "AS IS", "AS AVAILABLE", and "WITH ALL FAULTS" AND ASSETWORKS DISCLAIMS ALL WARRANTIES INCLUDING WITHOUT LIMITATION: MERCHANTABILITY, FITNESS FOR PURPOSE, COMPLIANCE WITH LAW, ERROR-FREE PERFORMANCE, FUNCTIONALITY WITH THIRD-PARTY SOFTWARE OR HARDWARE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, OR PERFORMANCE. ASSETWORKS DOES

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NOT WARRANT SERVICE WILL PERFORM ERROR-FREE OR WITHOUT INTERRUPTION NOR THAT CUSTOMER DATA WILL REMAIN PRIVATE, SECURE, OR AVAILABLE; NOR THAT ANY DEFECTS CAN BE CORRECTED.

11 INDEMNIFICATION.

11.1 IP Indemnity From AssetWorks. AssetWorks will defend, at its own expense, any action commenced against Customer to the extent based on a claim that the Software supplied by AssetWorks infringes a Worldwide patent or copyright ("Claim"), and AssetWorks will pay those costs and damages finally awarded against Customer to the extent attributable to any such Claim; provided, however, such defense and payments are conditioned on: (a) AssetWorks shall be immediately notified of any Claim; (b) AssetWorks shall have sole control of any defense, negotiations, settlements, or compromises to the extent related to such Claim; and (c) AssetWorks shall have the option to either: (i) procure a non-infringing license to use the Software; (ii) modify the Software to be non-infringing; or (iii) refund to Customer a depreciated credit for the Software which Parties agree shall be five (5) years.

11.2 Exclusions. AssetWorks shall have no liability to Customer with respect to: (a) Customer's breach of this Agreement, including without limitation its failure to cease use of the Service after AssetWorks' direction; (b) revisions to the Software or other Service components made without AssetWorks' written consent; (c) Customer's failure to incorporate Software updates or upgrades that would have avoided the alleged infringement, provided AssetWorks offered such updates or upgrades without charges not otherwise required pursuant to this Agreement; (d) AssetWorks' modification of Software in compliance with specifications provided by Customer, including without limitation Deliverables to the extent created based on such specifications; (e) any Deliverable if the Order or a disclosure provided at or before delivery states that such Deliverable incorporates third party software or other assets; or (f) use of the Service in combination with hardware or software not provided by AssetWorks.

11.3 Indemnity from Customer. Intentionally Omitted.

12 LIMITATION OF LIABILITY.

12.1 Aggregate Dollar Cap. CUSTOMER AGREES THAT ASSETWORKS' CUMULATIVE LIABILTY SHALL NOT EXCEED FEES PAID DURING THE YEAR PRECEDING THE DATE ON WHICH THE LIABILITY AROSE FOR ALL CLAIMS RELATED TO SUCH ORDER.

12.2 Excluded Damages. CUSTOMER AGREES THAT ASSETWORKS SHALL NOT BE LIABLE FOR: (a) LOST PROFITS OR LOSS OF BUSINESS (WHETHER DIRECT OR INDIRECT); (b) SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (SUCH AS LOSS OF: USE, REVENUE, ACTUAL OR ANTICIPATED PROFITS OR SAVINGS, BUSINESS OPPORTUNITIES, GOODWILL,); (c) ANY DAMAGES (HOWEVER CALCULATED OR ARISING) WHICH IN THE AGGREGATE EXCEED THE AMOUNT OF FEES PAID TO ASSETWORKS DURING THE YEAR PRECEDING THE DATE ON WHICH THE LIABILITY AROSE; OR (d) ANY CLAIMS WHICH CUSTOMER FAILS TO PRESENT TO ASSETWORKS IN WRITING WITHIN SIX (6) MONTHS AFTER EXPIRATION OR EARLIER TERMINATION OF THIS CONTRACT. THIS SECTION APPLIES: (e) TO THE BENEFIT OF ASSETWORKS' OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, LICENSORS, SUPPLIERS, AND THIRD-PARTY CONTRACTORS, AS WELL AS: (f) TO LIABILITY REGARDLESS THE FORM OF ACTION OR THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, NEGLIGENCE, OR OTHERWISE) EVEN IF ASSETWORKS IS ADVISED IN ADVANCE OF THE POSSIBILITY AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (g) EVEN IF CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

12.3 Essential. The Parties' respective responsibilities, warranties, and limitations of liability herein form an essential basis of the Parties' bargain. If Applicable Law limits the application of the provisions of this section (*Limitation of Liability*), Customer acknowledges and agrees that AssetWorks' liability will be limited to: (a) the maximum extent permitted by law; (b) claims presented to AssetWorks principal office in writing within six (6) months of expiration or earlier termination of this Agreement; and (c) claims not waivable.

13 TERM & TERMINATION.

13.1 Term. Intentionally Omitted.

13.2 Termination for Cause. Either Party may terminate this Agreement for: (a) material breach after providing written notice and reasonable opportunity to cure of no less than sixty (60) days; (b) failure of the Service to perform substantially in accordance with the Documentation due to an AssetWorks-verified issue for which a written action plan is not delivered to Customer within sixty (60) days of written notice from Customer; and (c) the other Party's insolvency, cessation of business, liquidation, assignment for the benefit of creditors, or any proceeding related thereto which is not dismissed within ninety (90) days.

13.3 Suspension for Nonpayment. Without limiting AssetWorks' other rights and remedies, AssetWorks may suspend or terminate access to the Service: (a) if Customer's account becomes delinquent and is not cured within ten (10) days of notice of nonpayment of undisputed fees; or (b) if AssetWorks reasonably concludes that Customer's actions are not consistent with the requirements of this Agreement or may subject AssetWorks or a third party to potential liability.

13.4 Effects of Termination. Upon termination of this Agreement, Customer shall cease all use of the Service and delete, destroy, or return all copies of the Documentation and Software in its possession or control. If Customer terminates this Agreement for any reason other than termination for cause, Customer will be obligated to pay the balance due for the remainder of the Term of the

Agreement computed in accordance with the Order. Customer agrees to pay such fees and for all work performed and reasonable costs incurred up to the effective date of such termination however terminated. The following will survive termination or expiration of this Agreement: (a) any obligation of Customer to pay fees incurred before termination; (b) sections including but not limited to 1-4 (*SaaS, License, & Restrictions*), 9 (*Confidential Information*), 10.4 (*Warranty Disclaimers*), 11 (*Indemnification*), 12 (*Limitation of Liability*), 14 (*IPR Ownership*); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

13.5 No Excess Obligations. AssetWorks 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 AssetWorks. Customer will not incur a debt or obligation to pay AssetWorks any amounts the City does not have the current funds available to pay.

14 IPR OWNERSHIP; CUSTOMER DATA.

14.1 IPR Ownership. Customer and AssetWorks shall each retain ownership of and all right, title, and interest in and to their respective pre-existing IPR and any derivatives thereto. AssetWorks will not obtain any ownership rights, title, or interest to Customer's confidential data files nor will Customer obtain any ownership rights, title, or interest to the Software, SaaS, systems, and methods developed or employed by AssetWorks (collectively referred to herein as the "**Service**"). Services performed, code developed, deliverables, and any IPR however arising during this Agreement ("**Developments**") are not "works made for hire" nor any similar concept throughout the world, and AssetWorks is the sole owner of all right, title, and interest in such Developments. If any Developments may be considered "works made for hire" such that any IPR may accrue to Customer, then Customer hereby irrevocably assigns and agrees to assign any and all right, title, and interest thereto, whether now known or hereafter defined or discovered, to AssetWorks and Customer agrees to take such further action as AssetWorks may reasonably request to evidence such assignment. If Customer provides suggestions, enhancement requests, or ideas related to Services ("**Feedback**"), Customer agrees that AssetWorks has all rights to use, exploit, and incorporate such Feedback into the Services without restriction or payment.

14.2 Return of Customer Data. For up to thirty (30) days (or such greater period of time agreed to by the Parties or required by Applicable Law) following expiration or termination of the Agreement for any reason ("**Customer Access Period**"), AssetWorks will provide Customer with reasonable access to Customer Data in its existing format: ASCII comma, separated value (CSV format) with binary images TIFF, JPG, or PRF. Requests after this period or for other formats are subject to approval and may require additional fee.

14.3 Erasure of Customer Data. AssetWorks may permanently erase or otherwise render unrecoverable Customer Data: (a) if Customer's account is delinquent, suspended, or terminated for sixty (60) days or more; or (b) at the end of the Customer Access Period except to the extent prohibited by applicable law.

14.4 Use of Customer Data. AssetWorks will only process Customer Data in accordance with Customer's instructions, with adequate safeguards, and to provide, maintain, support, and enhance the Services. AssetWorks shall not: (a) access, process, or otherwise use Customer Data contrary to this Agreement; (b) give Customer Data access to any third party, except AssetWorks' subcontractors that have a need for such access to facilitate the Service and are subject to a reasonable written agreement governing the use and security of Customer Data. Further, AssetWorks shall: (c) exercise reasonable efforts to prevent unauthorized disclosure or exposure of Customer Data; and (d) comply with all Applicable Laws that are applicable both specifically to AssetWorks and generally to data processors (if applicable) in the jurisdictions in which AssetWorks operates physical facilities. Notwithstanding anything to the contrary contained herein, AssetWorks may use, reproduce, sell, publicize, and otherwise commercially exploit De-Identified Data (as determined in its sole discretion) to the fullest extent permitted by law including without limitation aggregated with data from other customers and commercial sources. "**De-Identified Data**" refers to Customer Data with information that could reasonably be used to identify an individual person, household, User, or Customer is removed or otherwise rendered de-identified.

14.5 Required Disclosure of Customer Data. Notwithstanding anything to the contrary herein, AssetWorks may use and disclose Customer Data as required: (a) by Applicable Law; (b) by proper demand of legal or governmental authority upon written notice to Customer; (c) to provide the Service or functionalities paid for by Customer. AssetWorks shall give Customer prompt notice of any such legal or governmental demand (unless notice is prohibited, in which case, AssetWorks shall only disclose Customer Data to the limited extent necessary to comply with such demand) and AssetWorks shall cooperate with any Customer-initiated effort to seek a protective order or otherwise to contest such demanded disclosure at Customer's expense.

14.6 Data Accuracy; Integrity; Risk of Exposure. Notwithstanding anything to the contrary herein including any terms which Customer purports are required by applicable law, AssetWorks does not guarantee the privacy, security, authenticity, integrity, or non-corruption of any information transmitted through the internet or any mobile or wireless network or stored in any system connected thereto. AssetWorks will not be responsible for any claims, damages, costs, or losses whatsoever arising or in any way related to Customer's connection to, use of, or storage connected to the internet or any mobile or wireless network, nor shall AssetWorks have any responsibility or liability for the accuracy of data uploaded to the Service by Customer. Customer recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the Service, Customer

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assumes such risks and all losses. AssetWorks offers no representation, warranty, nor guarantee that Customer Data will not be exposed or disclosed through errors or the actions of third parties. AssetWorks will not be liable to Customer nor any third party for any losses related to Customer's use of the Software/Service insofar as such may be used to store, transmit, display, disclose, or otherwise utilize information which is considered private, confidential, proprietary, or otherwise exempt from public disclosure or subject to regulation under Applicable Law (e.g. Excluded Data).

14.7 Third Party Access. Customer acknowledges and agrees that Customer is responsible for protecting and securing all data, usernames, and passwords from unauthorized use, whether such use is by Customer or by any other person/organization to whom Customer grants access (whether directly or through AssetWorks) ("**Third Party**"). Customer represents and warrants that it has obtained all relevant consents from Users such as employees or relevant data subjects for this access. Customer agrees that access by the Third Party (or anyone to whom Customer provides direct or indirect access) is at Customer's sole risk and expense.

14.8 Customer Data Warranty Disclaimer. Customer warrants that: (a) it knowingly has not, will not, nor will it knowingly permit the transmission of Excluded Data to AssetWorks or otherwise into the Service; (b) Customer Data does not and will not include Excluded Data except to the extent necessary to make ordinary use of the Service in accordance with the Documentation; and (c) it shall inform AssetWorks of any Excluded Data promptly after discovery (without limiting AssetWorks' rights or remedies). Customer recognizes and agrees that: (i) the provisions of this Agreement related to Customer Data do not apply to Excluded Data; (ii) AssetWorks has no liability for any failure to provide protections required by law applicable to Excluded Data or otherwise to protect Excluded Data; and (iii) AssetWorks' Services are not intended for management nor protection of Excluded Data and may not provide adequate or legally required security for Excluded Data. AssetWorks is not responsible nor liable for any exposure or related loss to the extent that it involves Excluded Data.

14.9 Additional Fees. Unless explicitly prohibited by Applicable Law, Customer recognizes and agrees that AssetWorks may charge additional fees (without limitation) for: (a) activities (if any) required by Applicable Laws, and (b) activities requested of AssetWorks to help Customer comply with Applicable Laws.

15 PREDICTIVE ANALYTICS; TELEMATICS CLOUD; COLLECTION AND USE OF ASSET DATA: In the course of providing the Service, AssetWorks may receive or collect spatial data relating to the vehicles, mobile objects, devices, locations, Users (whether employees, contractors, suppliers, and/or customers of Customer), including but not limited to, vehicle identification number (VIN), GPS location, vehicle speed, acceleration, driver-behavior information, vehicle diagnostics information, User ID numbers, and other usage information ("**Collected Data**"). If required, Customer agrees to notify its Users that a vehicle or other asset has been fitted with equipment enabled for the Service which collects and analyzes data points associated with the vehicle's location and manner of operation. If Customer and/or User provided consent, AssetWorks may continue to receive and collect the Collected Data after the termination of the Service for purposes of facilitating Third-Party access requested by Customer. Customer agrees that, during and after termination of the Service, AssetWorks, its affiliates, and/or third-party suppliers may: (i) retain and use Collected Data to provide and improve the Service, Maintenance/Support, and Professional Services, and for conducting research and development; (ii) AssetWorks may share Collected Data with affiliates and third-parties providing services to AssetWorks subject to obligations of confidentiality; (iii) AssetWorks may disclose Collected Data if required under applicable law, regulation, or court order upon written notice to Customer; and (iv) AssetWorks may use and share with third-parties any Collected Data in aggregated or deidentified form (such that the source of the Collected Data cannot be identified) or that is publicly available without any restriction. Customer acknowledges that Collected Data may be commercially exploited by or on behalf of AssetWorks for commercial marketing purposes, subject to the permissions and restrictions set forth in this Agreement, and in AssetWorks' then-current privacy policy (available at www.AssetWorks.com/privacy). To the extent required by applicable law, Customer agrees to provide notice to and to receive consents from its Users of: (v) the nature of the equipment and Service, (vi) AssetWorks' collection, use, and disclosure of Collected Data (which may contain Confidential Information) from time to time, and (vii) whether and if so the extent to which such Users' whereabouts, movements, vehicle usage, and other activities may be excluded from Collected Data or disassociated with such User.

16 THIRD-PARTY SERVICES

16.1 Third-Party Integrations. The Service may contain features which interoperate with products, applications, or services not provided by AssetWorks ("**Third-Party Service**"). To use such features, Customer may be required to obtain access to such Third-Party Service and may be required to grant AssetWorks access to Customer's account on such Third-Party Service. If Customer chooses to use a Third-Party Service with the Service, Customer hereby grants AssetWorks permission to allow the Third-Party Service and its providers to access any data (including data that may constitute Confidential Information) provided to AssetWorks by or on behalf of Customer as required for the interoperation of that Third-Party Service with the Service. Customer shall provide (and shall cause the provider of the Third-Party Service to provide) AssetWorks with any reasonably required information and materials needed to integrate the Third-Party Service. Customer's use of a Third-Party Service will be subject to the applicable term between such Third Party and Customer. Customer recognizes and agrees that Customer Data and data regarding Customer's use of a Third-Party Service may be shared with and/or collected by such Third Party to improve that Third-Party Service.

16.2 Third-Party Disclaimer. AssetWorks provides integrations with Third-Party Services solely as a convenience which Customer accesses at its own risk. ASSETWORKS IS NOT RESPONSIBLE FOR THE UNAVAILABILITY, ACCURACY, OR RELIABILITY OF ANY INFORMATION, DATA, OR CONTENT FROM SUCH THIRD-PARTY SERVICES. AssetWorks is not responsible for any disclosure, modification, or deletion of such data resulting from such access by any Third-Party Service or its provider. Any acquisition by Customer of a Third-Party Service and any exchange of data thereby is solely between Customer and such Third Party. Unless agreed otherwise, AssetWorks neither warrants nor supports the Third-Party Service whether or not they are designated by AssetWorks as operable with the Service. Further, AssetWorks cannot guarantee the continued availability of and may cease to offer any Service features that interoperate with any Third-Party Service without entitling Customer to any refund, credit, or other compensation, if for example (without limit) the provider of a Third-Party Service ceases to make the Third-Party Service available for interoperation with the corresponding Service features in a manner deemed acceptable to AssetWorks at its sole discretion.

17 API Terms

17.1 **API Definitions**. As used in this section, "**API Information**" means all information and data that is created, captured, or is otherwise accessible from the AssetWorks APIs through use of the Service. "**AssetWorks APIs**" or "**APIs**" mean AssetWorks' current or future application program interfaces (e.g., MAXQueue Module PLUS and Integrations Module PLUS (M5))

17.2 **API License**. Subject to the terms and conditions of this Agreement, AssetWorks grants to Customer during the prepaid term a personal, revocable, limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, terminable subscription-based license to access or otherwise receive information from the AssetWorks APIs and to obtain API Information. This API 'license' is granted solely to aid Customer's internal provisioning of the Service to Users and for no other purpose.

17.3 **Access Tokens or Security Keys**. AssetWorks will give Customer and/or Users unique access token(s) or security key(s) to access the AssetWorks APIs for the purpose of accessing and receiving API Information. Customer will immediately notify AssetWorks if any User's access tokens or security keys are used or suspected of being used by a third party. Neither Customer, its Users, nor any Third Party is authorized to provide direct access, access token(s), or security key(s) for the AssetWorks APIs.

17.4 **Limitations and Restrictions**. The API license granted to Customer is subject to the following limitations and restrictions:

17.4.1 AssetWorks may, in its sole discretion, (a) modify, change, update and/or enhance the AssetWorks APIs at any time (a "Modification"), provided AssetWorks gives Customer commercially reasonable notice and supports Customer's access to the AssetWorks API in the same manner as prior to the Modification for a commercially reasonable period of time. Notwithstanding the foregoing, AssetWorks may suspend, terminate and/or revoke Customer's access, or make a Modification without providing notice if necessary to address or prevent a security breach or to protect from the unauthorized disclosure of any API Information or other personally identifying information. In such circumstances, AssetWorks will notify Customer and use commercially reasonable efforts to ameliorate any impact from such action.

17.4.2 Customer acknowledges that, except as set forth in the API License section above, nothing in this Agreement grants or assigns to Customer (nor its Affiliates or any third party) any right, title, interest, or license of any kind, including in any patents, copyrights, trade secrets, trademarks, logos or other IPRs of AssetWorks.

17.4.3 AssetWorks may establish limits on the use of the AssetWorks APIs, including, but not limited to, the number of AssetWorks API requests initiated over a limited time period (e.g., per minute, hourly, and daily) upon advance notice to Customer and only to protect the functioning, security, and/or reliability of the API Information and/or AssetWorks APIs. AssetWorks shall make commercially reasonable efforts to maintain the availability of the AssetWorks API but does not guarantee the service level, availability, or quality of service of the AssetWorks APIs.

17.4.4 To the extent obtained by Customer pursuant to this Agreement, Customer will protect all API Information from unauthorized alteration, copying, access, storage, transmittal, or use. Customer must as soon as practicable notify AssetWorks of any unauthorized use, disclosure, or access to API Information.

17.4.5 Customer will not: (a) make derivative works of, reverse engineer, reverse compile, or disassemble the AssetWorks APIs; or (b) access or use the AssetWorks APIs in any unauthorized manner, including any way that will (i) infringe any AssetWorks' or third party's copyright, patent, trademark, trade secret, other property rights or rights of publicity or privacy; or (ii) violate any applicable law, statute, ordinance, or regulation.

17.5 **Customer API Security**. Customer will not: (a) use any robot, spider, site search or other retrieval application or device to scrape, retrieve or index services or collect, disseminate, use, store or disclose information about AssetWorks customers for any unauthorized purpose; (b) disable, override or otherwise interfere with any AssetWorks alerts, warnings, display panels, consent panels and the like; (c) disrupt, disable, harm or otherwise impede the operation of any software, firmware, hardware, wireless communications device, computer system or network; (d) enable any third party to access the AssetWorks APIs to circumvent Service controls or otherwise penetrate AssetWorks network; or (v) take any action that affects or is otherwise competitive with any AssetWorks Service. Customer is solely responsible for protecting the confidentiality of any API Information or data that it collects or uses from the AssetWorks APIs.

17.6 **API Disclaimer**. ALL INFORMATION, MATERIALS, SOFTWARE, TECHNOLOGY, AND SERVICES PROVIDED BY ASSETWORKS INCLUDING

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(WITHOUT LIMIT) THE ASSETWORKS APIs ARE PROVIDED "AS IS", "AS AVAILABLE", and "WITH ALL FAULTS". ASSETWORKS DOES NOT MAKE AND EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, OR ENDORSEMENTS OF ANY KIND WHATSOEVER INCLUDING (WITHOUT LIMIT) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, AND THE WARRANTIES OF TITLE OR NONINFRINGEMENT. CUSTOMER AND/OR ITS INTERMEDIARIES ASSUME ALL RISK AS TO THE AVAILABILITY, SUITABILITY, QUALITY, AND PERFORMANCE OF THE ASSETWORKS APIs AND API INFORMATION AND ASSETWORKS EXPRESSLY DISCLAIMS ALL RESPONSIBILITY AND LIABILITY RELATED THERETO.

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19 MISCELLANEOUS.

Independent Contractors. Parties are independent contractors in all regards. Neither party is an agent authorized to make commitments on the other's behalf.

Notices. Any communication or notice hereunder must be in writing and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail provided a Party may decline to receive e-mail notice; (iii) when delivered by overnight express; or (iv) three days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested, in each case addressed to the Party at its address for notices stated on the Order or identified herein. Such address may be changed by a notice delivered to the other Party in accordance with the provisions of this Section.

Force Majeure. Neither party will be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, failure of common carriers, internet services providers, or other communication devices, acts of cyber criminals, acts of any governmental body (whether civil, military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a Party is obtaining or must obtain approvals, authorizations, licenses, franchises, or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure"); however, nothing in this Section shall relieve Customer of the obligation to make payments when due. Any delays cause by Force Majeure shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled will be extended for a period equal to the time lost as a result of such delays. Neither Party shall be liable to the other for any liability claims, damages, or other loss caused by or resulting from Force Majeure. In the event of an occurrence under this Section, AssetWorks will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and AssetWorks continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. AssetWorks shall as soon as practicable notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within ten (10) 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.

Assignment & Successors. Neither Party may assign this Agreement nor any of its rights or obligations hereunder without the prior express written consent of the other Party, which approval shall not be unreasonably withheld. This Agreement will be binding upon and inure to the benefit of the Parties' respective successors and permitted assigns. Notwithstanding the foregoing, in the event of an assignment or novation of this Agreement to an AssetWorks' affiliate pursuant to a *bone fide* internal corporate reorganization, AssetWorks shall not require Customer's prior written consent.

Severability. To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. If a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.

Non-Solicitation. During the Term of this Agreement and for one year thereafter, Customer shall not solicit the employment nor contract for the services of any individual or entity that was an employee, agent, or subcontractor of AssetWorks during the Term of this Agreement. Nothing in this section shall prohibit Customer from placing a *bona fide* public advertisement for employment which is not specifically targeted at AssetWorks, nor shall Customer be restricted from hiring any such person who responds to any such general solicitation or public advertisement so long as no direct solicitation of such person has occurred.

Choice of Law & Jurisdiction: This Agreement will be governed solely by the internal laws of the State of Texas without reference to: (a) any conflicts of law principle; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts of Denton County, Texas. .

Construction; Conflicts. The Parties agree that the terms of this Agreement result from arms-length negotiations and its terms will not be construed in favor of or against either Party by reason of authorship. All exhibits, schedules, and documents attached hereto or incorporated herein are intended to be read and construed in harmony with each other. In the event of any conflict between any provision of this Agreement, the order of precedence set forth on page 1 of this Agreement shall control. Any Customer purchase order terms are deemed to be for Customer's internal purposes only and are specifically rejected. Section headings are inserted only for convenience and in no way define, limit, extend, or otherwise impact the interpretation of any section or this Agreement.

Counsel. By acceptance of this Agreement, each of the Parties acknowledges and agrees that it has had an opportunity to consult with legal counsel and that it knowingly and voluntarily waives any right to a trial by jury of any dispute pertaining to or relating in any way to the

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transactions contemplated by the Agreement, the provisions of any federal, state, or local law, regulation, or ordinance notwithstanding.

Technology Export. Customer shall not: (a) knowingly permit any third party to access or use the Service in violation of any law or regulation; or (b) export any Software or Confidential Information provided by AssetWorks except in compliance with all applicable laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the Service in, nor export the Software or Confidential Information to, a country subject to a United States embargo (e.g., the Crimea Region of Ukraine, Cuba, Iran, North Korea, Russia, and Syria).

Entire Agreement. This Agreement and the attachments set forth in Section 0.2 on page 1 set forth the entire agreement of the parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter. Neither party has relied upon any such prior or contemporaneous communications. Each of the Parties represents and warrants that the Agreement is a valid and binding obligation enforceable against it and executed by its duly authorized representative.

Electronic Execution in Counterparts. This Agreement may be executed electronically (e.g. DocuSign) and in one or more counterparts, each of which will be an original, and all which will constitute a single instrument.

Amendment. This Agreement may only be amended via written agreement signed by both Parties' authorized representatives that explicitly states its intent to amend this Agreement. Customer PO terms are null and void. Notwithstanding the foregoing, AssetWorks may revise the Documentation at any time effective on the date posted provided such amended Documentation shall not materially reduce Customer's rights or protections. Any amended Documentation that changes any of the terms negotiated herein will not be applicable to Customer.

20 **DEFINITIONS.** The following capitalized terms will have the following meanings whenever used in this Agreement.

20.1 "**Active Equipment Unit License**" means a license for each Active Equipment Unit covered by or utilizing the Service. "**Active Equipment Unit**" means any vehicle, asset, or other unit on which work is performed or for which activity is reported. Customer must pay fees to cover all Active Equipment Units unless Parties agree otherwise.

20.2 "**AssetWorks Contracting Party**" means the specific entity identified on the Order Form and shown below:

For USA Customers:	For UK & EU Customers:	
AssetWorks Inc.	**AssetWorks Fleet Solutions Ltd.**	**Lightbulb Analytics Limited**
Delaware Corporation EIN 46-0521049	England & Wales Company No. 15298579	England & Wales Company No. 01843754
1001 Old Cassatt Road, Ste. 204 Berwyn, PA 19312	Brook Suite, Ground Floor, Bewley House, Marshfield Road, Chippenham, SN15 1JW	Egale One, 80 St Albans Road, Watford, Herts, WD17 1DL
allan.richardson@assetworks.com CC: legal@assetworks.com	mike.gadd@assetworks.com CC: legal@assetworks.com	Adrian.mcmullan@lba.ltd CC: legal@assetworks.com

20.3 "**Concurrent License**" means a license for an authorized user of the Software, provided that the number of simultaneous users may not exceed the number of licenses purchased. Each simultaneous login to the Software (through active browser sessions) will be deemed to constitute one Concurrent License.

20.4 **"Customer Data"** means any data, information, or material that Customer or Customer's Users may disclose or submit to AssetWorks or the Service in the course of properly using the Service in accordance with the Documentation and best practices regarding minimization of personal information. Customer Data does not include Excluded Data, public information, or inferences derivable from Customer Data.

20.5 "**Documentation**" means the standard documentation and/or user manual (i.e. technical literature) provided or published by AssetWorks. Company shall ensure that any copies of such documentation include the following marking:
AssetWorks Inc. reserves all rights in this document, the subject matter, illustrations, and methodologies contained therein. Any reproduction, disclosure to third parties, or utilization of its contents – in whole or in parts – is forbidden without prior written consent of AssetWorks Inc. © Copyright 2024 AssetWorks Inc. All rights reserved.

20.6 "**Enterprise License**" means a license for the Software that allows for an unlimited number of users and tracks an unlimited amount of assets. Pricing is based on the population of the city, town, region, fleet, college, university, department, etc. ("**Population Base**") Customer utilizes in the Enterprise License to cover. Customer must promptly pay increased fees for an Enterprise License reconciliation if Customer's Population Base increases beyond the Customer's licensed limits for any reason, including, but not limited to, a material increase in Population Base, use of the Software to provide the Services to an additional population, or merger of Customer with any other entity that increases the population served by the Software.

20.7 "**Excluded Data**" means Payment Card Industry (PCI) or similar regulated financial information; protected health information (PHE) under HIPAA or similar regulated medical information of any nature; personal financial or any sensitive personal information subject to heightened privacy and/or security requirements by law, regulation, or applicable third-party terms (e.g., government issued identification or license numbers, personal bank account numbers, passport or visa numbers, credit card numbers, social security numbers, passwords and security credentials); or any other unnecessary personal identifiers (i.e., any information capable of truncation, hashing, or greater minimization); and any other categories of data for which the Service is not suitable or the input of which is unnecessary to make ordinary use of the Service per the Documentation and Customer's own policies and best practices in regards to Excluded Data.

20.8 **"Order Effective Date"** means the date: (a) an Order is countersigned by the Parties, (b) an Order is signed by Customer and/or its authorized intermediary and accepted by AssetWorks, or (c) which the Parties deemed their agreement to be effective as of.

20.9 **"Software"** means AssetWorks' proprietary Software either: (a) perpetually licensed for on-premise installation in a Customer Environment, (b) perpetually licensed and hosted by AssetWorks in a Hosted Environment, (c) made available through an access-restricted website or designated IP address hosted via a third-party data center on a prepaid-subscription basis inclusive with Maintenance/Support under a software-as-a-service model ("**SaaS**"). "**Software**" includes commercially available updates, enhancements, and new versions if Customer subscribes for Maintenance/Support and may be revoked for material breach (e.g. nonpayment) to the extent permitted by Applicable Law.

20.10 **"Intellectual Property Rights"** or **"IPR"** means unpatented inventions, patent applications, patents, design rights, works of authorship, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how, ideas, concepts, algorithms, database schema, and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world with respect to all intellectual property incorporated into any Development, ORDER, or other deliverable whether or not first created, discovered, or developed by AssetWorks in providing the Services.

20.11 **"Order"** or **"Order Form(s)"** means the form evidencing the initial license or subscription and any subsequent Order submitted online or in written form (including any countersigned ORDER), specifying the applicable Software, SaaS, Services, fees, and other charges agreed to between the Parties, each such fully executed Order to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order, the terms of the Order shall prevail);

20.12 **"Source Code"** means software in human-readable form, including all appropriate programmer's comments, data files and structures,

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header and include files, macros, make files, object libraries, programming tools not commercially available, technical specifications, flowcharts and logic diagrams, schematics, annotations and documentation reasonably required or necessary to enable a competent independent third party programmer to create, operate, maintain, modify and improve such software without the help of any other person, and with data files containing Source Code in standard ASCII format readable by a text editor.

20.13 **"User(s)"** or means Customer's employees, representatives, consultants, contractors, or agents who use the Service on Customer's behalf or through Customer's account or passwords (whether or not authorized).

20.14 **"Deliverable(s)"** means any copyrightable works, code developed, products, discoveries, developments, designs, work product, deliverables, improvements, inventions, processes, techniques and know-how made, conceived, reduced to practice or learned by AssetWorks (either alone or jointly with Customer or others) that arise during the Term of this Agreement or result from Professional Services performed pursuant to any Order and delivered to Customer hereunder. *Deliverables are not "works made for hire"*

20.15 "**Law**" or "**Applicable Law(s)**" means privacy and security laws governing AssetWorks' handling (if any) of Customer Data and other applicable laws and regulations in force as of the Effective Date. For the avoidance of doubt, Applicable Laws do not include laws applicable to Customer or its data to the extent not described in the preceding sentence, including laws in regards to Excluded Data.

20.16 "**Maintenance**" means the support and maintenance services provided by AssetWorks to Customer on a pre-paid annual subscription basis (i.e. maintenance-as-a-product) inclusive with SaaS but exclusive of Hosting Services and Professional Services.

20.17 "**Professional Services**" means those technical or non-technical services performed or delivered by AssetWorks under this Agreement as set forth in an Order.

20.18 "**Order**" means any AssetWorks quotation agreed to by Customer, AssetWorks Order Form, statement of work, or other terms set forth on any ordering document executed in writing by the Parties provided such document incorporates AssetWorks quotation.

20.19 "**SLA**" means AssetWorks' service level objectives, target availability level, and service level credit for unavailability of the Service.

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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.

File 8812

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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.

GENERAL REQUIREMENTS

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 insurance policy shall be issued by a company duly authorized by the Texas Department of Insurance to do insurance business in the State of Texas and with an A.M. Best rating of A-VII or better.
- All deductibles or self-insured retentions shall be disclosed in the bid. Any deductibles or self-insured retentions in excess of $10,000 must be approved by the City's Risk Manager, which approval may be withheld for any reason. The City may require proof of financial worthiness of any insurance company with a deductible or self-insured retention that the City deems unacceptable, including but not limited to audited financial statements for the insurance company.
- Insurance policies shall be endorsed to provide the following:
  - Name the City as an Additional Insured as to all applicable coverage.

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- ***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.***

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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:

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B. □<u>CYBER/TECHNOLOGY NETWORK LIABILITY AND RISK INSURANCE</u>

Cyber/Technology Network Liability and Risk Insurance, **inclusive of Information Security and Privacy** (first and third party coverage) to provide coverage for any damage caused by a network risk, cyber act or breaches of data and privacy right, the rendering of, or the failure to properly perform professional services for, but not limited to, computer programming, management information systems, negligent system design, disclosure of confidential information, and copyright infringement with minimum limits with minimum limits of $1,000,000.00 per claim.

NOTE: Professional Liability Insurance and Cyber/Technology Network Liability and Network Risk Insurance may be combined on one policy with a $2,000,000.00 limit.

C. □<u>WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE</u>

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.

□

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

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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.

Exhibit F

CONFLICT OF INTEREST QUESTIONNAIRE **FORM CIQ**

For vendor doing business with local governmental entity

This questionnaire is being filed in accordance with Chapter 176 of the Local Government Code by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

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

AssetWorks Inc.

2 Check this box if you have no affiliation or business relationship described by Section 176.006, Local Government Code.

(This box does not require you to file a questionnaire. Only check this box if you have no affiliation or business relationship described by Section 176.006, Local Government Code.)

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

N/A

Name of local government 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 Signed by:

Greg Richards

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Signature of vendor doing business with the governmental entity

6/25/2025

Date

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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

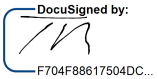
Envelope Id: 636C67F9-0420-4F16-BDF5-B610E21F798B
Status: Sent
Subject: Please DocuSign: City Council Contract 8812 - Fuel Management and GPS
Source Envelope:
Document Pages: 67
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Kayla Clark
901B Texas Street
Denton, TX 76209
kayla.clark@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
6/25/2025 7:50:56 AM
Holder: Kayla Clark
kayla.clark@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Kayla Clark kayla.clark@cityofdenton.com Buyer 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: 6/25/2025 7:54:26 AM Viewed: 6/25/2025 7:54:35 AM Signed: 6/25/2025 7:54:55 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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/25/2025 7:54:58 AM Viewed: 6/25/2025 8:30:38 AM Signed: 6/25/2025 8:34:20 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/25/2025 8:34:24 AM Viewed: 6/25/2025 8:36:43 AM Signed: 6/25/2025 8:41:16 AM
Greg Richards Greg.Richards@assetworks.com General Manager Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/25/2025 10:05:51 AM ID: b9aadd17-4ec2-410e-aa16-74af70f630df	Signed by: Greg Richards DD8A77D09189442... Signature Adoption: Pre-selected Style Using IP Address: 12.13.3.82	Sent: 6/25/2025 8:41:19 AM Viewed: 6/25/2025 10:05:51 AM Signed: 6/25/2025 10:07:45 AM

Signer Events	Signature	Timestamp
Thomas Gramer Tom.Gramer@cityofdenton.com Director Facilities and Fleet Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/25/2025 10:10:05 AM ID: c838b08d-cf32-4a9c-b53b-bfb2f58527c9	DocuSigned by:  F704F88617504DC... Signature Adoption: Drawn on Device Using IP Address: 198.49.140.10	Sent: 6/25/2025 10:07:48 AM Viewed: 6/25/2025 10:10:05 AM Signed: 6/25/2025 10:10:17 AM
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: 6/25/2025 10:10:21 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 6/25/2025 7:54:58 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 6/25/2025 10:10:20 AM Viewed: 6/25/2025 2:46:16 PM

Carbon Copy Events	Status	Timestamp
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		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/25/2025 7:54:26 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.

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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.

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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.

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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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1344, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Construction Manager at Risk (CMAR) preconstruction services contract between the City of Denton and Sundt Construction, Inc., amending the contract approved by City Council on February 6, 2024, in the not-to-exceed amount of $2,452,441.00, said first amendment to provide additional preconstruction design services and expand the timeline for the Pecan Creek Water Reclamation Plant Headworks and Expansion project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8289 - providing for an additional first amendment expenditure amount not-to-exceed $296,273.00, with the total contract amount not-to-exceed $2,748,714.00). The Public Utilities Board recommends approval (5 - 0).

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Construction Manager at Risk (CMAR) preconstruction services contract between the City of Denton and Sundt Construction, Inc., amending the contract approved by City Council on February 6, 2024, in the not-to-exceed amount of $2,452,441.00, said first amendment to provide additional preconstruction design services and expand the timeline for the Pecan Creek Water Reclamation Plant Headworks and Expansion project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8289 - providing for an additional first amendment expenditure amount not-to-exceed $296,273.00, with the total contract amount not-to-exceed $2,748,714.00). The Public Utilities Board recommends approval (5 - 0).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Pecan Creek Water Reclamation Plant (PCWRP), the city's sole reclamation plant, was constructed in 1961. PCWRP currently can handle an average daily flow of 21 million gallons per day (MGD). Water Utilities completed the Wastewater Master Plan in 2023, which concluded that the PCWRP needs to expand to an average daily flow of 26 MGD to serve the City’s growth. The Texas Commission on Environmental Quality (TCEQ) approved an updated discharge permit that includes two additional phases of 26 MGD and 30 MGD, respectively.

The City entered into an agreement with Sundt Construction to provide CMAR design phase services, including input on the constructability of the design as it is developed in collaboration with the City of Denton, and the design professional engineer, Kimley-Horn and Associates, Inc. The PCWRP Headworks and Expansion project is currently under design, focused on adding 5 MGD Membrane Bioreactor Basins, Solids Handling Facilities, UV Disinfection, and New Headworks with a construction manager at risk (CMAR) selected for the project.

In March 2024, the City contracted with a consultant to perform a condition assessment of the existing PCWRP facility. The consultant prepared a comprehensive report that concluded the existing plant requires significant upgrades to ensure it complies with all State and Federal regulations and can operate efficiently for the next twenty years. As part of the condition assessment, an alternatives analysis was performed comparing the costs associated with refurbishing the existing facility to constructing a new water

reclamation plant. The assessment indicated that constructing a new plant could potentially save the city up to $133 million over expanding and updating the existing plant. The savings include costs avoided for future construction, maintenance, operations, and regulatory compliance for the existing 60-plus-year-old plant.

This amendment includes the additional costs associated with the change in project from a 5 MGD expansion and new headworks to building a new 30 MGD Water Reclamation Plant. This change will extend the schedule by four (4) months, which has increased staff effort of the Sundt preconstruction team.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On February 6, 2024, City Council approved a Construction Manager at Risk (CMAR) pre-construction phase contract with Sundt Construction, Inc., in the not-to-exceed amount of $2,452,441 (Ordinance 24-156).

On July 28, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award Amendment No. 1 with Sundt Construction, Inc., to provide additional preconstruction design services and expand the timeline for the Pecan Creek Water Reclamation Plant Headworks and Expansion project for the Water Utilities Department, in a not-to-exceed amount of $296,273, for a total amended contract amount of $2,748,714.

PRINCIPAL PLACE OF BUSINESS

Sundt Construction, Inc.
Irving, TX

SUSTAINABILITY MEASURES

The contract will help the City of Denton with the pre-construction services necessary to permit the construction of the Pecan Creek Water Reclamation Plant. The new infrastructure will increase the city's wastewater cleaning capacity. The facilities are essential to safely treating and discharging effluent to the sensitive, accepting streams.

ESTIMATED SCHEDULE OF PROJECT

Upon approval, the PCWRP Expansion project design will be extended by 4 months with an estimated construction completion date of December 2030.

FISCAL INFORMATION

These services will be funded from account 640496545.1365.20100. Purchase Order #206310 will be revised to include the first amendment amount of $296,273. The total amount of this contract is $2,748,714. Staff are actively pursuing low-interest loans from the Water Infrastructure Finance and Innovation Act (WIFIA) and the Texas Water Development Board (TWDB) Clean Water State Revolving Fund.

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: Jason Donnell, 940-349-8275.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 24-156

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION MANAGER AT RISK CONTRACT WITH SUNDT CONSTRUCTION, INC., FOR PRE-CONSTRUCTION SERVICES OF THE PECAN CREEK WATER RECLAMATION PLANT EXPANSION PROJECT FOR THE WATER UTILITIES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8289 – AWARDED TO SUNDT CONSTRUCTION, INC., IN THE NOT-TO-EXCEED AMOUNT OF $2,452,441.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for pre-construction services of the Pecan Creek Water Reclamation Plant Expansion Project for the Water Utilities Department; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; 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 in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
8289	Sundt Construction, Inc.	$2,452,441.00

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations, Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, 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, standards, quantities, and specified sums contained in the Proposal and related documents herein 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 above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

SECTION 6. 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 [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	✓			
Vicki Byrd, District 1:	✓			
Brian Beck, District 2:	✓			
Paul Meltzer, District 3:	✓			
Joe Holland, District 4:	✓			
Brandon Chase McGee, At Large Place 5:	✓			
Chris Watts, At Large Place 6:	✓			

PASSED AND APPROVED this the 6th day of February, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

Digitally signed by Marcella Lunn
DN: 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: 2024.01.05 10:17:20 -06'00'

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Docusign City Council Transmittal Coversheet

FILE	8289
File Name	CMAR PCWRP Headworks and Expansion Project
Purchasing Contact	Erica Garcia
City Council Target Date	FEBRUARY 6, 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-156

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CITY OF DENTON, TEXAS

CONSTRUCTION MANAGER AT RISK FOR PCWRP Headworks and Expansion Project

CONSTRUCTION MANAGER AT RISK
DESIGN PHASE SERVICES

CONTRACT NO. 8289

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CONSTRUCTION MANAGER AT RISK FOR PCWRP HEADWORKS AND EXPANSION PROJECT
CONSTRUCTION MANAGER AT RISK DESIGN PHASE SERVICES
CONTRACT NO. 8289

THIS CONTRACT, made and entered into this by and between City of Denton, Texas, hereinafter designated the "CITY" and ____Sundt Construction, Inc._, hereinafter designated the "CONSTRUCTION MANAGER AT RISK" or "CM@Risk ."

RECITALS

A. The City Manager of the City of Denton, Texas, or their designee, is authorized and empowered by provisions of the City Charter to execute contracts for professional services and construction services.
B. The City intends to construct PCWRP Headworks and Expansion Project as described in Exhibit A attached, hereinafter referred to as the "Project".
C. To undertake the design of said Project the City has entered into a contract with Kimley Horn . hereinafter referred to as the "Design Professional."
D. The CM@Risk has represented to the City the ability to provide design phase services and to construct the Project.
E. Based on this representation, the City intends to enter into a contract with the CM@Risk for the design phase services identified in this contract. At the end of the design phase, at the City's discretion, the City may enter into a separate construction contract with the CM@Risk for construction phase services.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and the CM@Risk as follows:

ARTICLE 1 – TERMS AND DEFINITIONS

Addenda - Written or graphic instruments issued prior to the submittal of the GMP Proposal(s), which clarify, correct or change the GMP Proposal(s) requirements.

Agreement (Contract) – This written document signed by the City and CM@Risk covering the design phase of the Project, and including other documents itemized and referenced in or attached to and made part of this Contract.

Alternate Systems Evaluations – Alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets City requirements.

Change Order (Amendment) - A written instrument issued after execution of the Contract Documents signed by the City and CM@Risk, stating their agreement upon all of the following: the addition, deletion or revision in the scope of services or Deliverables; the amount of the adjustment to the Contract Amount; the extent of the adjustment to the Contract Time; or modifications of other contract terms.

City (Owner) - The City of Denton, a municipal corporation, with whom CM@Risk has entered into this Contract and for whom the services are to be provided pursuant to said Contract. Regulatory activities handled by the City of Denton Development Services, Fire and Planning Departments or any other City department are not subject to the responsibilities of the City under this Agreement.

City's Designated Project Manager – The City of Denton representative who is designated as project manager for the Project.

Construction Contract Time(s) - The number of days or the dates related to the construction phase that as stated in Construction Documents applies to achievement of Substantial Completion of the Work.

Construction Documents – The plans, specifications and drawings prepared by the Design Professional after correcting for permit review requirements.

Construction Fee – The CM@Risk's administrative costs, home office overhead, and profit, whether at the CM@Risk's principal or branch offices.

Construction Manager at Risk (CM@Risk) - The firm, corporation, or other approved legal entity with whom the City has entered into this Contract to provide services as detailed in this Contract.

Construction Management Plan – Formal documentation prepared and maintained by the CM@Risk describing the sequence and duration of the activities to accomplish the Work within the Contract Time including but not limited to those items set forth in Section 2.2.

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Contingency, CM@Risk's - A fund to cover cost growth during the Project used at the discretion of the CM@Risk usually for costs that result from Project circumstances. The amount of the CM@Risk's Contingency will be negotiated as a separate line item in each GMP package. Use and management of the CM@Risk's Contingency is described in Section 2.6.

Contingency, Owner's – A fund to cover cost growth during the Project used at the discretion of the City usually for costs that result from City directed changes or unforeseen site conditions. The amount of the Owner's Contingency will be set by the City and will be in addition to the project costs included in the CM@Risk's GMP packages. Use and management of the Owner's Contingency is described in Section 2.6.

Contract Amount - The cost for services for this Contract as identified in Article 4.

Contract Documents - means the following items and documents in descending order of precedence executed by the City and the CM@Risk: (i) all written modifications, amendments and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) GMP Plans and Specifications.

Contract Time(s) - The number of days or the dates stated in this Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

Cost of the Work - The direct costs or stipulated rates necessarily incurred by the CM@Risk in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, building permit fees (if not paid for by City), materials testing, General Conditions Costs, and related items. The Cost of the Work shall not include the CM@Risk's Construction Fee.

Critical Path Schedule - The sequence of activities from the start of the Work to the Substantial Completion of the Project. Any delay in the completion of these activities will extend the Substantial Completion date.

Day - Calendar day unless otherwise specifically noted in the Contract Documents.

Deliverables – The work products prepared by the CM@Risk in performing the scope of work described in this Contract. Some of the major deliverables to be prepared and provided by the CM@Risk during the design phase may include but are not limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Statement of Proposed MBE/WBE Utilization, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Contract or required by the Project Team.

Design Professional - The qualified, licensed person, firm or corporation who furnishes design and/or construction administration services required for the Project.

Drawings (Plans) – Documents, which visually represent the scope, extent and character of the Work to be furnished and performed by the CM@Risk during the construction phase and which have been prepared or approved by the Design Professional and the City. Includes Drawings that have reached a sufficient stage of completion and released by the Design Professional solely for the purposes of review and/or use in performing constructability or bidability reviews and in preparing cost estimates (e.g. conceptual design Drawings, preliminary design Drawings, detailed design Drawings at 30%, 60%, 90% or 100% or schematic, design development, construction documents), but *"not for construction"*. Shop Drawings are not Drawings as so defined.

Engineer —The qualified, licensed person, firm or corporation who furnishes engineering services required for the Project.

Float - The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

General Conditions Costs – Includes, but is not limited to the following types of costs for the CM@Risk during the construction phase: payroll costs for project manager or construction manager for Work conducted at the site; payroll costs for the superintendent and full-time general foremen; payroll costs for other management personnel resident and working on the site; workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.); administrative office personnel; costs of offices and temporary facilities including office materials, office supplies, office equipment, minor expenses; utilities, fuel, sanitary facilities and telephone services at the site; costs of liability insurance premiums not included in labor burdens for direct labor costs; costs of bond premiums; costs of consultants not in the direct employ of the CM@Risk or Subcontractors; and fees for licenses. The General Conditions Costs shall be included in the Cost of the Work.

Guaranteed Maximum Price (GMP) – The sum of the maximum Cost of the Work, the CM@Risk's Construction Fee, and CM@Risk Contingency.

GMP Plans and Specifications – The plans and specifications provided pursuant to paragraph 2.6.5 upon which the Guaranteed Maximum Price Proposal is based.

Guaranteed Maximum Price (GMP) Proposal - The offer or proposal of the CM@Risk submitted on the prescribed form setting

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forth the GMP prices for the entire Work or portions of the Work to be performed during the construction phase. The GMP Proposal(s) are to be developed pursuant to Article 2 of this Contract.

Laws and Regulations - Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

Milestones - A principal event in the performance of the Work that the Contract requires CM@Risk to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.

Notice of Intent to Award—The written notice by City to a respondent to the City's solicitation of the Project of City's intent to accept a certain respondent's proposal.

Notice to Proceed (NTP) Letter - A written notice given by City to the CM@Risk fixing the date on which the CM@Risk will start to perform the CM@Risk's obligations under this Contract.

Payment Request - The form that is accepted by the City and used by the CM@Risk in requesting progress payments or final payment and which will include such supporting documentation as is required by the Contract Documents and or the City.

Project - The works to be completed in the execution of this Contract as described in the Recitals above and Exhibit A attached.

Project Budget - The amounted budgeted by the City for the Project and the Work.

Project Schedule - A schedule, prepared and maintained by CM@Risk, describing the sequence and duration of the activities comprising the CM@Risk's plan to accomplish the Work within the Contract Times.

Project Team – Design phase services team consisting of the Design Professional, CM@Risk, City's Project Manager, City's Client Department representatives and other stakeholders who are responsible for making decisions regarding the Project.

Schedule of Values (SOV) – Document specified in the construction phase Contract, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price. The SOV may or may not be output from the Project Schedule depending on if the Project Schedule is cost-loaded or not.

Shop Drawings - All drawings, diagrams, schedules, and other data specifically prepared for the Work by the CM@Risk or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

Site – The land or premises on which the Project is located.

Specifications - The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Subconsultant - A person, firm or corporation having a contract with the CM@Risk at any tier to furnish services required as its independent professional associate or consultant with respect to the Project.

Subcontractor - An individual or firm having a direct contract with the CM@Risk or any other individual or firm having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the design phase services or construction phase Work at the site for which the CM@Risk is responsible. Subcontractors will be selected through the Subcontractor bid process described in paragraph 2.7 of this Contract.

Substantial Completion - When the Work, or an agreed upon portion of the Work, is sufficiently complete so that City can occupy and use the Project or a portion thereof for its intended purposes. This may include, but is not limited to: (i) approval by City Fire Marshall and local authorities, unless such approval is not granted for reasons beyond CM@Risk's responsibility or control; (ii) all systems in place, functional, and displayed to the City or its representative; (iii) all materials and equipment installed; (iv) all systems reviewed and accepted by the City; (v) draft O&M manuals and record documents reviewed and accepted by the City; (vi) City operation and maintenance training complete; (vii) landscaping and site work; and (viii) final cleaning. The conditions of Substantial Completion that do not apply to a specific GMP will be listed in the Notice to Proceed Letter pursuant to the Construction Phase contract.

Supplier - A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CM@Risk or with any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CM@Risk or any Subcontractor.

Work - The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor, services and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

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ARTICLE 2 – BASIC DESIGN PHASE SERVICES

2.1 GENERAL

2.1.1 The CM@Risk, to further the interests of the City, will perform the services required by, and in accordance with this Contract, to the satisfaction of the City's Designated Project Manager, exercising the degree of care, skill and judgment a professional construction manager performing similar services in Denton, Texas would exercise at such time, under similar conditions. The CM@Risk will, at all times, perform the required services consistent with sound and generally accepted construction management and construction contracting practice. The services being provided under this Contract will not alter any real property owned by the City.

2.1.2 Program Evaluation: As a participating member of the Project Team, the CM@Risk will provide to the City and Design Professional a written evaluation of the Project and Project Budget, with recommendations as to the appropriateness of each.

2.1.3 Project Meetings: The CM@Risk will attend Project Team meetings which may include, but are not limited to, regular Project management meetings, Project workshops, special Project meetings, construction document rolling reviews and partnering sessions.

2.1.4 The CM@Risk will provide design phase services described herein, in a proactive manner and consistent with the intent of the most current Drawings and Specifications. The CM@Risk will promptly notify the City in writing whenever the CM@Risk determines that any Drawings or Specifications are inappropriate for the Project and/or cause changes in the scope of Work requiring an adjustment in the cost estimate, Project Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.

2.1.5 The CM@Risk, when requested by the City, will attend, make presentations, and participate as may be appropriate in public agency and or community meetings, germane to the Project. The CM@Risk will provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or apropos in any such public agency meetings.

2.2 CONSTRUCTION MANAGEMENT PLAN

2.2.1 The CM@Risk will prepare a Construction Management Plan (CMP), which may include the CM@Risk's professional opinions concerning: (a) Project Milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project, (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities, (c) alternate strategies for fast- tracking and/or phasing the construction, (d) the number of separate subagreements to be awarded to Subcontractors and Suppliers for the Project construction, (e) permitting strategy, (f) safety and training programs, (g) construction quality control, (h) a commissioning program, (i) the cost estimate and basis of the model, and (j) a matrix summarizing each Project Team member's responsibilities and roles.

2.2.2 The CM@Risk may add detail to its previous version of the CMP to keep it current throughout the design phase, so that the CMP is ready for implementation at the start of the construction phase. The update/revisions may take into account (a) revisions in Drawings and Specifications; (b) the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the City, Design Professional, or the CM@Risk, (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and right of way, (d) the fast- tracking if any of the construction, or other chosen construction delivery methods, (e) the requisite number of separate bidding documents to be advertised, (f) the status of the procurement of long-lead time equipment (if any) and/or materials, and (g) funding issues identified by the City.

2.3 PROJECT SCHEDULE

2.3.1 The fundamental purpose of the "Project Schedule" is to identify, coordinate, and record the tasks and activities to be performed by all of the Project Team members and then for the Project Team to utilize that Deliverable as a basis for managing and monitoring all member's compliance with the schedule requirements of the Project. Each Project Team member is responsible for its compliance with the Project Schedule requirements. The CM@Risk will, however, develop and maintain the "Project Schedule" on behalf of and to be used by the Project Team based on input from the other Project Team members. The Project Schedule will be consistent with the most recent revised/updated CMP. The Project Schedule will use the Critical Path Method (CPM) technique, unless required otherwise, in writing by the City. The CM@Risk will use scheduling software to develop the Project Schedule that is acceptable to the City. The Project Schedule shall be presented in graphical and tabular reports as agreed upon by the Project Team. If Project phasing as described below is required, the Project Schedule will indicate milestone dates for the phases once determined.

2.3.2. The Project Schedule shall include a Critical Path Method (CPM) diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.

2.3.2.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled

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graphical format for the Project as a whole.

2.3.2.2 The CPM diagram schedule shall indicate all relationships between activities.

2.3.2.3 The activities making up the schedule shall be sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

2.3.2.4 The CPM diagram schedule shall be based upon activities, which would coincide with the schedule of values but the Project Schedule is not required to be cost-loaded.

2.3.2.5 The CPM diagram schedule shall show all submittals associated with each work activity and the review time for each submittal.

2.3.2.6 The schedule shall show Milestones, including Milestones for City-furnished information, and shall include activities for City-furnished equipment and furniture when those activities are interrelated with the CM@Risk activities.

2.3.2.7 The schedule shall include a critical path activity that reflects anticipated rain delay during the performance of the contract. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the site. Weather data shall be based on information provided by the National Weather Services or other approved source.

2.3.3 The Project Schedule shall consider the City's and the tenants' occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

2.3.4 Float time shall be as prescribed below:

2.3.4.1 The total Float within the overall schedule, is not for the exclusive use of either the City or the CM@Risk, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet contract milestones and the Project completion date.

2.3.4.2 The CM@Risk shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions will be granted nor delay damages paid until a delay occurs which extends the Work beyond the Substantial Completion date.

2.3.4.3 Since Float time within the schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., critical path submittals returned in less time than allowed by the contract, approval of substitution requests and credit changes which result in savings of time to the CM@Risk, etc.). In such an event, the CM@Risk shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

2.3.5 The Project Schedule will be updated and maintained by the CM@Risk throughout the design phase such that it will not require major changes at the start of the construction phase to incorporate the CM@Risk's plan for the performance of the construction phase Work. The CM@Risk will provide updates and/or revisions to the Project Schedule for use by the Project Team, whenever required, but no less often than at the monthly Project Team meetings. The CM@Risk will include with such submittals a narrative describing its analysis of the progress achieved to-date vs. that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.

2.3.6 Project Phasing: If phased construction is deemed appropriate and the City and Design Professional approve, the CM@Risk will review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Project Schedule and/or Cost of the Work. The CM@Risk will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost.

2.4 DESIGN DOCUMENT REVIEWS

2.4.1 The CM@Risk will evaluate periodically the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design; and other factors that may impact the cost estimate, GMP Proposals and/or the Project Schedule.

2.4.2 The CM@Risk will recommend, in conjunction with the Project Team, those additional surface and subsurface investigations that, in its professional opinion, are required to provide the necessary information for the CM@Risk to construct the Project. Before initiating construction operations, the CM@Risk may request additional investigations in their GMP Proposal to improve the adequacy and completeness of the site condition information and data made available with the Construction Documents.

2.4.3 The CM@Risk will meet with the Project Team as required to review designs during their development. The CM@Risk will familiarize itself with the evolving documents through the various design phases. The CM@Risk will proactively advise the Project Team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility

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and practicality of any proposed means and methods, selected materials, equipment and building systems, and, labor and material availability. The CM@Risk will furthermore maintain a project decision and trend log as design develops and advise the Project Team on proposed site improvements, excavation and foundation considerations, as well as concerns that exist with respect to coordination of the Drawings and Specifications. The CM@Risk will recommend cost effective alternatives.

2.4.4 The CM@Risk will routinely conduct constructability and bidability reviews of the Drawings and Specifications as necessary to satisfy the needs of the Project Team. The reviews will attempt to identify all discrepancies and inconsistencies in the Construction Documents especially those related to clarity, consistency, and coordination of Work of Subcontractors and Suppliers.

2.4.4.1 Constructability Reviews: The CM@Risk will evaluate whether (a) the Drawings and Specifications are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Drawings and Specifications, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions, (f) sequences of Work required by or inferable from the Drawings and Specifications are practicable, and (g) the design has taken into consideration efficiency issues concerning access and entrance to the site, laydown, and storage of materials, staging of site facilities, construction parking, and other similar pertinent issues.

2.4.4.2 Bidability Reviews: The CM@Risk will check cross-references and complementary Drawings and sections within the Specifications, and in general evaluate whether (a) the Drawings and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well or otherwise, in similar installations, (c) Specifications include alternatives in the event a requirement cannot be met in the field, and (d) in its professional opinion, the Project is likely to be subject to differing site conditions.

2.4.4.3 The results of the reviews will be provided to the City in formal, written reports clearly identifying all discovered discrepancies and inconsistencies in the Drawings and Specifications with notations and recommendations made on the Drawings, Specifications, and other documents. If requested by the City, the CM@Risk will meet with the City and Design Professional to discuss any findings and review reports.

2.4.4.4 The CM@Risk's reviews will be from a contractor's perspective, and though it will serve to reduce the number of Requests for Information (RFIs) and changes during the construction phase, responsibility for the Drawings and Specifications will remain with the Design Professional and not the CM@Risk.

2.4.5 Notification of Variance or Deficiency: It is the CM@Risk's responsibility to assist the Design Professional in ascertaining that, in the CM@Risk's professional opinion, the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the CM@Risk recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, it will promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency. However, the Design Professional is ultimately responsible for the compliance with those laws, statutes, ordinances, building codes, rules and regulations.

2.4.6 Alternate Systems Evaluations: The Project Team will routinely identify and evaluate using value engineering principles any alternate systems, approaches, design changes that have the potential to reduce Project costs while still delivering a quality and functional product. If the Project Team agrees, the CM@Risk in cooperation with the Design Professional will perform a cost/benefit analysis of the alternatives and submit such in writing to the Project Team. The Project Team will decide which alternatives will be incorporated into the Project. The Design Professional will have full responsibility for the incorporation of the alternatives into the Drawings and Specifications. The CM@Risk will include the cost of the alternatives into the cost estimate and any GMP Proposals.

2.5 COST ESTIMATES

2.5.1 Unless otherwise agreed by both parties, within 14 Days after receipt of the documents for the various phases of design, the CM@Risk shall provide a complete and detailed cost estimate and a written review of the documents. The cost estimate should include all cost categories except Owner's Contingency included in the GMP Proposal identified in Exhibit C attached. The Design Professional and CM@Risk shall reconcile any disagreements on the estimate to arrive at an agreed cost. If no consensus is reached, the City will make the final determination.

2.5.2 If any estimate submitted to the City exceeds previously accepted estimates or the City's Project Budget, the CM@Risk shall make appropriate recommendations on methods and materials to the City and Design Professional that he believes will bring the project back into the Project Budget.

2.5.3 In between these Milestone estimates, the CM@Risk shall periodically provide a tracking report which identifies the upward or downward movements of costs due to design development, value engineering or scope changes. It shall be the responsibility of the CM@Risk to keep the City and Design Professional informed as to the major trend changes in costs relative to the City's budget.

2.5.4 If requested by the City, the CM@Risk shall prepare a preliminary "cash flow" projection based upon historical records of similar type projects to assist the City in the financing process.

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2.6 GUARANTEED MAXIMUM PRICE (GMP) PROPOSALS

2.6.1.1 The proposed GMP for the entire Work (or portions thereof) will be presented in a format acceptable to the City (see Exhibit C attached). CM@Risk must verify with the City the current Exhibit C requirements and procedures when entering into these services.

2.6.1.2 The City may request a GMP Proposal for all or any portion of the Project and at any time during the design phase. Any GMP Proposals submitted by the CM@Risk will be based on and consistent with the current update/revised cost estimate at the time of the request, the associated estimates for construction costs and include any clarifications or assumptions upon which the GMP Proposal(s) are based.

2.6.2 Guaranteed Maximum Price is comprised of the following not-to-exceed cost reimbursable or lump sum amounts defined below.

2.6.2.1 The Cost of the Work is actual costs and is a not-to-exceed, reimbursable amount.

2.6.2.2 The General Conditions Costs are a firm fixed lump sum amount included as a Cost of the Work and that will include bonds and insurance premiums based on the full contract price for construction.

2.6.2.3 The Construction Fee is 7 % of the Cost of the Work.

2.6.2.4 CM@Risk's Contingency is an amount the CM@Risk may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. CM@Risk's Contingency is assumed to be a direct project cost so will receive all markups at the time of GMP submission.

2.6.2.5 Taxes are deemed to include all sales, use, consumer, and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are included as a Cost of the Work.

2.6.3 Owner's Contingency are funds to be used at the discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen site conditions. Owner's Contingency will be added to the GMP amount provided by the CM@Risk, the sum of which will be the full contract price for construction. Markups for Construction Fee and taxes will be applied by the CM@Risk at the time that Owner's Contingency is used.

2.6.4 GMPs are cumulative including CM@Risk Contingency. The amount of CM@Risk Contingency for each GMP amendment will be negotiated separately and shall reflect the CM@Risk's risk from that point in the project forward.

2.6.5 The CM@Risk will prepare its GMP in accordance with the City's request for GMP Proposal requirements based on the most current completed plans and specifications at that time. The CM@Risk shall provide a list of drawings and specifications upon which its proposed GMP is based. These documents will be identified as the GMP Plans and Specifications.

2.6.6 An updated/revised Project Schedule will be included with any GMP Proposal(s) that reflects the GMP Plans and Specifications. Any such Project Schedule updates/revisions will continue to comply with the requirements of paragraph 2.3.

2.6.7 GMP savings resulting from a lower actual project cost than anticipated by the CM@Risk remaining at the end of the project will revert to City.

2.6.7.1 GMP Proposal(s) Review and Approval

2.6.7.2 The CM@Risk will meet with the City and Design Professional to review the GMP Proposal(s) and the written statement of its basis. As part of the statement of basis, the CM@Risk shall identify and justify any costs that are significantly different than the latest cost estimate provided by the CM@Risk. In the event the City or Design Professional discovers inconsistencies or inaccuracies in the information presented, the CM@Risk will make adjustments as necessary to the GMP Proposal, its basis or both.

2.6.7.3 The City upon receipt of any GMP proposal from the CM@Risk, may submit the GMP Plans and Specifications to an independent third party or to the Design Professional for review and verification. The third party or Design Professional will develop an independent estimate of the Cost of the Work and review the Project Schedule for the associated scope of the GMP Proposals.

2.6.7.4 If the CM@Risk GMP Proposal is greater than the independent third party or Design Professional's estimate, the City may require the CM@Risk to reconfirm its GMP Proposal. The CM@Risk will accept the independent third party's or Design Professional's estimate for the Cost of Work as part of his GMP or present a report within seven days of a written request to the City identifying, explaining, and substantiating the differences. The CM@Risk may be requested to, or at its own discretion, submit a revised GMP Proposal for consideration by the City. At that time, the City may do one of the following.

(a) Accept the CM@Risk original or revised GMP Proposal, if within the City's budget, without comment.

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(b) Accept the CM@Risk original or revised GMP Proposal that exceeds the City's budget and indicate in writing to the CM@Risk that the Project Budget has been increased to fund the differences.

(c) Reject the CM@Risk's original or revised GMP Proposal because it exceeds the City's budget, the independent third parties or Design Professional's estimate, in which event, the City may terminate this Contract and/or elect to not enter into a separate contract with the CM@Risk for the construction phase associated with the scope of Work reflected in the GMP Proposal.

2.6.7.5 If during the review and negotiation of GMP Proposals design changes are required, the City will authorize and cause the Design Professional to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised Construction Documents will be furnished to the CM@Risk. The CM@Risk will promptly notify the Design Professional and City in writing if any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications.

2.7 MAJOR SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS

2.7.1 The selection of major Subcontractors and major Suppliers may occur prior to submission of a GMP Proposal. Major Subcontractors may be selected based on qualifications or a combination of qualifications and price. Subcontractors shall not be selected based on price alone. Except as noted below, the selection of major Subcontractors/Suppliers is the responsibility of the CM@Risk. In any case, the CM@Risk is solely responsible for the performance of the selected Subcontractors/Suppliers.

2.7.1.1 The CM@Risk will prepare a Subcontractor/Supplier selection plan and submit the plan to the City for approval. This subcontractor selection plan shall identify those subcontractor trades anticipated to be pre-qualified by qualifications and competitive bid in accordance with Section 2.7.2 and subcontractor trades will not be pre-qualified through a formalized qualifications-based selection process (competitively bid only). The subcontractor selection plan must be consistent with the selection requirements included in this Contract and the provisions of Chapter 2269 of the Texas Government Code.

2.7.2 Selection by qualifications and competitive bid - The CM@Risk shall apply the subcontractor selection plan in the evaluation of the qualifications of a Subcontractor(s) or Supplier(s) and provide the City with its process to prequalify prospective subcontractors and suppliers. All Work for major Subconsultants and major Suppliers shall then be competitively bid to the prequalified Subcontractors. Competitive bids may occur prior to or after the GMP Proposal(s).

2.7.2.1 The CM@Risk will develop Subcontractor and Supplier interest, submit the names of a minimum of three qualified Subcontractors or Suppliers for each trade in the Project for approval by the City and solicit bids for the various Work categories. If there are not three qualified Subcontractors/Suppliers available for a specific trade or there are extenuating circumstances warranting such, the CM@Risk may request approval by the City to submit less than three names. Without prior written notice to the City, no change in the recommended Subcontractors/Suppliers will be allowed.

2.7.2.2 If the City objects to any nominated Subcontractor/Supplier or to any recommended self-performed Work bidding opportunities for good reason, the CM@Risk will nominate a substitute Subcontractor/Supplier that is acceptable to the City.

2.7.2.3 The CM@Risk will distribute Drawings and Specifications, and when appropriate, conduct a prebid conference with prospective Subcontractors and Suppliers.

2.7.2.4 If the CM@Risk desires to self-perform certain portions of the Work, it will request to be one of the approved Subcontractor bidders for those specific bid packages. The CM@Risk's bid will be evaluated in accordance with the process identified below. If events warrant and the City concurs that in order to ensure compliance with the Project Schedule and/or cost, or if a Subcontractor is terminated the CM@Risk may self-perform Work without re-bidding the Work.

2.7.2.5 The CM@Risk shall request the pre-qualified subcontractors to provide a detailed bid for the services requested. The subcontractor bid, provided on the subcontractors' letterhead, shall contain sufficient information (i.e. unit costs/amounts) to allow an evaluation of the reasonableness of bid costs. The CM@Risk shall receive, open, record and evaluate the bids. The apparent low bidders will be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals the CM@Risk, in addition to bid price, may consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of Subcontractor/Supplier bids will be done with the City Representative in attendance to observe and witness the process. The CM@Risk will resolve any Subcontractor/Supplier bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work.

2.7.3 The CM@Risk will be required to prepare two different reports on the subcontracting process.

2.7.3.1 Within fifteen Days after each major Subcontractor/Supplier bid opening process, the CM@Risk will prepare a report for the City's review and approval identifying the recommended Subcontractors/Supplier for each category of Work. The report will provide (a) the name of the recommended Subcontractor/Supplier and the amount of the Subcontractor/Supplier bid for each subagreement, (b) the sum of all recommended Subcontractor/Supplier bids received, (c) a copy of the bids received from each Subcontractor,

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and (d) trade work and its cost that the CM@Risk intends to self-perform, if any.

2.7.3.2 Upon completion of the Subcontractor/Supplier bidding process, the CM@Risk shall submit a summary report to the City of the entire Subcontractor/Supplier selection process. The report will indicate, by bid process, all Subcontractors/Suppliers contacted to determine interest, the Subcontractors/Suppliers solicited, the bids received, and costs negotiated, and the recommended Subcontractors/Suppliers for each category of Work.

2.7.4 The approved Subcontractors/Suppliers will provide a Schedule of Values that reflects their final accepted bid proposal, which will be used to create the overall Project Schedule of Values.

2.7.5 If after receipt of sub-bids or after award of Subcontractors and Suppliers, the City objects to any nominated Subcontractor/Supplier or to any self-performed Work for good reason, the CM@Risk will nominate a substitute Subcontractor or Supplier, preferably, if such option is still available, from those who submitted Subcontractor bids for the Work affected. Once such substitute Subcontractors and Suppliers are consented to by the City, the CM@Risk's proposed GMP for the Work or portion thereof will be correspondingly adjusted to reflect any higher or lower costs from any such substitution.

2.7.6 Promptly after receipt of the Notice of Intent to Award, the City will conduct a pre-award conference with the CM@Risk and other Project Team members. At the pre-award conference, the CM@Risk will (a) review the nominated slate of Subcontractors and Suppliers and discuss any concerns with or objections that the City has to any nominated Subcontractor or Supplier; (b) discuss City concerns relating to any proposed self- performed Work; (c) review the CM@Risk's proposed Contract Price for the Work during the construction phase; (d) discuss the conditions, if any, under which the City will agree to leave any portion of the remaining CM@Risk Contingency within the Contract Price for the construction phase Work; (e) resolve possible time frames for the Date of commencement of the Contract Time for the construction phase Work; (f) schedule the pre-construction conference; and (g) discuss other matters ofimportance.

ARTICLE 3 – PERIOD OF SERVICES

3.1 The design phase services described in this Contract will be performed by CM@Risk in accordance with the most current update/revised Project Schedule. Failure on the part of the CM@Risk to adhere to the Project Schedule requirements for activities for which it is responsible will be sufficient grounds for termination of this Contract by the City.

3.1.1 Upon failure to adhere to the approved schedule, City may provide written notice to CM@Risk that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within three days of CM@Risk's receipt of such notice.

3.2 If the date of performance of any obligation or the last day of any time period provided for herein should fall on a Saturday, Sunday, or holiday for the City, then said obligation will be due and owing, and said time period will expire, on the first day thereafter which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth herein, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Denton time) on the day of performance.

ARTICLE 4 – CONTRACT AMOUNT AND PAYMENTS

4.1 CONTRACT AMOUNT

4.1.1 Based on the design phase services fee proposal submitted by the CM@Risk and accepted by the City (which by reference is made a part of this Contract); the City will pay the CM@Risk a lump sum fee in the amount of $2,252,441.

Additional services as described in subsection 4.3:	$200,000
Total Contract Amount, not to exceed,	$2,452,441

4.2 PAYMENTS

4.2.1 Requests for monthly payments by the CM@Risk for design phase services will be submitted in a form acceptable to the City and will be accompanied by a progress report, detailed invoices and receipts, if applicable. Any requests for payment will include, as a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and copies of any Subconsultants' requests for payment, plus similar narrative and listings of Deliverables associated with their Work. Payment for services negotiated as a lump sum shall be made in accordance with the percentage of work completed during the preceding month. Services negotiated as a not-to-exceed fee will be paid in accordance with the work effort expended on that service during the preceding month.

4.2.2 The fees for additional design phase services provided by the CM@Risk and any Subcontractors or Subconsultants will be based upon the hourly rate schedule included as Exhibit B, attached.

4.2.3 The CM@Risk will pay all sums due Subconsultants for services and reimbursable expenses within 14 calendar days after the CM@Risk has received payment for those services from the City. In no event will the City pay more than 95 percent

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of the Contract Amount until final acceptance of all design phase services, and award of the final approved GMP for the entire Project by City Council.

4.2.4 THE CM@RISK AGREES THAT NO CHARGES OR CLAIMS FOR COSTS OR DAMAGES OF ANY TYPE WILL BE MADE BY IT FOR ANY DELAYS OR HINDRANCES BEYOND THE REASONABLE CONTROL OF THE CITY DURING THE PROGRESS OF ANY PORTION OF THE SERVICES SPECIFIED IN THIS CONTRACT. SUCH DELAYS OR HINDRANCES, IF ANY, WILL BE SOLELY COMPENSATED FOR BY AN EXTENSION OF TIME FOR SUCH REASONABLE PERIOD AS MAY BE MUTUALLY AGREED BETWEEN THE PARTIES. IT IS UNDERSTOOD AND AGREED, HOWEVER, THAT PERMITTING THE CM@RISK TO PROCEED TO COMPLETE ANY SERVICES, IN WHOLE OR IN PART AFTER THE DATE TO WHICH THE TIME OF COMPLETION MAY HAVE BEEN EXTENDED, WILL IN NO WAY ACT AS A WAIVER ON THE PART OF THE CITY OF ANY OF ITS LEGAL RIGHTS HEREIN.

4.2.5 If any service(s) executed by the CM@Risk is abandoned or suspended in whole or in part, for a period of more than 180 days through no fault of the CM@Risk, the CM@Risk is to be paid for the services performed prior to the abandonment or suspension.

4.3 ADDITIONAL DESIGN PHASE SERVICES

4.3.1 The following additional services will be required for the successful completion of this Project. Mark- ups are not authorized and only the reimbursables specifically identified below will be reimbursed as authorized herein:

4.3.1.1 When authorized by the City, the CM@Risk shall provide special project services as requested by the City. The scope and cost of these services shall be negotiated as the need is identified and shall be based on the hourly rates agreed to under this contract. The cost for these special services shall not exceed $200,000 without further approval of the City.

4.3.1.2 When authorized by the City, the CM@Risk will be entitled to reimbursement at cost for direct expenses related to its performance of design phase services.

ARTICLE 5 - CITY'S RESPONSIBILITIES

5.1 The City, at no cost to the CM@Risk, will furnish the following information:

5.1.1 One copy of data the City determines pertinent to the work. However, the CM@Risk will be responsible for searching the records and requesting information it deems reasonably required for the Project.

5.1.2 All available data and information pertaining to relevant policies, standards, criteria, studies, etc.

5.1.3 The name of the City employee or City's representative who will serve as the Project Manager during the term of this Contract. The Project Manager has the authority to administer this Contract and will monitor the CM@Risk's compliance with all terms and conditions stated herein. All requests for information from or decisions by the City on any aspect of the work or Deliverables will be directed to the Project Manager.

5.2 The City additionally will:

5.2.1 Contract separately with one or more design professionals to provide architectural and/or engineering design services for the Project. The scope of services for the Design Professional will be provided to the CM@Risk for its information. The CM@Risk will have no right, to limit or restrict any changes of such services that are otherwise mutually acceptable to the City and Design Professional.

5.2.2 Supply, without charge, all necessary copies of programs, reports, drawings, and specifications reasonably required by the CM@Risk except for those copies whose cost has been reimbursed by the City.

5.2.3 Provide the CM@Risk with adequate information in its possession or control regarding the City's requirements for the Project.

5.2.4 Give prompt written notice to the CM@Risk when the City becomes aware of any default or defect in the Project or non-conformance with the Drawings and Specifications, or any of the services required hereunder. Upon notice of failure to perform, the City may provide written notice to CM@Risk that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within three days of CM@Risk's receipt of such notice.

5.2.5 Notify the CM@Risk of changes affecting the budget allocations or schedule.

5.3 The City's Project Manager will have authority to approve the Project Budget and Project Schedule, and render decisions and furnish information the City's Project Manager deems appropriate to the CM@Risk.

ARTICLE 6 – CONTRACT CONDITIONS

6.1 PROJECT DOCUMENTS AND COPYRIGHTS

6.1.1 City Ownership of Project Documents: All work products (electronically or manually generated) including but not limited

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to: cost estimates, studies, design analyses, Computer Aided Drafting and Design (CADD) digital files, and other related documents which are prepared specifically in the performance of this Contract (collectively referred to as Project Documents) are to be and remain the property of the City and are to be delivered to the Project Manager before the final payment is made to the CM@Risk. Nonetheless, in the event these Projects Documents are altered, modified or adapted without the written consent of the CM@Risk, which consent the CM@Risk will not unreasonably withhold, the City agrees to hold the CM@Risk harmless to the extent permitted by law, from the legal liability arising out of and or resulting from the City's alteration, modification or adaptation of the Project Documents.

6.1.2 CM@Risk to Retain Copyrights: The copyrights, patents, trade secrets or other intellectual property rights associated with the ideas, concepts, techniques, inventions, processes or works of authorship developed or created by the CM@Risk, its Subconsultants or personnel, during the course of performing this Contract or arising out of the Project will belong to the CM@Risk, but will remain available for use by the City for this Project under the terms of this Contract.

6.1.3 License to City for Reasonable Use: The CM@Risk hereby grants, and will require its Subconsultants to grant, a license to the City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Project Documents, works or Deliverables developed or created for the Project and this Contract. This license will also include the making of derivative works. In the event that the derivative works require the City to alter or modify the Project Documents, then paragraph 6.1.1 applies.

6.1.4 Documents to Bear Seal: When applicable and required by state law, the CM@Risk and its Subconsultants will endorse by a Texas professional seal all plans, works, and Deliverables prepared by them for this Contract.

6.2 COMPLETENESS AND ACCURACY OF CM@RISK'S WORK

6.2.1 The CM@Risk will be responsible for the completeness and accuracy of its reviews, reports, supporting data, and other design phase Deliverables prepared or compiled pursuant to its obligations under this Contract and will at its sole own expense correct its work or Deliverables. Any damage incurred by the City as a result of additional construction cost caused by such willful or negligent errors, omissions or acts shall be chargeable to the CM@Risk to the extent that such willful or negligent errors, omissions and acts fall below the standard of care and skill that a professional CM@Risk in Denton, Texas would exercise under similar conditions. The fact that the City has accepted or approved the CM@Risk's work or Deliverables will in no way relieve the CM@Risk of any of its responsibilities under the Contract, nor does this requirement to correct the work or Deliverable constitute a waiver of any claims or damages otherwise available by law or Contract to the City. Correction of errors, omissions and acts discovered on architectural or engineering plans and specifications shall be the responsibility of the Design Professional.

6.3 ALTERATION IN CHARACTER OF WORK

6.3.1 In the event an alteration or modification in the character of Work or Deliverable results in a substantial change in this Contract, thereby materially increasing or decreasing the scope of services, cost of performance, or Project Schedule, the Work or Deliverable will nonetheless be performed as directed by the City. However, before any altered or modified Work begins, a Change Order or amendment will be approved and executed by the City and the CM@Risk. Such Change Order or amendment will not be effective until approved by the City.

6.3.2 Additions to, modifications, or deletions from the Project provided herein may be made, and the compensation to be paid to the CM@Risk may accordingly be adjusted by mutual agreement of the contracting parties.

6.3.3 No claim for extra work done or materials furnished by the CM@Risk will be allowed by the City except as provided herein, nor will the CM@Risk do any work or furnish any material(s) not covered by this Contract unless such work or material is first authorized in writing. Work or material(s) furnished by the CM@Risk without such prior written authorization will be the CM@Risk's sole jeopardy, cost, and expense, and the CM@Risk hereby agrees that without prior written authorization no claim for compensation for such work or materials furnished will be made.

6.4 DATA CONFIDENTIALITY

6.4.1 As used in the Contract, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence, and any other similar documents or information prepared by or obtained by the CM@Risk in the performance of this Contract.

6.4.2 The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the CM@Risk in connection with the CM@Risk's performance of this Contract is confidential and proprietary information belonging to the City to the extent allowed by Texas law.

6.4.3 The CM@Risk will not divulge data to any third party without prior written consent of the City. The CM@Risk will not use the data for any purposes except to perform the services required under this Contract. These prohibitions will not apply to the following data:

6.4.3.1 Data which was known to the CM@Risk prior to its performance under this Contract unless such data was acquired in connection with work performed for the City.

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6.4.3.2 Data which was acquired by the CM@Risk in its performance under this Contract and which was disclosed to the CM@Risk by a third party, who to the best of the CM@Risk's knowledge and belief, had the legal right to make such disclosure and the CM@Risk is not otherwise required to hold such data in confidence; or

6.4.3.3 Data, which is required to be disclosed by the CM@Risk by virtue of law, regulation, or court, including but not limited to the Texas Public Information Act, Texas Government Code Chapter 552.

6.4.4 In the event the CM@Risk is required or requested to disclose data to a third party, or any other information to which the CM@Risk became privy as a result of any other contract with the City, the CM@Risk will first notify the City as set forth in this Article of the request or demand for the data. The CM@Risk will timely give the City sufficient facts, such that the City can have a meaningful opportunity to either first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.

6.4.5 The CM@Risk, unless prohibited by law, within ten calendar days after completion of services for a third party on real or personal property owned or leased by the City, will promptly deliver, as set forth in this section, a copy of all data to the City. All data will continue to be subject to the confidentiality agreements of this Contract.

6.4.6 The CM@Risk assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this section are violated by the CM@Risk, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section will be deemed to cause irreparable harm that justifies injunctive relief in court.

6.5 PROJECT STAFFING

6.5.1 Prior to the start of any work or Deliverable under this Contract, the CM@Risk will submit to the City, an organization chart for the CM@Risk staff and Subconsultants and detailed resumes of key personnel listed in its response to the City's Request for Qualifications or subsequent fee proposals (or revisions thereto), that will be involved in performing the services prescribed in the Contract. Unless, otherwise informed, the City hereby acknowledges its acceptance of such personnel to perform such services under this Contract. In the event the CM@Risk desires to change such key personnel from performing such services under this Contract, the CM@Risk will submit the qualifications of the proposed substituted personnel to the City for prior approval. Key personnel will include, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering, and procurement planning.

6.5.2 The CM@Risk will maintain an adequate number of competent and qualified persons, as determined by the City, to ensure acceptable and timely completion of the scope of services described in this Contract throughout the period of those services. If the City objects, with reasonable cause, to any of the CM@Risk's staff, the CM@Risk will take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel acceptable to the City.

6.6 INDEPENDENT CONTRACTOR

6.6.1 The CM@Risk is and will be an independent contractor and whatever measure of control the City exercises over the work or Deliverable pursuant to the Contract will be as to the results of the work only. No provision in this Contract will give or be construed to give the City the right to direct the CM@Risk as to the details of accomplishing the work or Deliverable. These results will comply with all applicable laws and ordinances.

6.7 SUBCONSULTANTS

6.7.1 Prior to beginning the work or Deliverable, the CM@Risk will furnish the City for approval, the names of all Subconsultants, if any, to be used on this Project. Subsequent changes are subject to the approval of the City.

6.8 TERMINATION

6.8.1 The City and the CM@Risk hereby agree to the full performance of the covenants contained herein, except that the City reserves the right, at its discretion and without cause, to terminate or abandon any or all services provided for in this Contract, or abandon any portion of the Project for which services have been performed by the CM@Risk.

6.8.2 In the event the City abandons any or all of the services or any part of the services as herein provided, the City will so notify the CM@Risk in writing, and the CM@Risk will immediately after receiving such notice is to discontinue advancing the Work specified under this Contract and mitigate the expenditure, if any, of costs resulting from such abandonment or termination.

6.8.3 The CM@Risk, upon such termination or abandonment, will promptly deliver to the City all reports, estimates and other work or Deliverable entirely or partially completed, together with all unused materials supplied by the City.

6.8.4 The CM@Risk will appraise the work completed and submit an appraisal to the City for evaluation. The City will have the right to inspect the CM@Risk's work or Deliverable to appraise the work completed.

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6.8.5 The CM@Risk will receive compensation in full for services satisfactorily performed to the date of such termination and the reasonable costs and expenses attributable to such termination. The fee will be paid in accordance with Article 4 of this Contract and will be an amount mutually agreed upon by the CM@Risk and the City. If there is no mutual agreement, the final determination will be made in accordance with paragraph 6.9, "Disputes". However, in no event will the fee exceed that set forth in Article 4 or as amended in accordance with paragraph 6.3, "Alteration in Character of Work". The City will make the final payment within sixty Days after the CM@Risk has delivered the last of the partially or otherwise completed work items and the final fee has been agreed upon.

6.9 DISPUTES

6.9.1 In any unresolved dispute arising out of an interpretation of this Contract or the duties required therein, the final determination at the administrative level will be made by the City Manager or their designee.

6.10 WITHHOLDING PAYMENT

6.10.1 The City reserves the right to withhold funds from the City's progress payments up to the amount equal to the claims the City may have against the CM@Risk, until such time that a settlement on those claims has been reached.

6.11 RECORDS/AUDIT

6.11.1 Records of the CM@Risk's direct personnel payroll, reimbursable expenses pertaining to this Project, and records of accounts between the City and CM@Risk will be kept on a generally recognized accounting basis and shall be available for up to three years following final completion of the Project. The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the CM@Risk's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate this Contract and any Change Orders. The City reserves the right to decrease Contract Amount and/or payments made on this Contract if, upon audit of the CM@Risk's records, the audit discloses the CM@Risk has provided false, misleading, or inaccurate cost and pricing data.

6.11.2 The CM@Risk will include a provision similar to paragraph 6.11.1 in all of its agreements with Subconsultants, Subcontractors, and Suppliers providing services under this Contract to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants', Subcontractors', and Suppliers' records to verify the accuracy of cost and pricing data. The City reserves the right to decrease Contract Amount and/or payments made on this Contract if the above provision is not included in Subconsultant, Subcontractor, and Supplier contracts, and one or more of those parties do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

6.12 INDEMNIFICATION

6.12.1 The CM@Risk agrees to defend, indemnify and hold harmless the City of Denton, its officers, agents and employees, and any jurisdiction or agency issuing permits for any work included in the Project, their officers, agents and employees, hereinafter individually and collectively referred to as "indemnitee", from all suits and claims, including attorney's fees and cost of litigation, actions, losses, damage, expenses, costs or claims of any character or any nature arising out of the Work or Deliverable done in fulfilling the terms of this Contract, or on account of any act, claim or amount arising out of or recovered under Workers' Compensation Law, or arising out of the failure of the CM@Risk to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the CM@Risk will be responsible for primary loss investigation, defense, and judgment costs where this Contract of indemnity applies. In consideration of the award of this contract, the CM@Risk agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by the CM@Risk for the City.

6.13 NOTICES

6.13.1 Unless otherwise provided, any notice, request, instruction, or other document to be given under this Agreement by any party to any other party shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail, or (c) upon the expiration of three (3) business days after the day mailed by certified mail, as follows:

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To City:	City of Denton Purchasing Manager – File 8289 901B Texas Street Denton, TX 76201 City of Denton David Brown – Project Manager 901A Texas Street Denton, TX 76201
To CM@Risk	Stephen Bradford Sundt Construction, Inc. 2015 W. River Rd. #101 Tucson, AZ 85704
Copy to: Design Professional	Colton Hermes

Or to other such place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept, or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal, or inability to deliver.

6.14 EQUAL OPPORTUNITY/AFFIRMATIVE ACTION

6.14.1 The CM@Risk will comply with the provisions of this Contract, pertaining to discrimination and accepting applications or hiring employees. The CM@Risk will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age, or disability nor otherwise commit an unfair employment practice. The CM@Risk will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment, without regard to their race, color, religion, gender or national origin, age or disability. Such action will include but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship as well as all other labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract. The CM@Risk further agrees that this clause will be incorporated in all Subcontracts, and Subconsultants and Suppliers contracts associated with the Project and entered into by the CM@Risk.

6.15 COMPLIANCE WITH FEDERAL LAWS

6.15.1 The CM@Risk understands and acknowledges the applicability of the Americans With Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. The CM@Risk agrees to comply with these and all laws in performing this Contract and to permit the City to verify such compliance.

6.16 CONFLICT OF INTEREST

6.16.1 To evaluate and avoid potential conflicts of interest, the CM@Risk will provide written notice to the City, as set forth in this section, of any work or services performed by the CM@Risk for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice will be given seven business days prior to commencement of the Project by the CM@Risk for a third party, or seven business days prior to an adverse action as defined below. Written notice and disclosure will be sent to:

City of Denton
Attn: Purchasing Manager
Materials Management
901B Texas Street
Denton, TX 76209

6.16.2 Actions considered to be adverse to the City under this Contract include but are not limited to:

(a) Using data as defined in the Contract, acquired in connection with this Contract to assist a third party in pursuing administrative or judicial action against the City.

(b) Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; and

(c) Using data to produce income for the CM@Risk or its employees independently of performing the services under this Contract, without the prior written consent of the City.

6.16.3 The CM@Risk represents that except for those persons, entities and projects previously identified in writing to the City, the services to be performed by the CM@Risk under this Contract are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the interests of the City.

6.16.4 The CM@Risk's failure to provide a written notice and disclosure of the information as set forth in this section will constitute

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a material breach of this Contract.

6.17 CONTRACTOR'S LICENSE

6.17.1 Prior to award of the Contract, the CM@Risk must provide to the City's Project Manager, its Contractor's License Classification and number, if any, and its Federal Tax I.D. number.

6.18 SUCCESSORS AND ASSIGNS

6.18.1 The City and the CM@Risk will each bind itself, and their partners, successors, assigns, and legal representatives to the other party to this Contract and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Contract. Neither the City nor the CM@Risk will assign, sublet, or transfer its interest in this Contract without the written consent of the other. In no event will any contractual relation be created or be construed to be created as between any third party and the City.

6.19 FORCE MAJEURE

6.19 The City of Denton, the CM@Risk, and any Subcontractors shall not be responsible for performance under this 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, the CM@Risk, and any Subcontractors. In the event of an occurrence under this Section, the City of Denton, the CM@Risk, and any Subcontractors will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the City of Denton, the CM@Risk, and any Subcontractors continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The CM@Risk and any Subcontractors shall immediately notify the City of Denton Project 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.

6.20 COVENANT AGAINST CONTINGENT FEES

6.20.1 The CM@Risk warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the City Council, or any employee of the City of Denton has any interest, financially, or otherwise, in the firm. The City of Denton will in the event of the breach or violation of this warranty, have the right to annul this Contract without liability, or at its discretion to deduct from the Contract Amount or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

6.21 NON-WAIVER PROVISION

6.21.1 The failure of either party to enforce any of the provisions of this Contract or to require performance by the other party of any of the provisions hereof will not be construed to be a waiver of such provisions, nor will it affect the validity of this Contract or any part thereof, or the right of either party to thereafter enforce each and every provision.

6.22 JURISDICTION

6.22.1 This Contract will be deemed to be made under and will be construed in accordance with and governed by the laws of the State of Texas, without regard to the conflicts or choice of law provisions thereof. Under the provisions of Chapter 272 of the Texas Local Government Code, the City has waived its immunity by entering into this Contract. However, the City's sovereign immunity is waived only to the extent set forth by statute. An action to enforce any provision of this Contract or to obtain any remedy with respect hereto will be brought and tried in the State District Courts located in Denton County, Texas, and for this purpose, each party hereby expressly and irrevocably consents to the sole and exclusive jurisdiction and venue of such Court.

6.23 SURVIVAL

6.23.1 All warranties, representations, and indemnifications by the CM@Risk will survive the completion or termination of this Contract.

6.24 MODIFICATION

6.24.1 No supplement, modification, or amendment of any term of this Contract will be deemed binding or effective unless in writing and signed by the parties hereto and in conformation with provisions of this Contract, except as expressly provided herein to the contrary.

6.25 SEVERABILITY

6.25.1 If any provision of this Contract or the application thereof to any person or circumstance will be invalid, illegal or unenforceable to any extent, the remainder of this Contract and the application thereof will not be affected and will be enforceable to the fullest extent permitted by law.

6.26 INTEGRATION

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6.26.1 This Contract contains the full agreement of the parties hereto. Any prior or contemporaneous written or oral agreement between the parties regarding the subject matter hereof is merged and superseded hereby.

6.27 TIME IS OF THE ESSENCE

6.27.1 Time of each of the terms, covenants, and conditions of this Contract is hereby expressly made of the essence.

6.28 THIRD PARTY BENEFICIARY

6.28.1 This Contract will not be construed to give any rights or benefits in the Contract to anyone other than the City and the CM@Risk. All duties and responsibilities undertaken pursuant to this Contract will be for the sole and exclusive benefit of the City and the CM@Risk and not for the benefit of anyother party.

6.29 COOPERATION AND FURTHER DOCUMENTATION

6.29.1 The CM@Risk agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Contract.

6.30 CONFLICT IN LANGUAGE

6.30.1 All work or Deliverables performed will conform to all applicable City of Denton codes, ordinances and requirements as outlined in this Contract. If there is a conflict in interpretation between provisions in this Contract and any Exhibits, the provisions in this Contract will prevail.

6.31 CITY'S RIGHT OF CANCELLATION

6.31.1 All parties hereto acknowledge that this Contract is subject to cancellation by the City of Denton pursuant to the provisions of Texas Local Government Code Chapters 252 and 272, Texas Government Code Chapter 2269, and the general laws of the State of Texas.

6.32 CONFIDENTIALITY OF PLANS & SPECIFICATIONS

6.32.1 Any plans or specifications received by the CM@Risk regarding this project are for official use only. The CM@Risk may not share them with others except as required to fulfill contract obligations with the City of Denton.

6.32.2 Any plans the CM@Risk generates must include the following statement in the Title Block on every page: “These plans are for Official use only and may not be shared with others except as required to fulfill the obligations of CM@Risk’s contract with the City of Denton. This document must be kept secure at all times.”

ARTICLE 7 – INSURANCE REQUIREMENTS

The CM@Risk. Subcontractors and Subconsultants shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CM@Risk, its agents, representatives, employees, or Subconsultants.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The City in no way warrants that the minimum limits contained herein are sufficient to protect the CM@Risk from liabilities that might arise out of the performance of the work under this Contract by the CM@Risk, his agents, representative, employees, or Subconsultants. CM@Risk is free to purchase such additional insurance as may be determined necessary.

7.1 MINIMUM SCOPE AND LIMITS OF INSURANCE

7.1.1 CM@Risk will provide coverage at least as broad and with limits of liability not less than those stated below.

7.1.1.1 Commercial General Liability-Occurrence Form

Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

General Aggregate	$2,000,000
Products-Completed Operations Aggregate	$1,000,000
Personal & Advertising Injury	$1,000,000
Each Occurrence	$1,000,000

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(a) The policy shall be endorsed to include the following additional insured language: "The City of Denton shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the CM@Risk". Policy shall contain waiver of subrogation against the City of Denton.

7.1.1.2 Automobile Liability
Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

(a) The policy shall be endorsed to include the following additional insured language: "The City of Denton shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the CM@Risk", including automobiles owned, leased or hired or borrowed by the CM@Risk".

7.1.1.3 Workers Compensation and Employers Liability

Workers Compensation	Statutory
Employers Liability	
Each Accident	$ 100,000
Disease – Each Employee	$ 100,000
Disease – Policy Limit	$ 500,000

(a) Policy shall contain waiver of subrogation against the City of Denton.

7.2 ADDITIONAL INSURANCE REQUIREMENTS

7.2.1 The policies shall include, or be endorsed to include, the following provisions.

7.2.2 On insurance policies where the City of Denton is named as additional insured, the City of Denton shall be an additional insured to the full limits of liability purchased by the CM@Risk even if those limits of liability are in excess of those required by this Contract.

7.2.3 The CM@Risk's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

7.2.4 Coverage provided by the CM@Risk shall not be limited to the liability assumed under the indemnification provisions of this Contract.

7.3 SUBCONSULTANT INSURANCE

7.3.1 CM@Risk's certificate(s) shall include all subcontractors as additional insureds under its policies or subconsultants shall maintain separate insurance as determined by the CM@Risk, however, subconsultants limits of liability shall not be less than $1,000,000 per occurrence / $2,000,000 aggregate.

7.4 NOTICE OF CANCELLATION

7.4.1 Each insurance policy required by the insurance provisions of this Contract will provide the required coverage and not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent by certified mail, return receipt requested and sent directly to the City's Purchasing Manager at:

City of Denton
Attn: Purchasing Manager – Contract 8289
Purchasing
901B Texas Street
Denton, TX 76209

7.5 ACCEPTABILITY OF INSURERS

7.5.1 Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Texas, and with an "A.M. Best" rating of not less than A-.. The City in no way warrants that the above required minimum insurer rating is sufficient to protect the CM@Risk from potential insurer insolvency.

7.6 VERIFICATION OF COVERAGE

7.6.1 The CM@Risk will furnish the City, Certificates of Insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

7.6.2 All certificates and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to the earlier of commencement of work under this Contract and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

7.6.3 All certificates required by this Contract will be sent directly to the Engineering and Architectural Services Department Contracts Administration Section contracts officer for this Project. The City project/contract number and project description shall be noted on the certificates of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract, at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.

7.7 APPROVAL

7.7.1 Any modification or variation from the insurance requirements in this Contract must be approved by the Law Department, whose decision will be final. Such action will not require a formal contract amendment but may be made by administrative action.

This Contract will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on 02/06/2024.

CITY OF DENTON, TEXAS

DocuSigned by:
BY: Sara Hensley
5236DB296270423...

Sara Hensley
Printed Name

City Manager
Title

CM@Risk:

DocuSigned by:
BY: Stephen Bradford
E0405276AFF0453...

Stephen Bradford
Printed Name

Senior Vice President
Title

ATTEST:
JESUS SALAZAR, CITY SECRETARY

DocuSigned by:
Jesus Salazar
2437C77B897541D...
Signature

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
Marcella Lunn
4B070831B4AA438...
Signature

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

DocuSigned by:
Steven Gay Steven Gay
9EBFF5658E56492...
SIGNATURE PRINTED NAME

Director,
TITLE

Water Utilities
DEPARTMENT

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EXHIBIT A – PROJECT DESCRIPTION

Following is a brief description of the Project for which the design phase service services specified in this Contract are to be performed:

Improvements to the existing 21 million gallon per day (MGD) Pecan Creek Water Reclamation Plant. The improvements include a new 75 MGD headworks, a 5 MGD expansion of the existing facility and new solids processing for the expanded 26 MGD facility. The work will generally consist of the following:

- Primary clarifiers
- 5 MGD membrane bioreactor
- Blower building and associated aeration equipment
- Ultraviolet disinfection
- Anaerobic digesters
- Solids thickening
- Anaerobic digesters
- Solids dewatering building and associated equipment
- Ancillary improvements to the existing facility
- Approx. 2100 LF of 60” Sanitary Sewer from Existing Headworks to Proposed Headworks
- Approx. 2,400LF of 48” Sanitary Sewer from South Peak Flow Basin to Proposed Headworks.
- Approx. 1750 LF of 48” Piping from Proposed Headworks to Existing Grit Chamber
- Approx. 1,000 LF of 48” Piping from Proposed Headworks to Existing Basin
- 5QTY 8-Foot Diameter Sanitary Sewer Manhole
- 11QTY 6-Foot Diameter Sanitary Sewer Manhole
- 5QTY 5-Foot Diameter Sanitary Sewer Manhole

Services to be performed, as defined within this agreement, include the following:

- Performance of preconstruction services in alignment with City of Denton project goals and to facilitate a successful construction project as defined within this agreement, the conditions of success meetings and the Construction Management Plan.
- Meeting attendance and other team interaction to allow cohesion, communicate needs, meet contract requirements and to establish and maintain Sundt’s understanding of all work required to be complete as part of this project.
- Sundt and Kimley Horn coordination meetings and other interaction to the benefit of the City of Denton.
- Development and refinement of the Construction Management Plan to include the requirements of section 2.2 of this Agreement.
- Sundt will generate and maintain a CMAR risk register which will be used to influence decision making and to ensure ownership of risk is identified and memorialized.
- Open book estimating services to ensure adequate and early cost communication and budget impacts to facilitate effective project team decision making.
    - Estimates to be developed at intervals to align with engineering deliverables as defined in section 2.5 of this agreement.
    - The number, level of detail and time required to develop estimates will be as agreed upon by the parties
- Scheduling services to ensure adequate and early communication of accuracy and risks to the City of Denton’s requirements for construction completion.
    - Schedules will be developed at intervals to align with engineering deliverables as defined in section 2.3 of this Agreement.
    - The number, level of detail and time required to develop schedules will be as agreed upon by the parties.
    - Sundt requires participation and input from Kimley Horn in the development of design deliverables to align with construction sequencing. It is imperative that Sundt’s schedule includes a detailed schedule from Kimley Horn for all design phase activities and that this schedule is managed in the best interest of the construction timeline of the project.
- Constructability and Biddability reviews of documents as design phase deliverables are issued.
- Value Engineering reviews of documents as design phase deliverables are issued.
    - Includes management and communication of cost impacts of design decisions identified by the parties as part of the Sundt’s Design Evolution Log. Design decisions requiring pricing will be identified by the project team during design meetings and as otherwise communicated to Sundt in writing by the parties.
    - Value engineering items will be managed within the Design Evolution Log as well to ensure timely review and to ensure cost related decisions are memorialized to the greatest extent possible.

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- Subcontractor and supplier outreach, bidding and selection in preparation for GMP.
    - Sundt will undertake to engage with local and national resources as required to garner interest in the project from trade partners.
    - Sundt will manage a bidders list and will seek approval of the list from the City of Denton.
    - Sundt's trade partner outreach events will include an open invitation to City of Denton and Kimley Horn staff.
- Development of a GMP to meet the requirements of section 2.6 of this Agreement.
- Additional services, included in section 4.1.1 as an allowance, as needed to facilitate planning including:
    - Potholing of existing utilities to facilitate design and construction planning.
    - Soils testing and earthwork productivity analysis to facilitate design and estimating.
    - Other site and utility investigations as needed.
    - Other services as identified by the parties during preconstruction.

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EXHIBIT B - HOURLY RATE SCHEDULE

The schedule of hourly labor rates for employees of the CM@Risk and its Subconsultants follow and are based on the approved proposal submitted to the City.

LIST OF CLASSIFICATIONS:

PRECON SERVICES - BASE SCOPE	RATE	UM	NOTES
PROJECT MANAGER	$ 228.00	MH	PER PRECON SERVICES PROPOSAL
CONSTRUCTION MANAGER	$ 210.00	MH	PER PRECON SERVICES PROPOSAL
PROJECT ENGINEER	$ 152.00	MH	PER PRECON SERVICES PROPOSAL
SCHEDULER	$ 128.00	MH	PER PRECON SERVICES PROPOSAL
BIM	$ 157.00	MH	PER PRECON SERVICES PROPOSAL
SAFETY	$ 160.00	MH	PER PRECON SERVICES PROPOSAL
QUALITY	$ 183.00	MH	PER PRECON SERVICES PROPOSAL
PRECON LEAD	$ 175.00	MH	PER PRECON SERVICES PROPOSAL
PRECON LEAD	$ 175.00	MH	PER PRECON SERVICES PROPOSAL
SENIOR ESTIMATOR	$ 130.00	MH	PER PRECON SERVICES PROPOSAL
JUNIOR ESTIMATOR	$ 101.00	MH	PER PRECON SERVICES PROPOSAL
PROJECT ADMINISTRATOR	$ 85.00	MH	PER PRECON SERVICES PROPOSAL
TRAVEL AND EXPENSES	$ 196,528.00	LS	BILLED AT COST
OUT REACH EVENTS	$ 6,000.00	LS	BILLED AT COST
3RD PARTY LABOR STUDIES	$ 18,000.00	LS	BILLED AT COST

ADDITIONAL SCOPE ALLOWANCE	RATE	UM	NOTES
LABOR*			
GENERAL FOREMAN	$ 88.53	MH	50 HOUR RATE - NO MARKUPS
FOREMAN	$ 67.25	MH	50 HOUR RATE - NO MARKUPS
CRANE OPERATOR	$ 72.92	MH	50 HOUR RATE - NO MARKUPS
OPERATOR	$ 58.74	MH	50 HOUR RATE - NO MARKUPS
ELECTRICIAN	$ 113.64	MH	50 HOUR RATE - INCLUDES ANTICIPATED ELECTRICAL CONTRACTOR MARKUPS
PIPELAYER	$ 55.90	MH	50 HOUR RATE - NO MARKUPS
PIPEFITTER	$ 70.09	MH	50 HOUR RATE - NO MARKUPS

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PIPE WELDER	$ 72.92	MH	50 HOUR RATE - NO MARKUPS
LABORER	$ 53.07	MH	50 HOUR RATE - NO MARKUPS
SUPERINTENDENT	$ 147.95	MH	NO MARKUPS
ELECTRICAL SUPERINTENDENT	$ 221.93	MH	INCLUDES ANTICIPATED ELECTRICAL CONTRACTOR MARKUPS
FIELD ENGINEER	$ 89.90	MH	NO MARKUPS
*RATES INCLUDE SUBSISTENCE, SMALL TOOLS & SAFETY SUPPLIES, NO CONSUMABLES			
TRADE PARTNERS			
POTHOLING CONTRACTOR	$ 2,400.00	10 HR SHIFT	AIMS QUOTE FROM BONNIE BRAE PROJECT - PORTAL TO PORTAL
STREET SWEEPING CONTRACTOR	$ 845.00	3 HR SHIFT	MR SWEEPER QUOTE
CONFINED SPACE RESCUE SERVICES	$ 3,900.00	12 HR SHIFT	TEXAS RESCUE PHONE QUOTE - 12 HR MIN CHARGE
EQUIPMENT			
LOADER GRADER TRACTOR - GANNON	$ 77.67	HR	BLUEBOOK, NO MARKUP
CAT 420 LOADER/BACKHOE	$ 92.92	HR	BLUEBOOK, NO MARKUP
EXCAVATOR CAT 320	$ 128.97	HR	BLUEBOOK, NO MARKUP
WALK BEHIND PLATE COMPACTOR	$ 41.24	HR	BLUEBOOK, NO MARKUP
CRANE CRAWLER 100T	$ 438.76	HR	BLUEBOOK, NO MARKUP
CRANE RT 90T	$ 365.45	HR	BLUEBOOK, NO MARKUP
FORKLIFT REACH 10K	$ 159.00	HR	BLUEBOOK, NO MARKUP
GENERATOR TRAILER MOUNT 15KW	$ 10.36	HR	BLUEBOOK, NO MARKUP
LIGHT PLANT STANDARD	$ 18.80	HR	BLUEBOOK, NO MARKUP
PUMP - 3"-4"	$ 36.29	HR	BLUEBOOK, NO MARKUP
WATER BUFFALO 500 GALLON	$ 3.97	HR	BLUEBOOK, NO MARKUP
DUMP TRUCK - 12 YARD	$ 94.74	HR	BLUEBOOK, NO MARKUP

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EXHIBIT C - SUBMITTAL REQUIREMENTS FOR THE GMP

GMP submittal, one copy for review.

One printed, signed original copy and a digital copy in searchable PDF format will be requested by the City of Denton prior to contract execution.

Table of Contents:

1. Scope of Work
2. Summary of the GMP
3. Schedule of Values – summary spreadsheet and backup documents
4. List of Plans and Specifications used for GMP Proposal
5. List of clarification and assumptions
6. Project Schedule

1. Scope of work will consist of a brief description of the work to be performed by CM@Risk and major points that the CM@Risk and the City must be aware of pertaining to the scope. (normally one paragraph is sufficient.)

2. A summary of the GMP with a total for each of the components of the GMP as listed in its definition in Article 1 as shown in the table below:

   The general conditions fee includes bond and insurance cost. All costs should be listed individually for future use.

PROJECT #: **DATE:**
PROJECT NAME:

GMP Summary					**AMOUNT**
A.	Cost of the Work (Labor, Materials, Equipment, Warranty)				$
B.	CM@Risk's Contingency				$
INDIRECT COSTS				RATE	
C.	Construction Fee			%	$
D.	General Conditions				$
	D1	Payment and Performance Bond	$		
	D2	Insurance	$		
			E. TOTAL GMP		**$**
			F. Owner's Contingency		**$**
			G. Contract Amount		**$**

Substantial Completion _____ Calendar Days

Final Completion _____ Calendar Days

Formulas:
Total GMP: A+B+C+D = E

(**Do not acquire bond or insurance until notified by the City of Denton Project Manager.)**

3. Schedule of Values - spread sheet with the estimated bid or cost organized by subcontract categories, allowances, bid contingency, general conditions costs, taxes, bonds, insurances, and the CM@Risk's construction phase fee. The supporting document for the spreadsheet must be provided in an organized manner that correlates with the schedule of values. The backup information shall consist of the request for bids, bids received, and clarification assumptions used for the particular bid item listed on the schedule of values, if applicable.

4. A list of the Plans and Specifications with latest issuance date including all addenda used in preparation of the GMP proposal. The plans used for the GMP must be date stamped and signed by CM@Risk, Design Consultant, and Project Manager using the format below.

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Plans Used For Preparation of GMP No.	
CM@Risk	Date
Design Consultant	Date
Project Manager	Date

5. A list of the clarifications and assumptions made by the CM@Risk in the preparation of the GMP proposal, to supplement the information contained in the documents.

6. A Critical Path Method (CPM) diagram construction schedule.

NOTE: The submittal package must be kept as simple as possible all on 8 ½ x 11 sheets. Color or shading must be kept to a minimum. If used, make sure the color or shading will not affect the reproduction of the submittal in black and white.

Final GMP submittal will consist of the following:

1. One printed copy of the GMP and one digital copy in searchable PDF format.

2. One copy of the plans and technical specifications used to arrive at the GMP (signed by Design Professional, CM@Risk and City's Project Manager).

For questions regarding the submittal requirements, please contact City of Denton Project Manager.

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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.**

Sundt Construction, 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 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:
Stephen Bradford
E0405276AFF0453...
Signature of vendor doing business with the governmental entity

12/28/2023
Date

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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.

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Certificate Of Completion

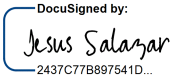
Envelope Id: 74CF6F67D74E42F885E6A4637A93F76C
Status: Completed
Subject: Please DocuSign: City Council Contract 8289 CMAR PCWRP Headworks and Expansion Project
Source Envelope:
Document Pages: 31
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
12/15/2023 4:33:49 PM
Holder: Erica Garcia
erica.garcia@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
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	**Completed** Using IP Address: 198.49.140.10	Sent: 12/15/2023 4:37:22 PM Viewed: 12/15/2023 4:37:35 PM Signed: 12/15/2023 4:38:06 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/15/2023 4:38:09 PM Viewed: 12/15/2023 4:39:27 PM Signed: 12/15/2023 4:39:59 PM
Marcella Lunn marcella.lunn@cityofdenton.com Mack Reinwand City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/15/2023 4:40:02 PM Viewed: 12/27/2023 11:01:29 AM Signed: 12/27/2023 11:04:20 AM
Stephen Bradford slbradford@sundt.com Senior Vice President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 12/27/2023 1:32:27 PM ID: f44b7728-64d4-4246-ab16-64a7bdd84e67	DocuSigned by: Stephen Bradford E0405276AFF0453... Signature Adoption: Pre-selected Style Using IP Address: 98.177.32.71	Sent: 12/27/2023 11:04:24 AM Viewed: 12/27/2023 1:32:27 PM Signed: 12/28/2023 11:58:32 AM

Signer Events	Signature	Timestamp
Steven Gay stephen.gay@cityofdenton.com Director, Water Utlilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 12/28/2023 12:08:39 PM ID: 3059af00-f425-4671-b72f-aca564f918e1	DocuSigned by:  9EBFF5658E56492... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/28/2023 11:58:37 AM Viewed: 12/28/2023 12:08:39 PM Signed: 12/28/2023 12:09:25 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	**Completed** Using IP Address: 198.49.140.10	Sent: 12/28/2023 12:09:29 PM Viewed: 2/7/2024 9:12:09 AM Signed: 2/7/2024 9:12:37 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: 2/7/2024 9:12:42 AM Viewed: 2/7/2024 9:44:03 AM Signed: 2/7/2024 9:44:10 AM
Jesus Salazar jesus.salazar@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 2/7/2024 10:58:08 AM ID: 31fe7b23-ff88-4df5-8cfc-91a63796aa1e	DocuSigned by:  2437C77B897541D... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 2/7/2024 9:44:14 AM Viewed: 2/7/2024 10:58:08 AM Signed: 2/7/2024 10:59:01 AM

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: 12/15/2023 4:38:09 PM

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: 12/28/2023 12:09:29 PM Viewed: 1/2/2024 2:07:22 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 2/7/2024 10:59:05 AM
David Brown David.Brown@cityofdenton.com PM Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/10/2019 2:54:36 PM ID: 20238ddf-ccd6-4d52-988f-8c9f3436055e	COPIED	Sent: 2/7/2024 10:59:06 AM Viewed: 2/7/2024 11:05:10 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/15/2023 4:37:22 PM
Certified Delivered	Security Checked	2/7/2024 10:58:08 AM
Signing Complete	Security Checked	2/7/2024 10:59:01 AM
Completed	Security Checked	2/7/2024 10:59:06 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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 CONSTRUCTION MANAGER AT RISK (CMAR) PRECONSTRUCTION SERVICES CONTRACT BETWEEN THE CITY OF DENTON AND SUNDT CONSTRUCTION, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON FEBRUARY 6, 2024, IN THE NOT-TO-EXCEED AMOUNT OF $2,452,441.00, SAID FIRST AMENDMENT TO PROVIDE ADDITIONAL PRECONSTRUCTION DESIGN SERVICES AND EXPAND THE TIMELINE FOR THE PECAN CREEK WATER RECLAMATION PLANT HEADWORKS AND EXPANSION PROJECT FOR THE WATER UTILITIES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8289 - PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $296,273.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $2,748,714.00).

WHEREAS, on February 6, 2024, City Council awarded a contract to Sundt Construction, Inc. in the amount of $2,452,441.00, for pre-construction services of the Pecan Creek Water Reclamation Plant Expansion Project for the Water Utilities Department; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Sundt Construction, Inc., which is on file in the office of the Purchasing Agent, in the amount of Two Hundred Ninety-Six Thousand Two Hundred Seventy-Three and 0/100 ($296,273.00) 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 $2,748,714.00.

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 _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: A70388BE-C1B7-4F99-BDAE-288E261E2A74

Docusign City Council Transmittal Coversheet

RFP	8289
File Name	CMAR for PCWTP Headworks and Expansion - Amendment #1
Purchasing Contact	Cori Power
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

Docusign Envelope ID: A70388BE-C1B7-4F99-BDAE-288E261E2A74

THE STATE OF TEXAS §
§
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND **SUNDT CONSTRUCTION, INC. 8289**

THIS FIRST AMENDMENT TO CONTRACT 8289 ("Amendment") by and between the City of Denton, Texas ("City") and **SUNDT CONSTRUCTION, INC.** ("CM@Risk") to that certain contract executed on February 6, 2024, in the original not-to-exceed amount of $2,452,441.00 (the "Agreement"); for services related to the **PCWRP Headworks and Expansion Project.**

WHEREAS, the City deems it necessary to further expand the services provided by CM@Risk to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount $296,273.00 with this First Amendment for an aggregate not-to-exceed amount of $2,748,714.00; and

NOW THEREFORE, the City and CM@Risk (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 $296,273.00 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 $2,748,714.00.

2. The additional services described in Exhibit "A" of this Amendment, attached hereto and incorporated herein for all purposes, for the Construction Manager at Risk preconstruction design services for the Pecan Creek Water Reclamation Plant Headworks and Expansion Project, are hereby authorized to be performed by CM@Risk. For and in consideration of the additional services to be performed by CM@Risk, the City agrees to pay, based on the cost estimate detail attached as Exhibit "A".

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

Docusign Envelope ID: A70388BE-C1B7-4F99-BDAE-288E261E2A74

"CM@Risk"
SUNDT CONSTRUCTION, INC.

DocuSigned by:
By: Stephen Bradford President
E0D5276AFE0453...
AUTHORIZED SIGNATURE, TITLE

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
AUTHORIZED SIGNATURE, TITLE

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

Signed by:
Stephen D. Gay
FE848B5972654A9...
SIGNATURE

Stephen D. Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

By: _____

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

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

Docusign Envelope ID: A70388BE-C1B7-4F99-BDAE-288E261E2A74

CHANGE ORDER

Exhibit A

(Simulates AIA Document G701)

CONTRACTOR: Sundt Construction, Inc.
2620 S. 55th Street, Tempe, AZ 85282
Contractor Project No.: 162482

CO NO.: 0001

DATE: 06/26/2025

PROJECT: PRECON Pecan Creek WRP
1100 S. Mayhill Road
Denton, Texas 76201

CONTRACT DATE: 02/06/2024

Time Delay Due to Change from 5 vs 26 MGD Expansion

Preconstruction time delay due to changing from 5 vs 26 MGD Expansion.

The Contract is hereby revised by the following items:

Issue	Description	Amount
1	Time Delay Due to Change from 5 vs 26 MGD Expansion	$ 296,273.00

Total: **$ 296,273.00**

Not valid until signed by the Owner and Contractor	
The original Contract sum was	$ 2,452,441.00
Net change by previously authorized Change Orders	$ 0.00
The Contract sum prior to this Change Order was	$ 2,452,441.00
The Contract sum will be increased by this Change Order in the amount of	$ 296,273.00
The new Contract sum including this Change Order will be	$ 2,748,714.00
The Contract time will be changed by this Change Order by	days
The date of Substantial Completion including this Change Order is	08/11/2026

CONTRACTOR	**CLIENT/OWNER**
Sundt Construction, Inc.	City of Denton
By:	By:
Printed Name:	Printed Name:
Title:	Title:
Date:	Date:

Docusign Envelope ID: A70388BE-C1B7-4F99-BDAE-288E261E2A74

City Of Denton PCWRP Headworks and Expansion Project
901 B Texas St Denton TX 76209

SUNDT

Subcontractor Name	Sundt Construction Inc	Issue #	
Address		Issue Description	
Estimator	Curt Klepper	Location of Work	Headworks and Expansion Project
Phone	480.932.3989	Documents / Sheets	
Email	caklepper@sundt.com	Date	5/21/2025

DESCRIPTION OF PROPOSED WORK

Delay time due to change from 5 vs 26 MGD Expansion

LABOR

QUANTITY	UNIT	DESCRIPTION	MAN PER UNIT	HOURS PER ACTIVITY	RATE	LABOR COST
1	EA	Curt Klepper (Precon Lead)	1	552	$ 175.00	$ 96,600.00
1	EA	Jonah Bocanegra (Project Engineer)	1	536	$ 152.00	$ 81,472.00
1	EA	James Roberts (Construction Manager)	1	184	$ 210.00	$ 38,640.00
1	EA	Andrew Crouse (Project Manager)	1	174	$ 228.00	$ 39,672.00
1	EA	Connor Patterson (Senior Estimator)	1	16	$ 130.00	$ 2,080.00
1	EA	Sue Saksena (Senior Estimator)	1	8	$ 130.00	$ 1,040.00
1	EA	Jeff Grigsby (Project Manager - Transportation	1	48	$ 228.00	$ 10,944.00
1	EA	Nick Shumate (Precon Lead - Transportation)	1	33	$ 175.00	$ 5,775.00
1	EA	Dan Kershaw (Senior Estimator)	1	20	$ 130.00	$ 2,600.00
1	EA	Greg Page (Junior Estimator)	1	8	$ 101.00	$ 808.00
1	EA	Tyler Kechely (Project Engineer)	1	56	$ 152.00	$ 8,512.00
1	EA	Dan Graupman (Senior Estimator)	1	39	$ 130.00	$ 5,070.00
1	EA	Cameron Grant (Senior Estimator - Transporta	1	6	$ 130.00	$ 780.00
1	EA	Michael Rivera (Senior Estimator)	1	2	$ 130.00	$ 260.00
1	EA	Andrew Martinez (Junior Estimator)	1	20	$ 101.00	$ 2,020.00
					$ -	$ -
					$ -	$ -
					$ -	$ -
					$ -	$ -
					$ -	$ -
					$ -	$ -
					$ -	$ -
				LABOR TOTAL COST		$ 296,273.00

MATERIAL

QUANTITY	UNIT	DESCRIPTION	RATE	MATERIAL COST
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			MATERIAL TOTAL COST	$ -

EQUIPMENT / OTHER

QUANTITY	UNIT	DESCRIPTION	RATE	EQUIPMENT COST
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
			EQUIPMENT TOTAL COST	$ -
			INDIRECTS	$ -
			OH & FEE	$ -
			SUBCONTRACTOR TOTAL	$ 296,273.00

Certificate Of Completion

Envelope Id: A70388BE-C1B7-4F99-BDAE-288E261E2A74
Status: Sent
Subject: Please DocuSign: City Council Contract 8289 CMAR for PCWTP Headworks and Expansion Amendment #1
Source Envelope:
Document Pages: 5
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Cori Power
901B Texas Street
Denton, TX 76209
cori.power@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
7/9/2025 1:30:00 PM
Holder: Cori Power
cori.power@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Purchasing Supervisor 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: 7/9/2025 1:31:14 PM Viewed: 7/9/2025 1:31:27 PM Signed: 7/9/2025 1:31:46 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/9/2025 1:31:48 PM Viewed: 7/9/2025 1:37:50 PM Signed: 7/9/2025 1:38:11 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/9/2025 1:38:13 PM Viewed: 7/9/2025 1:39:26 PM Signed: 7/9/2025 1:43:48 PM
Stephen Bradford slbradford@sundt.com Group President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/9/2025 2:04:50 PM ID: b80607db-a399-4d06-8f03-e7b90cfa09ea	DocuSigned by: Stephen Bradford E0405276AFF0453... Signature Adoption: Pre-selected Style Using IP Address: 155.190.3.6	Sent: 7/9/2025 1:43:50 PM Viewed: 7/9/2025 2:04:50 PM Signed: 7/9/2025 7:01:08 PM

Signer Events	Signature	Timestamp
Stephen D. Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/10/2025 8:21:22 AM ID: c6539556-2d60-4fee-82de-a129e585dbf0	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/9/2025 7:01:10 PM Viewed: 7/10/2025 8:21:22 AM Signed: 7/10/2025 8:22:20 AM
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: 7/10/2025 8:22:23 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 7/9/2025 1:31:48 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/10/2025 8:22:22 AM Viewed: 7/10/2025 9:38:24 AM

Carbon Copy Events	Status	Timestamp
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		
David Brown David.Brown@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/25/2025 3:24:49 PM ID: aead9905-e8bb-4259-8c36-e6db85fd4e3d		
Jason Donnell jason.donnell@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/9/2025 1:31:14 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1345, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8717 for the Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production; and providing an effective date (RFP 8717). The Public Utilities Board recommends approval (5 - 0).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8717 for the Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production; and providing an effective date (RFP 8717). The Public Utilities Board recommends approval (5 - 0).

INFORMATION/BACKGROUND

The City of Denton conducted a Request for Proposals (RFP) from vendors to remove the contents of a chlorine scrubber, an engineered safety mechanism to remove the danger of chlorine gas in the event of a leak on the two (2) chlorine storage tanks at the Ray Roberts Water Treatment Plant. The chlorine tanks have been emptied on-site as the treatment plant moved to the liquid alternatives for chlorine. Since the chlorine tanks are empty, the safety provided by the presence of the scrubber is no longer warranted, and allows for the removal of the sodium hydroxide within the scrubber tank. In an effort to reduce costs, it is recommended to reject these proposals. The requested work will be included in a larger chemical improvement project taking place within the next year.

In accordance with the Local Government Code 252.043, the City Council may reject any and all bids.

RECOMMENDATION

Staff recommends the rejection of all proposals for the Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On July 28, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Daniel Parish, 940-349-7522.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, REJECTING ANY AND ALL COMPETITIVE PROPOSALS UNDER RFP 8717 FOR THE REMOVAL AND SAFE DISPOSAL OF SODIUM HYDROXIDE WITHIN THE CHLORINE SCRUBBER AT THE RAY ROBERTS WATER TREATMENT PLANT FOR WATER PRODUCTION; AND PROVIDING AN EFFECTIVE DATE (RFP 8717).

WHEREAS, the City has solicited, received, and tabulated competitive proposals to evaluate Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production (RFP 8717) in accordance with the procedures of state laws and the City's ordinances; and

WHEREAS, the City staff recommends, and the City Council has determined, that it is in the best interest of the City that the herein described proposals should be rejected; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. All competitive proposals, as described in the "Request for Proposal", "Bid Proposals", or plans and specifications on file in the Office of the City's Purchasing Agent filed according to the bid number assigned herein (RFP 8717 – Removal and Safe Disposal of Sodium Hydroxide within the Chlorine Scrubber at the Ray Roberts Water Treatment Plant for Water Production) are hereby rejected.

SECTION 2. The City Manager, or their designee, is hereby authorized to execute all necessary documents for the rejection of said proposals. The City Manager, or their designee, is hereby authorized, in their discretion, to re-advertise to receive competitive bids, or proceed otherwise, to procure goods and services described in RFP 8717.

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 the RFP 8717 to reject said proposals to the City Manager, or their designee.

SECTION 4. This ordinance shall become effective immediately upon its passage and approval.

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

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

File #: ID 25-1346, **Version:** 1

AGENDA CAPTION

Consider 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., for the purchase of landfill compaction software for the Solid Waste and Recycling Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8857 - 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 $371,801.00). The Public Utilities Board recommends approval (5 - 0).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider 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., for the purchase of landfill compaction software for the Solid Waste and Recycling Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8857 – 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 $371,801.00). The Public Utilities Board recommends approval (5 - 0).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Promote Sustainability and the Environment.

INFORMATION/BACKGROUND

The Solid Waste Department held a demonstration with RDO Equipment Co. of Carlson Software, with the landfill software and hardware. Preliminary results indicate substantial benefits across key operational areas:

- Reduced Working Face Size: The software's automation features have already led to a notable reduction in the required working face size. This translates to significant cost savings in terms of labor, equipment maintenance, and materials.
- Improved Overall Compaction: The software is able to give us daily compaction reports; this data has enabled us to optimize compaction techniques, resulting in a demonstrable increase in overall compaction levels.
- Reduced Soil Usage: Through precise compaction management, the software helps to minimize the amount of cover soil material needed. This direct reduction in soil usage translates to significant cost savings.
- Enhanced Operator Training: The software's historical data and visualization tools are proving invaluable in training new operators. This streamlined training process reduces the time required to bring new personnel up to speed, decreasing operating costs and improving safety.
- Real-Time Data and Reporting: The software allows for the generation of daily compaction reports, providing real-time data. This immediate access to data enables proactive adjustments to optimize

compaction and identify areas for improvement. Previously, the department relied on quarterly reports, which provided insufficient insights for timely decision-making.

- Downtime Analysis: The software facilitates the creation of detailed downtime reports. This detailed analysis allows us to proactively identify and address issues, minimizing equipment downtime and maximizing operational efficiency at the working face.

The implementation of Carlson's landfill software and hardware will improve operational efficiency, reduce costs, and enhance safety, ultimately protecting our revenue stream and optimizing landfill operations.

Projected Spend

Description	FY24-25	FY25-26	FY26-27	FY27-28	FY28-29	Total
Payment	$303,351.00	$8,662.50	$8,662.50	$8,662.50	$8,662.50	$338,001.00
Contingency (10%)						33,800.00
Total	$303,351.00	$8,662.50	$8,662.50	$8,662.50	$8,662.50	**$371,801.00**

Carlson Software Inc. holds a significant patent, US6655465B2, that underpins their compaction solutions, particularly in applications like landfill management. The other patent, US6655465B2, is for the method and apparatus for determining compaction of a landfill. Carlson Landfill software and hardware are a sole source product, manufactured by Carlson Software Inc., sold and distributed exclusively by RDO Equipment Inc.

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and services are exempt from competitive bidding, if over $50,000, shall be awarded by the governing body.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On July 28, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award with a contract to RDO Equipment Co., as a sole source supplier, for the purchase of landfill compaction software for the Solid Waste and Recycling 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 $371,801.

PRINCIPAL PLACE OF BUSINESS

RDO Equipment Co.
McKinney, TX

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.

FISCAL INFORMATION

These services will be funded from Solid Waste account 660277595.1365.30100. Requisition #170716 has been entered into the Purchasing software system in the amount of $303,351. The budgeted amount for this item is $371,801.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance and Contract

Respectfully submitted:
Lori Hewell, 940-349-7148
Purchasing Manager

For information concerning this acquisition, contact: Cody Glover, 940-349-8019.

Legal point of contact: Marcella Lunn at 940-349-8333.

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., FOR THE PURCHASE OF LANDFILL COMPACTION SOFTWARE FOR THE SOLID WASTE AND RECYCLING DEPARTMENT, WHICH IS THE SOLE PROVIDER OF THIS SOFTWARE, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8857 – 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 $371,801.00).

WHEREAS, Section 252.022 of the Local Government Code provides that procurement of items that are only available from one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids; and

WHEREAS, this procurement was undertaken as part of the City's governmental function [Garbage and solid waste removal, collection, and disposal]; and

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the "File" listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

FILE NUMBER	VENDOR	AMOUNT
8857	RDO Equipment Co.	$371,801.00

SECTION 2. The City Council hereby finds that this bid, and the award thereof, constitutes a procurement of items that are available from only one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library

that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids.

SECTION 3. The acceptance and approval of the above items shall not constitute a contract between the City and the person submitting the quotation for such items until such person shall comply with all requirements specified by the Purchasing Department.

SECTION 4. The City Manager, or their designee, is hereby authorized to execute the contract relating to the items specified in Section 1, attached hereto, and the expenditure of funds pursuant to said contract is hereby authorized.

SECTION 5. 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 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 Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

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Docusign City Council Transmittal Coversheet

FILE	8857
File Name	CARLSON LANDFILL SOFTWARE AND HARDWARE
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND RDO EQUIPMENT CO.
(Contract #8857)

THIS CONTRACT is made and entered into this date _____, by and between RDO EQUIPMENT CO. a Delaware corporation, whose address 2902 N Central EXPY., McKinney, TX 75071, 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 services in accordance with the contractor's proposal in Exhibit E, 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, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton Standard Terms and Conditions **(Exhibit "B");**
(c) Certificate of Interested Parties Electronic Filing **(Exhibit "C");**
(d) Insurance Requirements **(Exhibit "D");**
(e) Contractor's Proposal ("Contractor's Offer") **(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 Contract, 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 Contract.*** 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 2276 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"

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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 Contract.*** 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 Contract, 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 this 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

Section 2252 of the Texas Government Code restricts City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this Contract, Contractor certifies that Contractor's signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this Contract and will not become ineligible to receive payments under this Contract 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 2275, 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 Contract in the year and day first above written.

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CONTRACTOR

BY: DocuSigned by: Cory Kosse 7A7D5F8458764B3...
AUTHORIZED SIGNATURE

Printed Name: Cory Kosse

Title: SVP

512-745-7250
PHONE NUMBER

ckosse@rdoequipment.com
EMAIL ADDRESS

2025- ?
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

Signed by: Brenda Haney C3C63BE563154A1...
SIGNATURE

Brenda Haney
PRINTED NAME

Director
TITLE

Solid Waste & Recycling
DEPARTMENT

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed $371,801. Pricing shall be per Exhibit E attached.

2. The Quantities

The quantities indicated on Exhibit E 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.

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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 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.

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Exhibit B
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.

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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.

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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

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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**:

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

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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 (15^{th}) 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

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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

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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

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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.

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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,

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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

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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 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

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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**

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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

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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 Denton Code of Ordinances 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

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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

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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

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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 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.

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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.

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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.

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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 and litigation matters are resolved, whichever period is longer. The Contractor shall grant access

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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 Contact; (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.

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Exhibit C
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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com 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.

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EXHIBIT D

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:

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- 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. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

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

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injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. CYBER/TECHNOLOGY NETWORK LIABILITY AND RISK INSURANCE

Cyber/Technology Network Liability and Risk Insurance, **inclusive of Information Security and Privacy** (first and third party coverage) to provide coverage for any damage caused by a network risk, cyber act or breaches of data and privacy right, the rendering of, or the failure to properly perform professional services for, but not limited to, computer programming, management information systems, negligent system design, disclosure of confidential information, and copyright infringement with minimum limits with minimum limits of $1,000,000.00 per claim.

NOTE: Professional Liability Insurance and Cyber/Technology Network Liability and Network Risk Insurance may be combined on one policy with a $2,000,000.00 limit.

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.

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.

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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.

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EXHIBIT E

RDO Equipment Co.
2902 N Central Expy
McKinney TX, 75071
Phone: (214) 856-4899 - Fax:

Description	Price	Discount	Unit Price	QTY	Total
New 2025 Carlson GPS for Compactor	$ 49,990.00	$ 4,766.50	$ 45,223.50	2	$ 90,447.00
New 2025 Carlson GPS for D9 Dozer	$ 48,275.00	$ 4,595.00	$ 43,680.00	2	$ 87,360.00
New 2025 Carlson GPS for D6 Dozer	$ 48,275.00	$ 4,595.00	$ 43,680.00	1	$ 43,680.00
New 2025 Extended Warranty	$ 7,230.00	$ -	$ 7,230.00	5	$ 36,150.00
New 2025 Supervisor Kit Complete with BRx7	$ 20,586.50	$ 2,058.65	$ 18,527.85	1	$ 18,527.85
New 2025 BS-1 GNSS Base Station Kit	$ 25,048.50	$ 2,047.35	$ 23,001.15	1	$ 23,001.15
New 2025 Carlson Command Year 2-5	$ 3,000.00	$ 300.00	$ 2,700.00	5	$ 13,500.00
New 2025 Fleet Shield Year 2-5	$ 1,650.00	$ 165.00	$ 1,485.00	5	$ 7,425.00
New 2025 Softare Maintenance for 5 Machines Year 2-5	$ 4,975.00	$ 497.50	$ 4,477.50	4	$ 17,910.00
				Total Cost	**$ 338,001.00**
*Year 1 for Carlson Command, Fleet Shield and Software Maintenance for 5 machines is included into the cost of the equipment					

Docusign Envelope ID: 3E1B9C57-F199-4203-934A-33876DA1148C

EXHIBIT F

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

[X] **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 [X] 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 [X] 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 [X] No

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

4 [X] **I have no Conflict of Interest to disclose.**

5

DocuSigned by:
Cory Kosse
7A7D5F8458764B3...
Signature of vendor doing business with the governmental entity

7/10/2025
Date

Docusign Envelope ID: 3E1B9C57-F199-4203-934A-33876DA1148C

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: 3E1B9C57-F199-4203-934A-33876DA1148C
Status: Sent
Subject: Please DocuSign: City Council Contract 8857 Carlson Landfill Software and Hardware
Source Envelope:
Document Pages: 35
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
7/3/2025 3:07:17 PM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 7/3/2025 3:36:36 PM Viewed: 7/3/2025 3:36:44 PM Signed: 7/3/2025 3:37:50 PM
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	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 7/3/2025 3:37:52 PM Viewed: 7/7/2025 8:28:40 AM Signed: 7/7/2025 8:29:20 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 7/7/2025 8:29:23 AM Viewed: 7/7/2025 7:39:06 PM Signed: 7/7/2025 7:46:36 PM
Cory Kosse ckosse@rdoequipment.com SVP Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/10/2025 8:05:56 AM ID: d9f273b0-2087-41c5-9836-444e0673179b	 Signature Adoption: Pre-selected Style Using IP Address: 131.150.74.138	Sent: 7/7/2025 7:46:38 PM Resent: 7/10/2025 8:00:36 AM Viewed: 7/10/2025 8:05:56 AM Signed: 7/10/2025 8:56:55 AM

Signer Events	Signature	Timestamp
Brenda Haney brenda.haney@cityofdenton.com Director Security Level: Email, Account Authentication (None)	Signed by: Brenda Haney C3C63BE563154A1... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/10/2025 8:56:57 AM Viewed: 7/10/2025 9:00:56 AM Signed: 7/10/2025 9:01:31 AM
Electronic Record and Signature Disclosure: Accepted: 7/10/2025 9:00:56 AM ID: 219b5dcb-9902-4873-b4e7-e3017423dc06		
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: 7/10/2025 9:01:34 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 7/3/2025 3:37:53 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/10/2025 9:01:34 AM Viewed: 7/10/2025 9:33:25 AM

Carbon Copy Events	Status	Timestamp
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		
Cody Glover cody.glover@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 6/25/2025 12:34:12 PM ID: cc531423-35a4-4e05-8a7c-f9f3fcf99ad8		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/3/2025 3:36:36 PM
Envelope Updated	Security Checked	7/10/2025 8:00:35 AM
Envelope Updated	Security Checked	7/10/2025 8:00:35 AM
Envelope Updated	Security Checked	7/10/2025 8:00:35 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1349, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mark III Systems, Inc., through Choice Partners, a division of Harris County Department of Education (HCDE) Purchasing Network Contract No. 22/043KN-10, for data storage, data communications, networking equipment and related services for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8868 - awarded to Mark III Systems, 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 $375,000.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mark III Systems, Inc., through Choice Partners, a division of Harris County Department of Education (HCDE) Purchasing Network Contract No. 22/043KN-10, for data storage, data communications, networking equipment and related services for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8868 – awarded to Mark III Systems, 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 $375,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

INFORMATION/BACKGROUND

The City of Denton uses Veeam Enterprise Backup Solutions for the backup of all of the servers, databases, and data files used to support business applications. Veeam enables the City to back up digital data and restore it to a previous state if needed. Backups are used both for the recovery of accidental removal or changes to files, but also for disaster recovery and protection from security issues. Veeam Enterprise Backup Solution backs up all virtual and physical devices, including specific, critical desktops. This contract will provide for support and maintenance and allow for any additional growth as we expand our technology footprint.

Below are the estimated expenditures along with a 20% contingency that will provide additional spending authority for support and additional growth:

Project Description	Estimated 5-Year Expenditure
Year 1	$54,532.34
Year 2	58,349.60
Year 3	62,434.07
Year 4	66,804.46
Year 5	71,480.77
Contingency for additional support hours	61,398.76
Total	**$375,000.00**

Pricing obtained through the Choice Partners 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 August 17, 2010, City Council approved the interlocal agreement with the Harris County Department of Education Cooperative Purchasing Network (Ordinance 2010-190).

RECOMMENDATION

Award a contract with Mark III Systems, Inc. for data storage, data communications, networking equipment and related services for the Technology 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 $375,000.

PRINCIPAL PLACE OF BUSINESS

Mark III Systems, Inc.
Houston, TX

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 Choice Partners contract will expire on August 16, 2027.

FISCAL INFORMATION

These items and services will be funded through Technology Services Operating Infrastructure budget 830200.7803. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $375,000. 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: Pricing Index
Exhibit 3: Ordinance and Contract

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

For information concerning this acquisition, contact: Leisha Meine, 940-349-7823.

Legal point of contact: Marcella Lunn at 940-349-8333.

MARK III SYSTEMS CATALOG

BRAND - Products, Services and Related Services*	Minimum Discount % off MSRP
APC	15%
Aruba	10-38%
Balata Datacenter Components	15%
Balata Third Party Maintenance	10-30%
BeyondTrust	10%
Blackbox	15%
Broadcom	5-30%
Brocade	20-50%
Check Point/Products	35%
Check Point/Services	5%
Check Point/Support	5%
Cisco	5-50%
Citrix	22%
Cloudian	15%
Cohesity	40%
Commvault	35%
ControlUp Software	4%
Corel	5%
DDN	20%
Dell	5-60%
Docker/Container	9%
Docker/Services and Training	1%
Domino Data Lab	5%
Ekahau	5%
Erwin, Inc./Products	5%
Erwin, Inc./Maintenance	2%
Erwin, Inc./DM NoSQL Renewal	4%
Erwin, Inc. /Safyr Additional Platform-ST, Safyr Additional Browser-ST, Safyr Option -ST/Web Portal Enterprise Ed-CL	4%
Extreme	10-50%
Extreme Network Subscription	5%
F5	15-30%
Fortinet	10%
Getac - Notebook	20%
Getac - Tablet	16%
Getac - Video	12%
Gigabyte	5%

HPE Hardware	5-55%
HPE Software	5-25%
HPE Maintenance	5%
IBM Hardware	10-70%
IBM Software	5-28%
IBM Passport	0-12%
IBM Maintenace	4%
Infinidat	40%
Iron Yun	20%
Juniper	30-65%
LaserVault	0-15%
Lenovo Desktops	30%
Lenovo Laptops	30%
Lenovo Peripherals and Accessories	10%
Lenovo Software	15%
Lenovo Topsellers	4%
Lenovo Workstations	30%
Liebert	5-40%
Mellanox	20-45%
MOAB	18%
Netapp	20-50%
Nutanix - Hardware	30%
Nutanix - Software	8%
NVIDIA	5%
Paessler	7%
Paessler/Maintenance and Renewals	17%
Palo Alto	5%
PrinterLogic	9%
Pure - Hardware	35%
Pure - Services	5%
Red Hat/Platform and Related Products	20%
Red Hat/Jboss, RHV, Storage and CSS Products	20%
Red Hat / 3Scale, Openshift, Red Hat Mobile, Ansible, & GSS Products	15%
Red Hat / 3Scale, Openshift, Red Hat Mobile, Ansible, & GSS Renewals	1%
Rubrik	10%
Rubrik Maintenance	5%
Ruckus	5-30%
RUNAI	5%
Solarwinds	10%
Solarwinds Maintenance	15%
StorageCraft	20%
SuperMicro	20-50%
SUSE	20%
tripwire	2%

Vast Data	25-50%
Veeam	15%
Veeam Maintenance	2%
Veritas	20-50%
Vertiv	30%
VMWare	10%
VMWare Maintenance	2%
vRanger	8%
Weka	25-60%
Weight and Biases	5%
Zerto	12%
Zerto Maintenance	2%

*Updates may include additional products

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MARK III SYSTEMS, INC., THROUGH CHOICE PARTNERS, A DIVISION OF HARRIS COUNTY DEPARTMENT OF EDUCATION (HCDE) PURCHASING NETWORK CONTRACT NO. 22/043KN-10, FOR DATA STORAGE, DATA COMMUNICATIONS, NETWORKING EQUIPMENT AND RELATED SERVICES FOR THE TECHNOLOGY SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8868 – AWARDED TO MARK III SYSTEMS, 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 $375,000.00).

WHEREAS, pursuant to Ordinance 2010-190, the Harris County Department of Education (HCDE) 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 Harris County Department of Education (HCDE) 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 office of the Purchasing Agent, are hereby accepted and approved as being the lowest responsible bids for such items:

FILE NUMBER	VENDOR	AMOUNT
8868	Mark III Systems, Inc.	$375,000.00

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 Harris County Department of Education (HCDE) 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 Harris County Department of Education (HCDE) 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 Harris County Department of Education (HCDE) 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 Harris County Department of Education (HCDE) Purchasing Network, and related documents herein 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 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 _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

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Docusign City Council Transmittal Coversheet

FILE	8868
File Name	Veeam Backup Solutions
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND MARK III SYSTEMS, INC.
(File # 8868)

THIS CONTRACT is made and entered into this date _____, by and between Mark III Systems, Inc., a Texas Corporation, whose address is 3600 S Gessner Rd, Suite 170, Houston, TX 77063, 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 in accordance with the Choice Partner Cooperative Purchasing Contract #22/043KN-10, incorporated herein for all purposes as **Exhibit "B"**. 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) Choice Partner Cooperative Purchasing Contract # 22/043KN-10 with Mark III Systems, Inc., **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) Certificate of Interested Parties Electronic Filing **(Exhibit "C");**
(d) Insurance Requirements **(Exhibit "D");**
(e) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "E")**

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

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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.

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

SUPPLIER

BY: Stanley Wysocki
AUTHORIZED SIGNATURE

Printed Name: Stan Wysocki

Title: President

713-664-9850
PHONE NUMBER

stan.wysocki@markiiisys.com
EMAIL ADDRESS

2025-1336195
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by: Leisha Meine
SIGNATURE 1D0A57D1B24D5...

Leisha Meine
PRINTED NAME

Chief Technology Officer
TITLE

Technology Services
DEPARTMENT

File 8868

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Exhibit A
Special Terms and Conditions

1. Contract Term

The contract term will be one (1) year, with the option of four (4) additional one (1) year renewals effective from date of award or notice to proceed as determined by the City of Denton Purchasing Department.

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 **$375,000**. Pricing Shall be per Exhibit B.

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Exhibit C
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.

File 8868

Docusign Envelope ID: A99E54BD-208E-4378-9565-3BF5B706932B

Exhibit D

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,

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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. <u>CYBER/TECHNOLOGY NETWORK LIABILITY AND RISK INSURANCE</u>

Cyber/Technology Network Liability and Risk Insurance, inclusive of Information Security and Privacy (first and third party coverage) to provide coverage for any damage caused by a network risk, cyber act or breaches of

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data and privacy right, the rendering of, or the failure to properly perform professional services for, but not limited to, computer programming, management information systems, negligent system design, disclosure of confidential information, and copyright infringement with minimum limits with minimum limits of $1,000,000.00 per claim.

NOTE: Professional Liability Insurance and Cyber/Technology Network Liability and Network Risk Insurance may be combined on one policy with a $2,000,000.00 limit.

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.**

Mark III Systems, 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 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:
Stan Wysocki
9ECF38C981464C9...
Signature of vendor doing business with the governmental entity

7/14/2025
Date

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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.

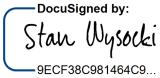
Certificate Of Completion

Envelope Id: A99E54BD-208E-4378-9565-3BF5B706932B
Status: Sent
Subject: Please DocuSign: City Council Contract 8868 VEEAM Backup Solutions
Source Envelope:
Document Pages: 11
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
7/14/2025 1:44:24 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer 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: 7/14/2025 1:51:04 PM Viewed: 7/14/2025 1:51:16 PM Signed: 7/14/2025 1:53:51 PM
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	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/14/2025 1:53:54 PM Viewed: 7/14/2025 2:43:17 PM Signed: 7/14/2025 2:43:37 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/14/2025 2:43:41 PM Viewed: 7/14/2025 5:41:14 PM Signed: 7/14/2025 5:43:12 PM
Stan Wysocki stan.wysocki@markiiisys.com President Mark III Systems, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/14/2025 5:45:18 PM ID: 2d6a1c22-0cdb-49b5-9c9a-5fd56c9c15f2	DocuSigned by:  9ECF38C981464C9... Signature Adoption: Pre-selected Style Using IP Address: 2600:1702:4fb0:f7e0:442:13b0:dc2d:9537	Sent: 7/14/2025 5:43:15 PM Viewed: 7/14/2025 5:45:18 PM Signed: 7/14/2025 5:46:42 PM

Signer Events	Signature	Timestamp
Leisha Meine leisha.meine@cityofdenton.com Chief Technology Officer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Leisha Meine D60D157ADABC4D5... Signature Adoption: Pre-selected Style Using IP Address: 47.188.101.184 Signed using mobile	Sent: 7/14/2025 5:46:44 PM Viewed: 7/14/2025 9:19:48 PM Signed: 7/14/2025 9:20:54 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: 7/14/2025 9:20:57 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 7/14/2025 1:53:53 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:**	COPIED	Sent: 7/14/2025 9:20:57 PM Viewed: 7/15/2025 10:02:17 AM

Carbon Copy Events	Status	Timestamp
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

Stephanie Padgett

Stephanie.Padgett@cityofdenton.com

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via Docusign

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/14/2025 1:51:04 PM
Envelope Updated	Security Checked	7/14/2025 1:53:29 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1350, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mobile Wireless, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 210101 for the purchase of the annual maintenance and support of NetMotion software to provide a virtual private network for mobile data computers for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8869 - awarded to Mobile Wireless, LLC, 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 $175,000.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Mobile Wireless, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 210101 for the purchase of the annual maintenance and support of NetMotion software to provide a virtual private network for mobile data computers for the Technology Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8869 – awarded to Mobile Wireless, LLC, 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 $175,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

INFORMATION/BACKGROUND

NetMotion software is a secure access solution necessary for field workers in Public Safety and Denton Municipal Electric to connect their mobile computer units to the city network while out in the field. City of Denton, as well as many other cities, have been using NetMotion for this purpose for many years, as it is a trusted, dependable solution for this specific purpose.

Below are the estimated expenditures along with a 20% contingency that will provide additional spending authority for growth for new licenses and subscriptions:

Project Description	Estimated 5-Year Expenditure
Year 1	$26,200.82
Year 2	28,034.88
Year 3	29,997.32
Year 4	32,097.13
Year 5	34,343.93
Contingency for additional support hours	24,325.92
Total	**$175,000.00**

Pricing obtained through The Interlocal Purchasing System has been competitively bid and meets the statutory requirements of Texas Local Government Code 271.102.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 17, 2011, City Council approved the interlocal agreement with The Interlocal Purchasing System (Ordinance 2011-082).

RECOMMENDATION

Award a contract with Mobile Wireless, LLC, for the purchase of the annual maintenance and support of NetMotion software to provide a virtual private network for mobile data computers for the Technology 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 $175,000.

PRINCIPAL PLACE OF BUSINESS

Mobile Wireless, LLC
Plano, TX

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 TIPS contract expires on May 31, 2026.

FISCAL INFORMATION

These services will be funded through Technology Services Operating Infrastructure budget 830200.7803. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $175,000. 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: Pricing Index
Exhibit 3: Ordinance and Contract

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

For information concerning this acquisition, contact: Leisha Meine, 940-349-7823.

Legal point of contact: Marcella Lunn at 940-349-8333.

210101 Technology Solutions, Products and Services						
MOBILE WIRELESS LLC						
Software	**ID #**	**Type**	**UOM**	**Original Price**	**Discount**	**Discounted Price**
NetMotion Software	NMSCOMPSUB	Complete	p/device p/month	$10.00	2.00%	**$9.80**
NetMotion Software	NMSCOMPRNW	Complete subscription renewal	p/device p/month	$10.00	2.00%	**$9.80**
NetMotion Software	NMSCOMPCONV	Complete conversion	p/device p/month	$10.00	2.00%	**$9.80**
NetMotion Software	NMSCOMPCONRNW	Complete conversion renewal	p/device p/month	$10.00	2.00%	**$9.80**
NetMotion Software	NMS-COMPLETE-SUBS	Complete	p/device p/month	$10.00	2.00%	**$9.80**
NetMotion Software	NMS-CORE-SUBS	Core	p/device p/month	$5.00	2.00%	**$4.90**
NetMotion Software	11NMU	Mobility Universal (25-99)	p/device	$200.00	8.00%	**$184.00**
NetMotion Software	11NMU100	Mobility Universal (100-249)	p/device	$145.00	8.00%	**$133.40**
NetMotion Software	11NMU250	Mobility Universal (250-499)	p/device	$135.00	8.00%	**$124.20**
NetMotion Software	11NMU500	Mobility Universal (500-999)	p/device	$125.00	8.00%	**$115.00**
NetMotion Software	11NMUP	Mobility Universal + Policy (25-99)	p/device	$275.00	8.00%	**$253.00**
NetMotion Software	11NMUP100	Mobility Universal + Policy (100-249)	p/device	$210.00	8.00%	**$193.20**
NetMotion Software	11NMUP250	Mobility Universal + Policy (250-499)	p/device	$195.00	8.00%	**$179.40**
NetMotion Software	11NMUP500	Mobility Universal + Policy (500-999)	p/device	$180.00	8.00%	**$165.60**
NetMotion Software	11NMUN	Mobility Universal + NAC (25-99)	p/device	$220.00	8.00%	**$202.40**
NetMotion Software	11NMUN100	Mobility Universal + NAC (100-249)	p/device	$160.00	8.00%	**$147.20**
NetMotion Software	11NMUN250	Mobility Universal + NAC (250-499)	p/device	$150.00	8.00%	**$138.00**
NetMotion Software	11NMUN500	Mobility Universal + NAC (500-999)	p/device	$140.00	8.00%	**$128.80**
NetMotion Software	11NMUA	Mobility Universal + Analytics (25-99)	p/device	$220.00	8.00%	**$202.40**
NetMotion Software	11NMUA100	Mobility Universal + Analytics (100-249)	p/device	$160.00	8.00%	**$147.20**
NetMotion Software	11NMUA250	Mobility Universal + Analytics (250-499)	p/device	$150.00	8.00%	**$138.00**
NetMotion Software	11NMUA500	Mobility Universal + Analytics (500-999)	p/device	$140.00	8.00%	**$128.80**
NetMotion Software	11NMUPN	Mobility Universal + Policy + NAC (25-99)	p/device	$295.00	8.00%	**$271.40**
NetMotion Software	11NMUPN100	Mobility Universal + Policy + NAC (100-249)	p/device	$225.00	8.00%	**$207.00**
NetMotion Software	11NMUPN250	Mobility Universal + Policy + NAC (250-499)	p/device	$210.00	8.00%	**$193.20**
NetMotion Software	11NMUPN500	Mobility Universal + Policy + NAC (500-999)	p/device	$195.00	8.00%	**$179.40**
NetMotion Software	11NMUPA	Mobility Universal + Policy + Analytics (25-99)	p/device	$295.00	8.00%	**$271.40**
NetMotion Software	11NMUPA100	Mobility Universal + Policy + Analytics (100-249)	p/device	$225.00	8.00%	**$207.00**
NetMotion Software	11NMUPA250	Mobility Universal + Policy + Analytics (250-499)	p/device	$210.00	8.00%	**$193.20**
NetMotion Software	11NMUPA500	Mobility Universal + Policy + Analytics (500-999)	p/device	$195.00	8.00%	**$179.40**

210101 Technology Solutions, Products and Services						
MOBILE WIRELESS LLC						
Software	**ID #**	**Type**	**UOM**	**Original Price**	**Discount**	**Discounted Price**
NetMotion Software	11NMUNA	Mobility Universal + NAC + Analytics (25-99)	p/device	$240.00	8.00%	**$220.80**
NetMotion Software	11NMUNA100	Mobility Universal + NAC + Analytics (100-249)	p/device	$175.00	8.00%	**$161.00**
NetMotion Software	11NMUNA250	Mobility Universal + NAC + Analytics (250-499)	p/device	$165.00	8.00%	**$151.80**
NetMotion Software	11NMUNA500	Mobility Universal + NAC + Analytics (500-999)	p/device	$155.00	8.00%	**$142.60**
NetMotion Software	11NMUPNA	Mobility Universal + Policy + NAC + Analytics (25-99)	p/device	$315.00	8.00%	**$289.80**
NetMotion Software	11NMUPNA100	Mobility Universal + Policy + NAC + Analytics (100-249)	p/device	$240.00	8.00%	**$220.80**
NetMotion Software	11NMUPNA250	Mobility Universal + Policy + NAC + Analytics (250-499)	p/device	$225.00	8.00%	**$207.00**
NetMotion Software	11NMUPNA500	Mobility Universal + Policy + NAC + Analytics (500-999)	p/device	$210.00	8.00%	**$193.20**
NetMotion Software	11NMUE	Mobility Universal Enterprise (1000+)	p/device	$55.00	8.00%	**$50.60**
NetMotion Software	11NMUE1000	Mobility Universal Enterprise 1st 1000	p/device	$105.00	8.00%	**$96.60**
NetMotion Software	11NMUPE	Mobility Universal Enterprise + Policy (1000+)	p/device	$100.00	8.00%	**$92.00**
NetMotion Software	11NMUPE1000	Mobility Universal Enterprise + Policy 1st 1000	p/device	$150.00	8.00%	**$138.00**
NetMotion Software	11NMUNE	Mobility Universal Enterprise + NAC (1000+)	p/device	$65.00	8.00%	**$59.80**
NetMotion Software	11NMUNE1000	Mobility Universal Enterprise + NAC 1st 1000	p/device	$115.00	8.00%	**$105.80**
NetMotion Software	11NMUPNE	Mobility Universal Enterprise + Policy + NAC (1000+)	p/device	$110.00	8.00%	**$101.20**
NetMotion Software	11NMUPNE1000	Mobility Universal Enterprise + Policy + NAC 1st 1000	p/device	$160.00	8.00%	**$147.20**
NetMotion Software	11NMMP	Mobility Policy Module (25-99)	p/device	$75.00	8.00%	**$69.00**
NetMotion Software	11NMMP100	Mobility Policy Module (100-249)	p/device	$65.00	8.00%	**$59.80**
NetMotion Software	11NMMP250	Mobility Policy Module (250-499)	p/device	$60.00	8.00%	**$55.20**
NetMotion Software	11NMMP500	Mobility Policy Module (500-999)	p/device	$55.00	8.00%	**$50.60**
NetMotion Software	11NMMPE	Mobility Enterprise Policy Module	p/device	$45.00	8.00%	**$41.40**
NetMotion Software	11NMMN	Mobility NAC Module (25-99)	p/device	$20.00	8.00%	**$18.40**
NetMotion Software	11NMMN100	Mobility NAC Module (100-999)	p/device	$15.00	8.00%	**$13.80**
NetMotion Software	11NMMNE	Mobility Enterprise NAC Module	p/device	$10.00	8.00%	**$9.20**
NetMotion Software	11NMMA	Mobility Analytics Module (25-99)	p/device	$20.00	8.00%	**$18.40**
NetMotion Software	11NMMA100	Mobility Analytics Module (100-999)	p/device	$15.00	8.00%	**$13.80**
NetMotion Software	11NMSBA	Mobility SMB Account	p/server	$1,000.00	8.00%	**$920.00**
NetMotion Software	11NMS	Mobility Additional Server	p/server	$5,000.00	8.00%	**$4,600.00**
NetMotion Software	11NMSE	Enterprise NM Mobility Platform additional license pool	p/server	$2,500.00	8.00%	**$2,300.00**
NetMotion Software	11NMSS	Standard NM Mobility Platform additional license pool	p/server	$1,500.00	8.00%	**$1,380.00**

210101 Technology Solutions, Products and Services						
MOBILE WIRELESS LLC						
Software	**ID #**	**Type**	**UOM**	**Original Price**	**Discount**	**Discounted Price**
NetMotion Software	11NSMU	Mobility Universal Subscription (25-99)	p/device p/month	$20.00	2.00%	**$19.60**
NetMotion Software	11NSMU100	Mobility Universal Subscription (100-249)	p/device p/month	$15.00	2.00%	**$14.70**
NetMotion Software	11NSMU250	Mobility Universal Subscription (250-499)	p/device p/month	$14.25	2.00%	**$13.97**
NetMotion Software	11NSMU500	Mobility Universal Subscription (500-999)	p/device p/month	$13.25	2.00%	**$12.99**
NetMotion Software	11NSMU1000	Mobility Universal Subscription (1000+)	p/device p/month	$9.50	2.00%	**$9.31**
NetMotion Software	04ND	Diagnostics (25-99)	p/device	$65.00	8.00%	**$59.80**
NetMotion Software	04ND100	Diagnostics (100-999)	p/device	$60.00	8.00%	**$55.20**
NetMotion Software	04ND1000	Diagnostics (1,000+)	p/device	$55.00	8.00%	**$50.60**
NetMotion Software	04NSD	Diagnostics Subscription (25-99)	p/device p/month	$4.00	2.00%	**$3.92**
NetMotion Software	04NSD100	Diagnostics Subscription (100-999)	p/device p/month	$3.75	2.00%	**$3.68**
NetMotion Software	04NSD1000	Diagnostics Subscription (1,000+)	p/device p/month	$3.50	2.00%	**$3.43**
NetMotion Software	04NSDC	Diagnostics Subscription (50-99)	p/device p/month	$5.00	2.00%	**$4.90**
NetMotion Software	04NSDC100	Diagnostics Subscription (100-999)	p/device p/month	$4.50	2.00%	**$4.41**
NetMotion Software	04NSDC1000	Diagnostics Subscription (1,000+)	p/device p/month	$4.00	8.00%	**$3.68**
NetMotion Software	2NMIQ25	Mobile IQ (Up to 99)	p/server	$2,250.00	8.00%	**$2,070.00**
NetMotion Software	2NMIQ100	Mobile IQ (100 - 999)	p/server	$14,750.00	8.00%	**$13,570.00**
NetMotion Software	2NMIQ1000	Mobile IQ (1,000 - 4,999)	p/server	$60,000.00	8.00%	**$55,200.00**
NetMotion Software	2NMIQ5000	Mobile IQ (5,000 - 9,999)	p/server	$115,000.00	8.00%	**$105,800.00**
NetMotion Software	2NMIQ10000	Mobile IQ (10,000 -15,000)	p/server	$165,000.00	8.00%	**$151,800.00**
NetMotion Software	2NSMIQ	Mobile IQ (Up to 99)	p/server p/month	$105.00	2.00%	**$102.90**
NetMotion Software	2NSMIQ100	Mobile IQ (100 - 999)	p/server p/month	$750.00	2.00%	**$735.00**
NetMotion Software	2NSMIQ1000	Mobile IQ (1,000 - 4,999)	p/server p/month	$2,500.00	2.00%	**$2,450.00**
NetMotion Software	2NSMIQ5000	Mobile IQ (5,000 - 9,999)	p/server p/month	$4,750.00	2.00%	**$4,655.00**
NetMotion Software	2NSMIQ10000	Mobile IQ (10,000 -15,000)	p/server p/month	$6,000.00	2.00%	**$5,880.00**
NetMotion Software	2NSMIQC	Mobile IQ (Up to 99)	p/server p/month	$425.00	2.00%	**$416.50**
NetMotion Software	2NSMIQC100	Mobile IQ (100 - 999)	p/server p/month	$1,350.00	2.00%	**$1,323.00**
NetMotion Software	2NSMIQC1000	Mobile IQ (1,000 - 4,999)	p/server p/month	$3,675.00	2.00%	**$3,601.50**
NetMotion Software	2NSMIQC5000	Mobile IQ (5,000 - 9,999)	p/server p/month	$5,950.00	2.00%	**$5,831.00**
NetMotion Software	2NSMIQC10000	Mobile IQ (10,000 -15,000)	p/server p/month	$7,225.00	2.00%	**$7,080.50**
NetMotion Software	11NMXP25	Mobility Maintenance	p/year	*Varies	2.00%	***Varies**

210101 Technology Solutions, Products and Services						
MOBILE WIRELESS LLC						
Software	**ID #**	**Type**	**UOM**	**Original Price**	**Discount**	**Discounted Price**
NetMotion Software	11NMXP22	Mobility Maintenance	p/two year	*Varies	2.00%	***Varies**
NetMotion Software	11NMXP20	Mobility Maintenance	p/three year	*Varies	2.00%	***Varies**
NetMotion Software	04NDXP25	Diagnostics Maintenance	p/year	*Varies	2.00%	***Varies**
NetMotion Software	04NDXP22	Diagnostics Maintenance	p/two year	*Varies	2.00%	***Varies**
NetMotion Software	04NDXP20	Diagnostics Maintenance	p/three year	*Varies	2.00%	***Varies**
NetMotion Software	NMIQXP25	Mobile IQ Maintenance	p/year	*Varies	2.00%	***Varies**
NetMotion Software	NMIQXP22	Mobile IQ Maintenance	p/two year	*Varies	2.00%	***Varies**
NetMotion Software	NMIQXP20	Mobile IQ Maintenance	p/three year	*Varies	2.00%	***Varies**
NetMotion Software	11NMPS-8HR-S	Professional Services - Up to 8 Remote Hours	p/eight hours	$2,000.00	2.00%	**$1,960.00**
NetMotion Software	11NMPS-4HR-S	Professional Services - Up to 4 Remote Hours	p/four hours	$1,000.00	2.00%	**$980.00**
NetMotion Software	11NMTR-C	Mobility Certification Training	p/two day class	$2,295.00	2.00%	**$2,249.10**
NetMotion Software	11NMTR-CA	Mobility Certification Training - Bundle	p/three day class	$2,995.00	2.00%	**$2,935.10**

**Minimum 5 license order

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MOBILE WIRELESS, LLC, THROUGH THE INTERLOCAL PURCHASING SYSTEM (TIPS) COOPERATIVE PROGRAM CONTRACT NO. 210101 FOR THE PURCHASE OF THE ANNUAL MAINTENANCE AND SUPPORT OF NETMOTION SOFTWARE TO PROVIDE A VIRTUAL PRIVATE NETWORK FOR MOBILE DATA COMPUTERS FOR THE TECHNOLOGY SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8869 – AWARDED TO MOBILE WIRELESS, LLC, 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 $175,000.00).

WHEREAS, pursuant to Ordinance 2011-082, The Interlocal Purchasing System Program 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 Interlocal Purchasing System Program 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:

FILE NUMBER	VENDOR	AMOUNT
8869	Mobile Wireless, LLC	$175,000.00

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 Interlocal Purchasing System Program 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 Interlocal Purchasing System Program 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 Interlocal Purchasing System Program, 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 Interlocal Purchasing System Program, and related documents herein 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 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 _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Marcella Lunn

BY: _____

Docusign Envelope ID: 49AD8FB9-A4FA-482C-8208-EF3D82B37F21

Docusign City Council Transmittal Coversheet

FILE	8869
File Name	NetMotion Annual Maintenance and Support
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

Docusign Envelope ID: 49AD8FB9-A4FA-482C-8208-EF3D82B37F21

CONTRACT BY AND BETWEEN CITY OF DENTON, TEXAS AND MOBILE WIRELESS, LLC (File # 8869)

THIS CONTRACT is made and entered into this date _____, by and between Mobile Wireless, LLC, a Texas Limited Liability Company, whose address is 3608 Austin Ct, Flower Mound, TX 75028, 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 in accordance with the The Interlocal Purchasing System (TIPS) Cooperative Purchasing Contract #210101, incorporated herein for all purposes as **Exhibit "B"**. 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) The Interlocal Purchasing System (TIPS) Cooperative Purchasing Contract #210101 with Mobile Wireless, LLC, **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) Certificate of Interested Parties Electronic Filing **(Exhibit "C");**
(d) Insurance Requirements **(Exhibit "D");**
(e) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "E")**

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***

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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.

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

SUPPLIER

BY: Signed by: Alan McClintock
C364267B3F7414...
AUTHORIZED SIGNATURE

Printed Name: Alan McClintock

Title: Managing Member

972-516-1365
PHONE NUMBER

alan@mobwireless.com
EMAIL ADDRESS

2025-1337056
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by: Leisha Meine
D60F1A7ADAE0415...
SIGNATURE

Leisha Meine
PRINTED NAME

Chief Technology Officer
TITLE

Technology Services
DEPARTMENT

File 8869

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Exhibit A
Special Terms and Conditions

1. Contract Term

The contract term will be one (1) year, with the option of four (4) additional one (1) year renewals effective from date of award or notice to proceed as determined by the City of Denton Purchasing Department.

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 **$175,000.00**. Pricing shall be per Exhibit B.

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Exhibit C
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.

File 8869

Docusign Envelope ID: 49AD8FB9-A4FA-482C-8208-EF3D82B37F21

Exhibit D

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,

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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. <u>CYBER/TECHNOLOGY NETWORK LIABILITY AND RISK INSURANCE</u>

Cyber/Technology Network Liability and Risk Insurance, inclusive of Information Security and Privacy (first and third party coverage) to provide coverage for any damage caused by a network risk, cyber act or breaches of

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data and privacy right, the rendering of, or the failure to properly perform professional services for, but not limited to, computer programming, management information systems, negligent system design, disclosure of confidential information, and copyright infringement with minimum limits with minimum limits of $1,000,000.00 per claim.

NOTE: Professional Liability Insurance and Cyber/Technology Network Liability and Network Risk Insurance may be combined on one policy with a $2,000,000.00 limit.

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.

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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.**

Mobile Wireless, LLC

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 Signed by: Alan McClintock C363267326FC419...

Signature of vendor doing business with the governmental entity

7/15/2025
Date

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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: 49AD8FB9-A4FA-482C-8208-EF3D82B37F21
Status: Sent
Subject: Please DocuSign: City Council Contract 8869 NetMotion Annual Maintenance and Support
Source Envelope:
Document Pages: 11
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
7/14/2025 1:54:06 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer 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: 7/14/2025 2:00:14 PM Viewed: 7/14/2025 2:00:23 PM Signed: 7/14/2025 2:00:49 PM
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	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/14/2025 2:00:52 PM Viewed: 7/14/2025 2:42:36 PM Signed: 7/14/2025 2:43:06 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/14/2025 2:43:08 PM Viewed: 7/14/2025 5:44:26 PM Signed: 7/14/2025 5:45:30 PM
Alan McClintock alan@mobwireless.com Managing Member Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/15/2025 2:08:40 PM ID: cb1a9c5a-d295-4dfa-ac68-f7db6800a34d	Signed by:  C363267326FC419... Signature Adoption: Pre-selected Style Using IP Address: 47.185.140.98	Sent: 7/14/2025 5:45:34 PM Viewed: 7/15/2025 2:08:40 PM Signed: 7/15/2025 2:36:40 PM

Signer Events	Signature	Timestamp
Leisha Meine leisha.meine@cityofdenton.com Chief Technology Officer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Leisha Meine D60D157ADABC4D5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/15/2025 2:36:43 PM Viewed: 7/15/2025 3:07:16 PM Signed: 7/15/2025 3:07:37 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: 7/15/2025 3:07:39 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 7/14/2025 2:00:51 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:**	COPIED	Sent: 7/15/2025 3:07:39 PM Viewed: 7/15/2025 3:08:53 PM

Carbon Copy Events	Status	Timestamp
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

Stephanie Padgett

Stephanie.Padgett@cityofdenton.com

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via Docusign

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/14/2025 2:00:14 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1361, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Brycer LLC, for the renewal of the inspection, testing, and maintenance reporting system, the Compliance Engine, for the Fire Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8867 - awarded to Brycer LLC, for three (3) years, with the option for one (1) additional three (3) year extension, in the total six (6) year term).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Brycer LLC, for the renewal of the inspection, testing, and maintenance reporting system, the Compliance Engine, for the Fire Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8867 – awarded to Brycer LLC, for three (3) years, with the option for one (1) additional three (3) year extension, in the total six (6) year term).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Support Healthy and Safe Communities.

INFORMATION/BACKGROUND

The Denton Fire Department (DFD) is responsible for tracking the inspection, testing, and maintenance of fire protection systems within the City of Denton. Occupancies that have fire protection systems installed are required by the DFD's adopted fire code to have the systems inspected and tested on a regular basis.

Without the use of The Compliance Engine, a web-based tool used to monitor the status of fire protection systems, fire inspectors are required to witness the testing of all fire protection systems. Instead, the testing contractor conducts the inspections and testing, as they already do, and then they submit their reports directly to the DFD via Brycer’s web portal. This facilitates a more efficient review, tracking, and follow-up process with occupants to correct deficiencies and maintain systems. The Compliance Engine provides the DFD with a list of all fire protection systems in the City of Denton and their statuses. A DFD fire inspection is not initiated unless there is a deficiency with a fire protection system. Instead of the business owner paying the fee directly to the City, the testing contractor pays the fee of $35 per fire protection system at the time the report is uploaded to The Compliance Engine. Then, The Compliance Engine pays the City, after collecting a 6% fee.

This service has no cost to the City or the Denton Fire Department. The Compliance Engine has increased the amount of revenue generated for the City. It has also allowed for a highly efficient use of Fire Prevention resources.

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and services are exempt from competitive bidding, if over $50,000, shall be awarded by the governing body.

RECOMMENDATION

Award with a contract to Brycer, LLC, as a sole source supplier, for the inspection, testing, and maintenance reporting system, The Compliance Engine, for the Fire Department, in a three (3) year, with the option for one (1) additional three (3) year extension, in the total six (6) year term.

PRINCIPAL PLACE OF BUSINESS

Brycer LLC
Warrenville, IL

ESTIMATED SCHEDULE OF PROJECT

This is an initial three (3) year contract with options to extend the contract for one (1) additional three (3) year period, with all terms and conditions remaining the same.

FISCAL INFORMATION

The service will be no cost to the City or Denton Fire Department. The Compliance Engine will increase the amount of revenue generated. Revenue received will be deposited into the Fire Inspection account 1000.4412.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance and Contract

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

For information concerning this acquisition, contact: Lindsey Garrison, 940-349-8844.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BRYCER LLC, FOR THE RENEWAL OF THE INSPECTION, TESTING, AND MAINTENANCE REPORTING SYSTEM, THE COMPLIANCE ENGINE, FOR THE FIRE DEPARTMENT, WHICH IS THE SOLE PROVIDER OF THIS SOFTWARE, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8867 – AWARDED TO BRYCER LLC, FOR THREE (3) YEARS, WITH THE OPTION FOR ONE (1) ADDITIONAL THREE (3) YEAR EXTENSION, IN THE TOTAL SIX (6) YEAR TERM).

WHEREAS, Section 252.022 of the Local Government Code provides that procurement of items that are only available from one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids; and

WHEREAS, this procurement was undertaken as part of the City's governmental function [Building codes and inspection]; and

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the "File" listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

FILE NUMBER	VENDOR
8867	Brycer LLC

SECTION 2. The City Council hereby finds that this bid, and the award thereof, constitutes a procurement of items that are available from only one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library

that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids.

SECTION 3. The acceptance and approval of the above items shall not constitute a contract between the City and the person submitting the quotation for such items until such person shall comply with all requirements specified by the Purchasing Department.

SECTION 4. The City Manager, or their designee, is hereby authorized to execute the contract relating to the items specified in Section 1, attached hereto, and the expenditure of funds pursuant to said contract is hereby authorized.

SECTION 5. 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 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 Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn _____

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Docusign City Council Transmittal Coversheet

FILE	8867
File Name	Fire Inspection Software
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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BRYCER LLC
4355 Weaver Parkway
Suite 230
Warrenville, IL 60555

March 25th, 2025

City of Denton
215 E McKinney St.
Denton, TX, 76201

Re: "The Compliance Engine"

Dear City of Denton:

We look forward to providing you with "The Compliance Engine" (the "Solution"). This proposal letter provides the basic terms by which Brycer LLC ("Brycer") will provide you, City of Denton ("Client"), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard "Terms and Conditions" attached to this proposal as Exhibit A. The basic terms are as follows:

1. **Term**: Brycer will provide Client with the Solution for three years, commencing July 1st, 2025 (the "Initial Term"), with the option to renew for one additional three-year period unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the Initial Term (the "Renewal Term" and Initial Term, the "Term"). Following the expiration or termination of the Term (as provided in the Terms and Conditions), Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, Client's data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this agreement for convenience upon giving 60 days written notice to Brycer.

2. **Fees**: Client shall not pay any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution.

3. **Brycer Responsibilities**: During the Term, Brycer shall be responsible for the following in connection with Client's use of the Solution:

- ***Availability***. Brycer shall make the Solution available to Client as set forth on Exhibit B. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.
- ***Service Level***. Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
- ***Backup***. Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client (which can be no more than once a month) or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and

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integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.

- ***Retention of Information***. Brycer will maintain all information entered into the database by third party inspectors for at least five years from the time such information is entered into the database.
- ***Notices***. Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; and (c) notices of completed inspection reports which contain one or more deficiencies.
- ***Call Center*** Phone calls by Brycer on behalf of the Client to the property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
- ***Updates and Enhancements***. In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide such updates or corrections to Client free of any charge or fee.

4. **Client Responsibilities**: During the Term, Client shall be responsible for the following in connection with Client's use of the Solution:

- ***Operating System***. Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the Client's equipment (the "Client Access Software") and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use version Edge, Firefox version 76, Chrome 60 or Safari (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
- ***Training***. Client shall allow Brycer at Client's facilities to train all applicable personnel of Client on the use of the Solution.
- ***Information***. Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within **[City of Denton]** for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
- ***Enforcement***. Client shall take all actions necessary to require (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
- ***Reports***. Client will require all compliant and deficient test results to be submitted.

5. **Ownership of Data**. Client owns all the data provided by Client and received from third party contractors for Client. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client's data.

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Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

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

CONTRACTOR

Signed by:
BY: Matt Rice
6C325129DBD14CB...

AUTHORIZED SIGNATURE

Printed Name: Matt Rice

Title: CEOt

630-413-4932

PHONE NUMBER

mrice@mybrycer.com

EMAIL ADDRESS

Mrice@mybrycer.com

TEXAS ETHICS COMMISSION CERTIFICATE NUMBER

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

Signed by:
Kenneth Hedges
8C476FC45B304C3...

SIGNATURE

Kenneth Hedges

PRINTED NAME

Fire Chief

TITLE

Fire

DEPARTMENT

ATTEST:

LAUREN THODEN, CITY SECRETARY

BY: _____

CITY OF DENTON, TEXAS

BY: _____

SARA HENSLEY
CITY MANAGER

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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Exhibit A

Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer LLC and Client (the "Agreement).

1. Restrictions on Use. Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not knowingly use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not knowingly interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution (g) it shall not knowingly permit anyone other than the Authorized Users to view or use the Solution and any screen shots of the Solution and (h) it shall not disclose the features of the Solution to anyone other than the Authorized Users. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.

2. Proprietary Rights. All right, title and interest in and to the Solution, the features of the Solution and images of the Solution as well any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.

3. Independent Contractor. Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Brycer is an independent contractor. Neither Client or Brycer may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.

4. Reservation of Rights. Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.

5. Use of Logos. During the term of this Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client.

6. Mutual Confidentiality In order to provide the deliverables to the City,both parties may require access to certain of the other party's confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which either party considers confidential which, for avoidance of doubt, includes computer programs, software, screen shots, flowcharts, diagrams, manuals, schematics, designs and specifications) (collectively, "Confidential Information"). Both parties acknowledge and agree that theConfidential Information is the valuable property and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City, its licensors, and/or theBrycer. Both parties (including its employees, subcontractors, agents, or representatives) agree that they will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, or recreate the Confidential Information without the prior written consent of the disclosing party 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 receiving party promptly notifies the disclosing party before disclosing such information so as to permit the disclosing party reasonable time to seek an appropriate protective order. Both parties agree to use protective measures no less stringent than each uses within their 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. Brycer acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, Texas Government Code in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Any portions of material claimed by Brycer 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.

7. Brycer Warranty. Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.

8. Disclaimer. All information entered into Brycer's database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.**

9. **LIMITATION ON DAMAGES. BRYCER SHALL ONLY BE LIABLE TO CLIENT FOR DIRECT DAMAGES PURSUANT TO THE AGREEMENT.**

10. Risks Inherent to Internet. Client acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer

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viruses and the risk of interception, distortion, or loss of communications. Client assumes these risks knowingly and voluntarily releases Brycer from all liability from all such risks. Not in limitation of the foregoing, Client hereby assumes the risk, and Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under Client's exclusive control.

11. Indemnity. Brycer (the "Indemnifying Party") will defend and indemnify Client against any damages, losses, liabilities, causes of action, costs or expenses arising from Brycer's breach of this Agreement, negligence or intentional misconduct.

12. Breach. Brycer and Client shall have the right to terminate or suspend this Agreement, and all of the breaching party's rights hereunder, immediately upon delivering written notice to the breaching party detailing the breaching party's breach of any provision of this Agreement. If the breaching party cures such breach within 5 days of receiving written notice thereof, the non-breaching party shall not terminate the Agreement and reinstate the Agreement if performance was suspended.
13. Illegal Payments. Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.

14. Beneficiaries. There are no third party beneficiaries to the Agreement.
15. Force Majeure. Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused. Brycer 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.

16. Notices. All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.

17. JURISDICTION AND VENUE. THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH CLIENT EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH CLIENT EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE.
18. Attorneys' Fees. Intentionally Omitted.

19. Entire Agreement. The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.

20. Amendment. The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

21. Expiration. The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

Exhibit B

Maintenance Schedule and Minimum Service Levels

1. **Uptime and Maintenance**.

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The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime.

2. **Response Time**.

Brycer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The number is 630-413-9511

Brycer will assign client a dedicated customer representative with direct access to their email and work number.

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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.**

Brycer LLC

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.**

N/A

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 Signed by: Matt Rice 6C325129DBD14CB...

Signature of vendor doing business with the governmental entity

7/17/2025

Date

Docusign Envelope ID: BC8E9BCD-23D2-415D-8E41-D764649D64E1

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

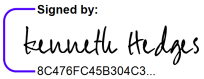
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Source Envelope:
Document Pages: 9
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Denton, TX 76209
kayla.clark@cityofdenton.com
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Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 47.38.247.221 Signed using mobile	Sent: 7/17/2025 7:27:48 AM Viewed: 7/17/2025 10:37:50 AM Signed: 7/17/2025 10:39:22 AM
Matt Rice mrice@mybrycer.com CEOt Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/17/2025 10:40:39 AM ID: e04c68b9-382d-456b-bbf8-32c5db12356f	Signed by: Matt Rice 6C325129DBD14CB... Signature Adoption: Pre-selected Style Using IP Address: 104.179.224.188	Sent: 7/17/2025 10:39:24 AM Viewed: 7/17/2025 10:40:39 AM Signed: 7/17/2025 11:18:08 AM

Signer Events	Signature	Timestamp
Kenneth Hedges Kenneth.Hedges@cityofdenton.com Fire Chief Security Level: Email, Account Authentication (None)	Signed by:  8C476FC45B304C3... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/17/2025 11:18:12 AM Viewed: 7/17/2025 12:32:15 PM Signed: 7/17/2025 12:32:35 PM
Electronic Record and Signature Disclosure: Accepted: 7/17/2025 12:32:15 PM ID: bc820b66-a459-4be8-ad7e-fcf2b5f37611		
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: 7/17/2025 12:32:39 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

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Lindsey Garrison Lindsey.Garrison@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/19/2025 11:57:02 AM ID: ab5c216a-056f-4a4f-af02-c1c69516d22e		

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To advise City of Denton of your new e-mail address
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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
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File #: ID 25-1140, **Version:** 1

AGENDA CAPTION

Hold a public hearing to consider amending and updating the Water and Wastewater Land Use Assumptions and Capital Improvements Plan, and the imposition of increased water and wastewater impact fees for designated service areas and discuss amending Ordinance No. 2019-008 regulating the City's water and wastewater impact fees.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Water Utilities

ACM: Cassandra Ogden

DATE: August 5, 2025

SUBJECT

Hold a public hearing to consider amending and updating the Water and Wastewater Land Use Assumptions and Capital Improvements Plan, and the imposition of increased water and wastewater impact fees for designated service areas, and discuss amending Ordinance No. 2019-008 regulating the City's water and wastewater impact fees.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Support Healthy and Safe Communities.

INFORMATION/BACKGROUND

The City of Denton is updating its Water and Wastewater Impact Fees in accordance with Chapter 395 of the Texas Local Government Code. Impact fees are a mechanism to recover the costs associated with expanding infrastructure necessary to serve new development.

The City first adopted impact fees in 1998. In accordance with Chapter 395 of the Texas Local Government Code, land use assumptions and capital improvement plans must be updated every five years. The city periodically updates its impact fees, with the last update completed in January 2019. The current update commenced in August 2022 and encompasses a defined service area, revised land use assumptions, service unit projections, and 10-year capital improvement plans (CIPs), which serve as the basis for calculating the maximum allowable impact fees.

On June 25, 2025, the Capital Improvements Advisory Committee (CIAC) voted 6-0 to recommend adopting the full cost recovery amount permitted under state law. Most recently, on July 15, 2025, City Council received an update during a work session and provided feedback on the proposed fees.

The 2025 Recovery Fee amounts per Single-Family Equivalent (SFE) are shown below:

Water Impact Fees

	Zone 1A	Zone 1B	Zone 2
Current Fee 2018	*$3,569*	*$5,352*	*$7,638*
100% Cost Recovery	$1,820	$10,745	$12,139
CIAC Recommendation	$1,820	$10,745	$12,139
Council Recommendation	$1,365	$8,059	$9,104

Wastewater Impact Fees

	2018 Service Area		
Current Fee 2018	*$4,716*		
	Pecan Creek	**Hickory Creek**	**Clear Creek**
100% Cost Recovery	$11,615	$12,791	$17,916
CIAC Recommendation	$11,615	$12,791	$17,916
Council Recommendation	$8,711	$9,593	$13,437

The Capital Improvement Advisory Committee (CIAC) recommends 100% recovery; Staff recommends 75% recovery; City Council gave direction for 75% at the July 15, 2025 worksession.

As required by Chapter 395, this public hearing is being held to allow for public input prior to City Council's future consideration of adopting the updated Water and Wastewater Impact Fees.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

October 24, 2022 – Public Utilities Board: Received direction
July 8, 2024 – Developer Meeting: Provided update and received feedback
July 16, 2024 – City Council: Received direction
February 10, 2025 – Developer Meeting: Provided update and received feedback
February 12, 2025 – Capital Improvements Advisory Committee: Provided update and received feedback
June 25, 2025 – Capital Improvements Advisory Committee: Voted 6–0 to recommend 100% cost recovery
July 1, 2025 – Developer Meeting: Provided update and received feedback
July 15, 2025 – City Council Work Session: Provided update; Council supported 75% cost recovery (6–1)

ESTIMATED SCHEDULE OF PROJECT

August 22, 2025 – Anticipated adoption of Land Use Assumptions, Capital Improvement Plan, Maximum Allowable Fee, and Collection Rate.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Draft Water/Wastewater Impact Fee Study
Exhibit 3: Land Use Assumptions and Service Area Maps
Exhibit 4: Ordinance 19-008
Exhibit 5: Presentation

Respectfully submitted:
Stephen Gay, 940-349-8086
General Manager
Water Utilities and Street Operations

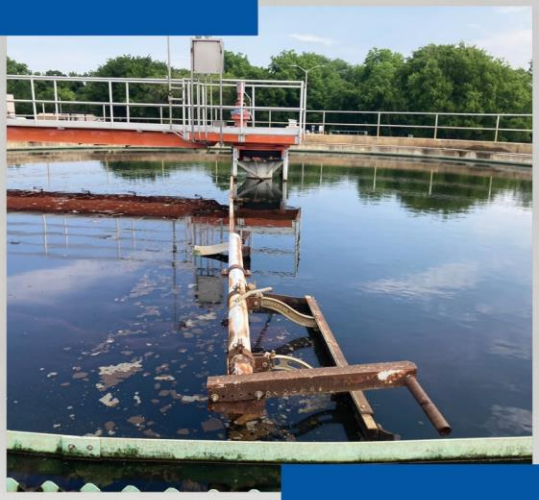
For information concerning this, contact Kyle Pedigo at 940-349-7194.

Legal point of contact: Susan Keller at 940-349-8333.

Draft Water and Wastewater Impact Fee Update

June 2025







Prepared for:

CITY OF DENTON

Prepared by:

Kimley»Horn

Kimley-Horn and Associates, Inc.
801 Cherry Street, Unit 11, Suite 1300
Fort Worth, TX 76102
817.335.6511
TBPE Firm Registration Number: F-928
Project Number: 061024066

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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

INTRODUCTION

Impact Fees are a mechanism for funding the public infrastructure necessitated by new development. Across the country, they are used to fund police and fire facilities, parks, schools, roads, and utilities. In Texas, the legislature has allowed their use for roadway, drainage, water, and wastewater facilities. In 2023, the City of Denton began an update to the Water and Wastewater Impact Fees last updated in 2019.

In the most basic terms, Impact Fees are meant to recover the incremental cost of the impact of each new unit of development towards new infrastructure needs. Impact Fees are a mathematical calculation that determine a maximum fee that would be equivalent to growth paying for growth. This study's purpose is to calculate the maximum impact fee per service unit of new growth.

The Maximum Impact Fee is considered an appropriate measure of the impacts generated by a new unit of development on a City's infrastructure system. An impact fee program is anticipated to be designed so that it is **predictable** for both the development community and City. An impact fee program is **transparent**. This report describes in detail how the fee is calculated and how the Capital Improvements Advisory Committee (CIAC) monitors the Impact Fee program. An impact fee program is **flexible** in that funds can be used on priority projects and not just on projects adjacent to a specific development. An impact fee program is both **equitable** and **proportional** in that every new development pays an equal fee that is directly related to its systemwide impact.

IMPACT FEE BASICS

Service Areas

A Service Area is a geographic area within which a unique maximum impact fee is determined. All fees collected within the Service Area must be spent on eligible improvements within the same Service Area. For Water and Wastewater Impact Fees, a Service Area can be defined for both water and wastewater facilities that consists of the City Limits and extends throughout the Extraterritorial Jurisdiction (ETJ). Denton's water Impact Fees are distributed across three (3) services areas. Denton's current wastewater Impact Fees are distributed across a single service area. Due to the need for two additional wastewater treatment plants the City will move to three (3) wastewater services areas.

Land Use Assumptions

The Impact Fee determination is required to be based on the projected growth and corresponding capacity needs in a 10-year window. This study considers the years 2024-2034 for the projected 10-year growth. Population growth during that period is projected to increase by approximately 114,000. This projection along with associated non-residential development set the basis for determining water demands and wastewater flows to serve new growth.

Service Units

The "service unit" is a measure of consumption or use of the capital facilities by new development. In other words, it is the unit of measure used to quantify the supply and demand for utilities in the City. Service units are attributable to an individual unit of development and utilized to calculate the maximum impact fee of a development.

The service unit for water and wastewater Impact Fees is based on the size of the individual water meters used to serve growth related development. The base water service unit is the water demand associated with the smallest water meter issued for a new residential unit. The base wastewater service unit is the wastewater flow associated with the smallest water meter issued for a new residential unit. The smallest water meter issued for a new residential unit in the City of Denton is a 5/8-inch x 3/4-inch meter.

Capital Improvement Plans

The City has identified the water and wastewater projects needed to accommodate the projected growth over the next ten (10) years. These projects include existing, proposed, and recently completed projects that were determined based on their current or anticipated impact on each defined service area.

Water Impact Fee Capital Improvements Plan

The Water Impact Fee Capital Improvements Plan was developed based on recommended capital improvements outlined in the 2024 Water Master Plan, input from City Staff, and the population growth projections shown in the Land Use Assumptions. The recommended improvements will provide the required capacity and reliability to meet projected water demand through 2034. Elements of the water system, including treatment facilities, storage facilities, pumping facilities, transmission and distribution network were evaluated against industry standards as outlined in the Design Criteria sections of Water Impact Fee Chapter.

A total of nineteen (19) existing projects, thirty-one (31) proposed projects, and the Water Impact Fee Study were identified to develop the Water Impact Fee Capital Improvements Plan. The total project cost (*not* impact fee eligible cost) to be evaluated is $1,003,063,455.

Wastewater Impact Fee Capital Improvements Plan

Similar to the Water Impact Fee Capital Improvements Plan, the Wastewater Impact Fee Capital Improvements Plan was developed to address system improvements driven by growth. Elements of the wastewater system, including treatment, gravity pipes, force mains, and lift stations were evaluated against industry standards as outlined in the Design Criteria section of the Wastewater Impact Fee Chapter of this Report.

Seventeen (17) existing, forty-seven (47) proposed projects, and the Wastewater Impact Fee Study were identified to develop the Wastewater Impact Fee Capital Improvements Plan. The total project cost (*not* impact fee eligible cost) to be evaluated is $1,222,435,449.

Recoverable Project Costs

Impact Fees are a one-time fee meant to recover the incremental cost of the impact of each new unit of development creating new infrastructure needs within a ten-year window. With this consideration, the maximum assessable impact fee does not specifically cover the entire cost of a water or wastewater project. The calculations that determine the percentage of a project's cost that is impact fee eligible are defined as the project's recoverable cost.

Water Recoverable Project Costs

The recoverable costs for water projects are calculated by determining the increase in water demand due to growth over the 10-year window. The City's current and future water demand were utilized to calculate the percent utilization of each identified impact fee eligible project. The change in utilization of each project is multiplied by the total project cost to determine total recoverable project cost. The total recoverable costs for the water distribution system are $535,273,791 (pre-finance).

Wastewater Recoverable Project Costs

The recoverable costs for wastewater projects are calculated by determining the increase in wastewater flows due to growth over the 10-year window. The City's current and future flow projections were utilized to calculate the percent utilization of each identified impact fee eligible project. The change in utilization of each project is multiplied by the total project cost to determine total recoverable project cost. The total recoverable costs for the wastewater collection system are $636,342,861 (pre-finance).

Maximum Assessable Impact Fee Calculation

In simplest terms, the maximum impact fee allowable by law is calculated by dividing the recoverable cost of the Capital Improvement Plans by the number of new service units of development. In accordance with state law, both the cost of the Capital Improvement Plan and the number of new service units of development

used in the equation are based on the growth and corresponding capacity needs projected to occur within a 10-year window.

In practice, there are many factors that complicate this calculation. The 2025 maximum impact fee allowable by law for each service area is shown in the following table:

Water Maximum Impact Fee by Service Areas		
Service Area 1A	Service Area 1B	Service Area 2
$1,820	$10,745	$12,139

Wastewater Maximum Impact Fee by Service Areas		
Pecan Creek Service Area	Hickory Creek Service Area	Clear Creek Service Area
$11,615	$12,791	$17,916

Adoption Process

Chapter 395 of the Texas Local Government Code stipulates a specific process for the adoption of Impact Fees. A Capital Improvements Advisory Committee (CIAC) is required to review the Land Use Assumptions and the Impact Fee Capital Improvements Plan used in calculating the maximum fee, and to provide the Committee's findings for consideration by the City Council. This CIAC also reviews the calculation and resulting maximum fees and provides its findings to the City Council. The composition of the CIAC is required to have adequate representation of the building and development communities. In Denton, the CIAC members include real estate, development, and building industry professionals including an ETJ representative. The City Council then conducts a public hearing on the Land Use Assumptions, Impact Fee Capital Improvements Plan, and Impact Fee Ordinance.

Following policy adoption, the CIAC is tasked with advising the City Council of the need to update the Land Use Assumptions or the Impact Fee Capital Improvements Plan at any time within five years of adoption. Finally, the CIAC oversees the proper administration of the Impact Fee, once in place, and advises the Council as necessary.

Chapter 395 of the Texas Local Government Code requires a minimum of one (1) public hearing before Council to amend an existing impact fee program.

CHAPTER 1

LAND USE ASSUMPTIONS

1.1 INTRODUCTION

Chapter 395 of the Texas Local Government Code describes the procedure Texas cities must follow in order to create and implement Impact Fees. Senate Bill 243 (SB 243) amended Chapter 395 to define an Impact Fee as "a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development."

Chapter 395 mandates that Impact Fees be reviewed and updated at least every five (5) years. The City of Denton's Water and Wastewater Impact Fee Program was last updated in 2019. The City of Denton has initiated a review of its Land Use Assumptions, Impact Fee Capital Improvements Plan, and Impact Fees. The City has retained Kimley-Horn and Associates, Inc. to provide professional services for the update to the adopted 2025 Water and Wastewater Impact Fee Study. The Land Use Assumptions, which include population and service unit projections, form the basis for the development of the Impact Fee Capital Improvements Plans for water and wastewater facilities.

In order to assess an impact fee, Land Use Assumptions must be developed to provide the basis for population and associated service unit growth projections within a political subdivision. As defined by Chapter 395 of the Texas Local Government Code, these assumptions include a description of changes in land uses, densities, and service units in the service areas. In addition, these assumptions are useful in assisting the City of Denton in determining the need and timing of capital improvements to serve future development.

In accordance with Chapter 395, information from the following sources was compiled to complete the Land Use Assumptions:

- City of Denton's 2040 Comprehensive Plan;
- 2023 Wastewater Master Plan;
- 2024 Water Master Plan;
- City of Denton Planning and Development Services.

1.2 COMPONENTS OF THE LAND USE ASSUMPTIONS CHAPTER

The Land Use Assumptions include the following components

METHODOLOGY AND 10-YEAR GROWTH ASSUMPTIONS

An overview of the general methodology used to generate the land use assumptions and walk through of the growth projections for 2024-2034.

IMPACT FEE STUDY AREAS

Explanation of the distribution of service areas within Denton for water and wastewater facilities.

LAND USE ASSUMPTIONS SUMMARY

A synopsis of the land use assumptions.

1.3 METHODOLOGY AND 10-YEAR GROWTH ASSUMPTIONS

The population growth projections formulated in this report were done using reasonable and generally accepted planning principles. The following documents and factors were considered in developing these projections:

- Character, type, density, location and quantity of existing development.
- Probable future developments.
- Availability of land for future expansion.
- The Future Land Use Plan illustrated in the 2040 Comprehensive Plan.
- Population Projections (from the 2023 Wastewater Master Plan and 2024 Water Master Plan).

The City provided land use type, density, and phasing (if available) for incoming developments, including large multi-phase developments. Developers provided land use type, density, and phasing for any incoming Municipal Utility Districts (MUDs) identified with the Extra Territorial Jurisdiction (ETJ). Known developments are shown on **Exhibit 1.1**. The phasing information of the larger multi-phase developments and MUDs is listed in **Table 1.1**.

Table 1.1 Probable Future Developments

	Development	Residential Units	
		5-Year	10-Year
Multi-Phase Development	Hunter-Cole	3,899	7,400
	Legends	1,820	1,836
	Hickory Creek	1,423	2,923
MUD	Rosebrook[1,2]	1,621	1,621
	Churchill	525	1,400
	Meadows	1,330	1,830
	Ponder Farms	525	592
	Sanctuary	1,000	2,500
	Rockwood[3]	0	0
	Stonehill	0	0
	Tabor Ranch	2,220	2,820
	Webster Meadows	405	405
	Young Tracts	0	0

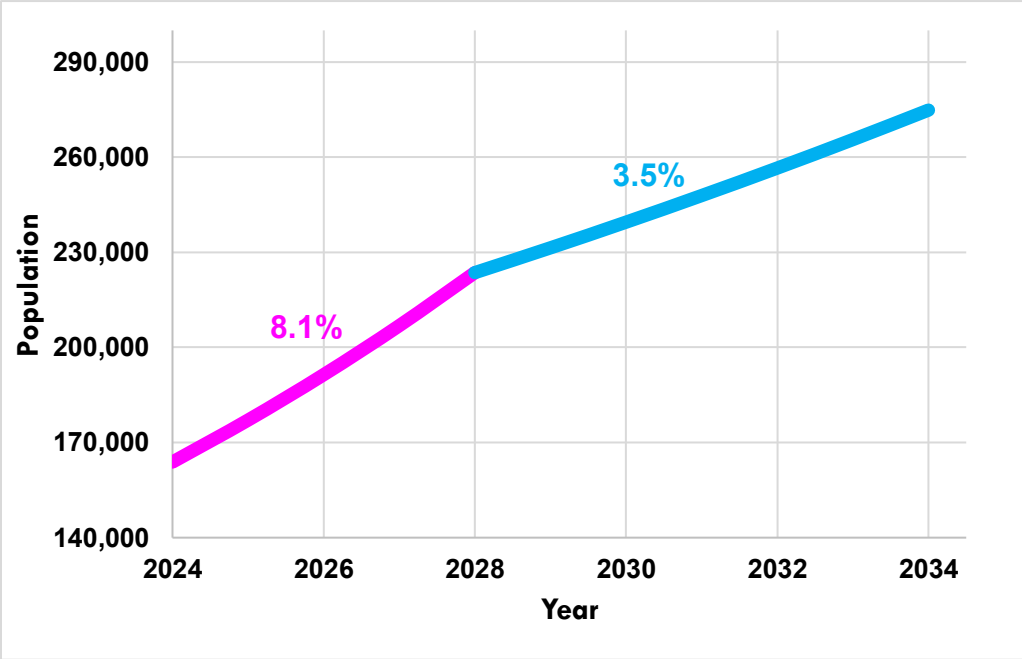
[1]Phasing updated from 2023 Wastewater Master Plan (WWMP) based on most recent data provided by developer

[2]The 2023 WWMP refers to Rosebrook as Astra

[3]The 2023 WWMP refers to Rockwood as Sherwood

Growth projections detailed in Denton's Water and Wastewater Master Plans established growth trendlines based on the information from Table 1.1 and the results are illustrated on **Figure 1.1**. Average annual growth projections of 8.1% and 3.5% are shown for the next 5 and 10-year planning periods.

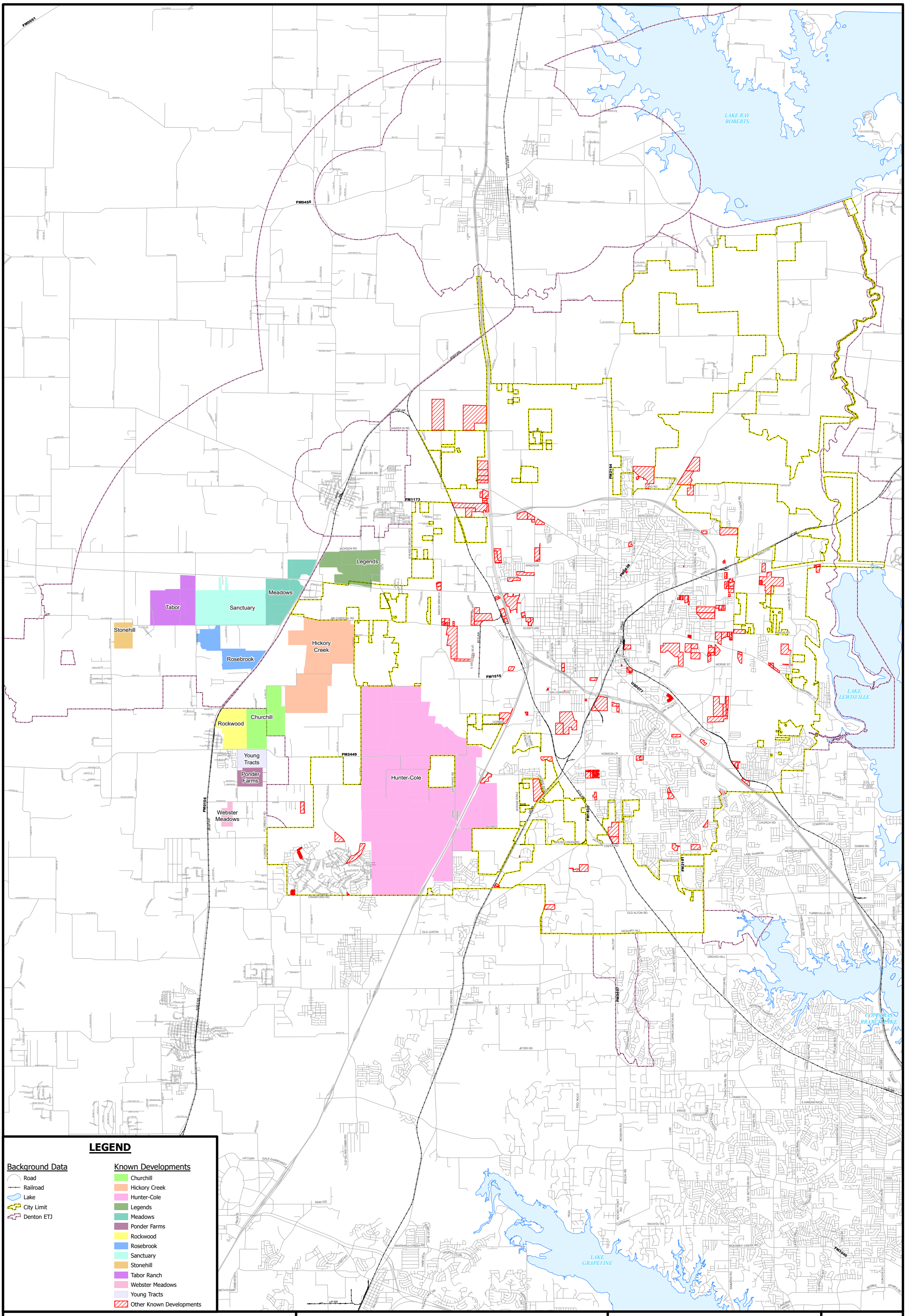
Figure 1.1 City of Denton Growth Assumptions

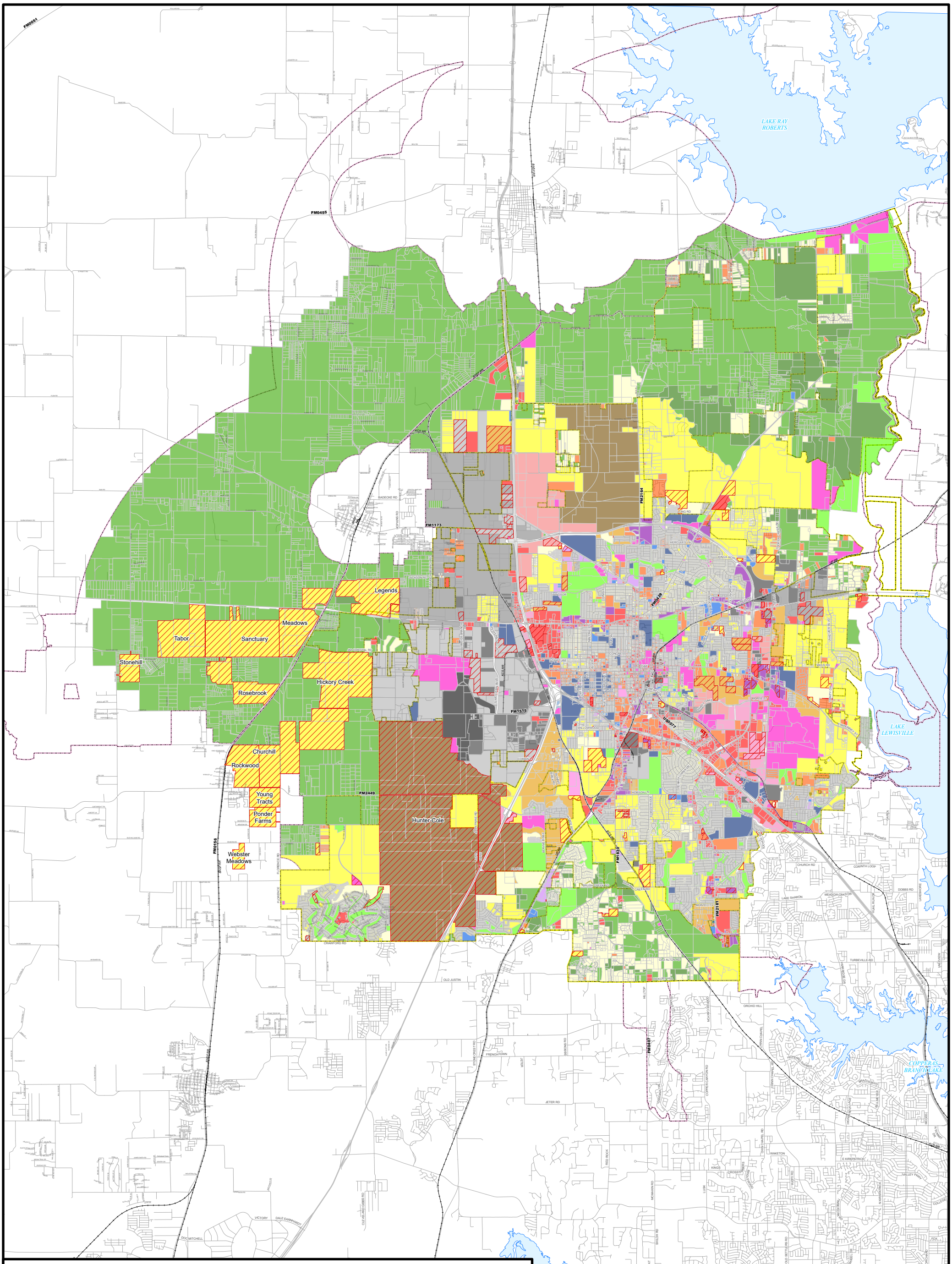


Based on the 10-year growth projections, summarizing population and service units from 2023 to 2033, are projected to be:

- Population Growth = 114,000
- Water Service Unit Growth = 52,774
- Wastewater Service Unit Growth = 52,276

Future growth by land use type is based on the Future Land Use Plan (**See Exhibit 1.2**) shown in the 2040 Comprehensive Plan.


LAKE RAY ROBERTS
LAKE LEWISVILLE
LAKE GRAPEVINE
COPPER CANYON BRANCH LAKE
FM0051
FM0455
FM1173
FM2164
FM428
FM1515
US0077
FM2449
FM0156
FM1830
FM2181
FM3040
FM0407
Legends
Meadows
Tabor
Sanctuary
Stonehill
Rosebrook
Hickory Creek
Churchill
Rockwood
Young Tracts
Ponder Farms
Webster Meadows
Hunter-Cole
LEGEND
Background Data
Road
Railroad
Lake
City Limit
Denton ETJ
Known Developments
Churchill
Hickory Creek
Hunter-Cole
Legends
Meadows
Ponder Farms
Rockwood
Rosebrook
Sanctuary
Stonehill
Tabor Ranch
Webster Meadows
Young Tracts
Other Known Developments
CITY OF DENTON
CITY OF DENTON
KNOWN DEVELOPMENTS
1 IN = 5,000 FT
January 2025
Kimley»Horn
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EXHIBIT
1.1
440



LEGEND

Background Data
- Road
- Railroad
- Lake
- City Limit
- Denton ETJ
- Known Developments

Existing Land Use
- Agriculture
- Rural
- Parks and Open Space
- Residential - Single-Family
- Residential - Multi-Family
- Commercial
- Government
- Public
- Institutional
- Religious
- Airport
- Industrial

Future Land Use
- Community Mixed Use
- Regional Mixed Use
- Neighborhood Mixed Use
- Business Innovation
- Downtown Denton
- Master Plan Community
- Low Residential (4 units per acre)
- Moderate Residential (10 units per acre)
- Industrial Commerce
- Neighborhood / University Compatibility Area
- Light Industrial

CITY OF DENTON

CITY OF DENTON
FUTURE LAND USE

1 IN = 5,000 FT

January 2025

Kimley»Horn

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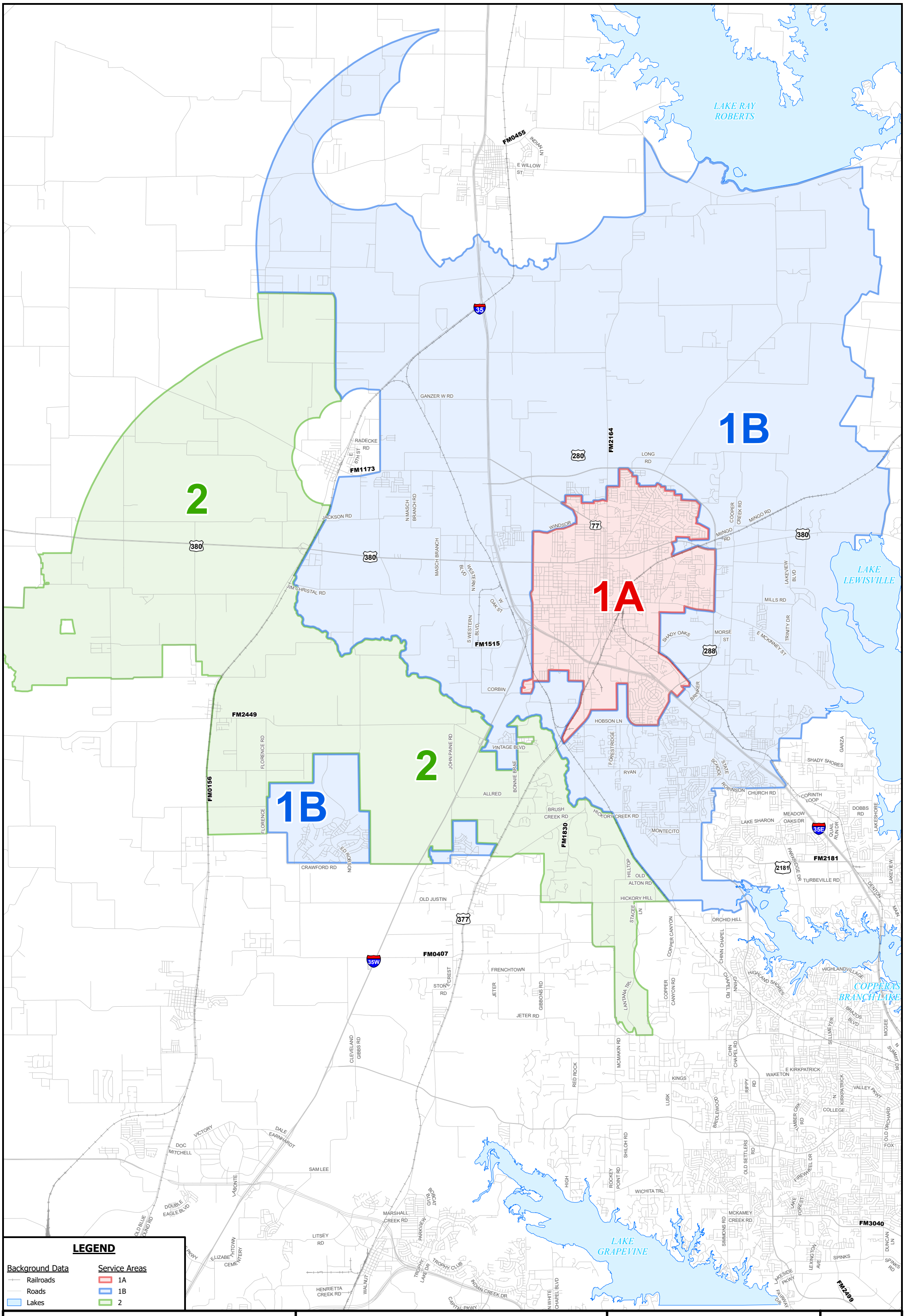
1.4 IMPACT FEE SERVICE AREAS

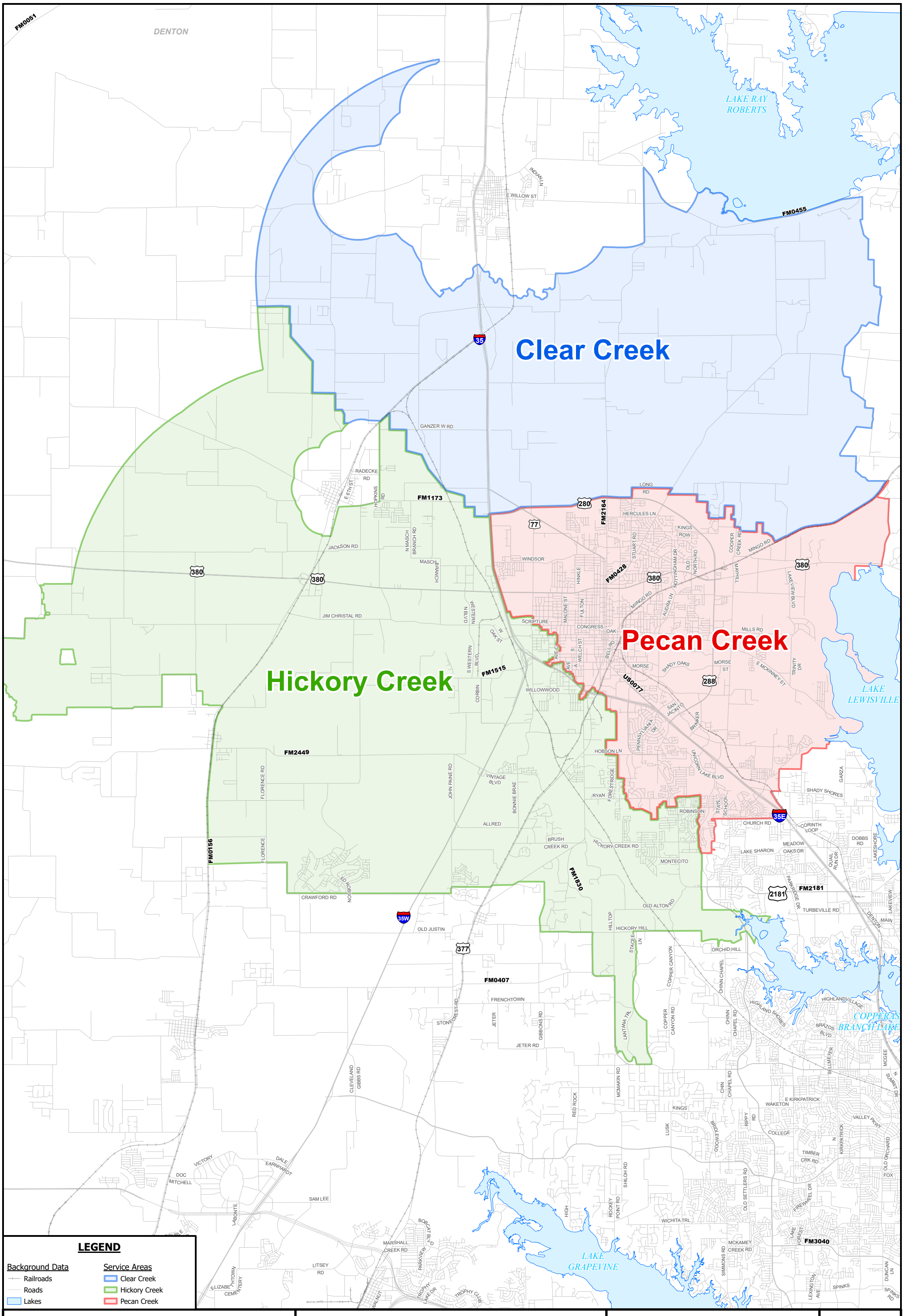
SERVICE AREA DEFINITION

According to Chapter 395 of the Local Government Code, a Service Area refers to the area within the corporate boundaries or extraterritorial jurisdiction of the political subdivision to be served by the capital improvement or facilities specified in the Capital Improvement Plan. Funds collected in the specific service areas must be spent in the service area collected.

WATER AND WASTEWATER IMPACT FEE SERVICE AREAS

The geographic boundary of the proposed water and wastewater impact fee service areas for water and wastewater facilities is shown in **Exhibit 1.3** and **Exhibit 1.4,** respectively. The water and wastewater impact fee service areas include the City Limits and extends throughout the ETJ.


LAKE RAY ROBERTS
LAKE LEWISVILLE
COPPERAS BRANCH LAKE
LAKE GRAPEVINE
1A
1B
2
1B
2
FM0455
INDIAN LN
E WILLOW ST
GANZER W RD
RADECKE RD
E 6TH ST
FM1173
JACKSON RD
380
N MASCH BRANCH RD
MASCH BRANCH
N WESTERN BLVD
W OAK ST
S WESTERN BLVD
FM1515
JIM CHRISTAL RD
FM2164
280
LONG RD
WINDSOR
77
COOPER CREEK RD
MINGO RD
LAKEVIEW BLVD
MILLS RD
SHADY OAKS
MORSE ST
E MCKINNEY ST
TRINITY DR
288
BRINKER
HOBSON LN
CORBIN
FM2449
FLORENCE RD
FM0156
JOHN PAINE RD
VINTAGE BLVD
FORESTRIDGE
RYAN
SCHOOL
STATE
GARZA
SHADY SHORES
ROBINSON
CHURCH RD
CORINTH LOOP
DOBBS RD
LAKESHORE
MEADOW OAKS DR
LAKE SHARON
MONTECITO
QUAIL RUN DR
35E
FM2181
2181
PARKRIDGE DR
TURBEVILLE RD
LAKEVIEW
DENTON
MAIN
ALLRED
BONNIE BRAE
BRUSH CREEK RD
HICKORY CREEK RD
FM1830
HILLTOP
OLD ALTON RD
HICKORY HILL
STACEE LN
ORCHID HILL
CRAWFORD RD
ED ROBSON
OLD JUSTIN
377
FM0407
35W
FRENCHTOWN
STONECREST RD
JETER
GIBBONS RD
JETER RD
LANTANA TRL
COPPER CANYON RD
CHINN CHAPEL RD
HIGHLAND SHORES
HIGHLANDVILLAGE
BRAZOS BLVD
SELLMEYER
MCGEE
N SUMMIT DR
CLEVELAND GIBBS RD
MCMAKIN RD
RED ROCK
CHIN CHAPEL RD
RIPPY RD
E KIRKPATRICK
WAKETON
KINGS
LUSK
BRIDLEWOOD
N KIRKPATRICK
VALLEY PKWY
COLLEGE
AMBER OAK RD
OLD ORCHARD
FOX
OLD SETTLERS RD
FIREWHEEL DR
SHILOH RD
ROCKEY POINT RD
HIGH
WICHITA TRL
LAKE FOREST
MCKAMEY CREEK RD
SIMMONS RD
FM3040
DUNCAN LN
SPINKS
SPINKS RD
LEXINGTON AVE
LAKESIDE PKWY
FAIRWAY DR
FM2499
DOC MITCHELL
VICTORY
DALE EARNHARDT
SAM LEE
LABONTE
DOUBLE EAGLE BLVD
OLD BLUE MOUND RD
E LIZABE
HTOWN CEMETERY
LITSEY RD
MARSHALL CREEK RD
BOBBY LAKE BLVD
PARKVIEW
TROPHY LAKE DR
TROPHY CLUB
INDIAN CREEK DR
HENRIETTA CREEK RD
WALNUT
N WHITE CHAPEL BLVD
CAPITAL PKWY
LEGEND
Background Data
Railroads
Roads
Lakes
Service Areas
1A
1B
2
CITY OF DENTON
CITY OF DENTON
WATER IMPACT FEE
SERVICE AREAS
1 IN = 5,000 FT
January 2025
Kimley»Horn
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EXHIBIT
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LEGEND

Background Data	Service Areas
Railroads	Clear Creek
Roads	Hickory Creek
Lakes	Pecan Creek

CITY OF DENTON

CITY OF DENTON
WASTEWATER IMPACT FEE
SERVICE AREAS

1 IN = 5,000 FT

January 2025

Kimley»Horn

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EXHIBIT

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1.5 DATA FORMAT

The population and service unit estimates were all compiled in accordance with the following categories and format:

IMPACT FEE SERVICE AREAS:

Large zones, which correspond to the water and wastewater facilities service area (as described in the previous section).

SERVICE UNITS:

Number of water and wastewater connections based on existing and proposed in the next 10-years.

1.6 SUMMARY

The following is the land use assumptions summary for the City of Denton utilized in the impact fee development. Base growth projections for the City of Denton, summarizing connections from 2023 to 2033, are projected to be:

- Water Service Area 1A = 1,616 Connections
- Water Service Area 1B = 29,427 Connections
- Water Service Area 2 = 21,731 Connections
- Wastewater Service Area Pecan Creek = 7,616 Connections
- Wastewater Service Hickory Creek = 35,412 Connections
- Wastewater Service Area Clear Creek = 9,248 Connections

CHAPTER 2

WATER IMPACT FEE STUDY

2.1 INTRODUCTION

The City of Denton retained the services of Kimley-Horn and Associates, Inc., for the purpose of updating the Impact Fees for water system improvements required to serve new development.

The purpose of this report is to satisfy the requirements of the law and provide the City with an impact fee capital improvements plan and associated Impact Fees.

For convenience and reference, the following is excerpted from Chapter 395 of the code:

(a) *The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:*

(1) *a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;*

(2) *an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;*

(3) *a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;*

(4) *a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including but not limited to residential, commercial, and industrial;*

(5) *the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;*

(6) *the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and*

(7) *plan for awarding:*

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total project cost of implementing the capital improvements plan.

The impact fee study includes information from the 2024 Water System Master Plan being completed at this time. The Impact Fees are based on recommended capital improvements outlined in the Draft Water System Master Plan, input from City Staff, and the growth projections shown in the Land Use Assumptions Chapter of this report.

The study process was comprised of four tasks:

Land Use Assumptions

The land use assumptions used for this report were created by Kimley-Horn with input provided by the City of Denton and the Denton 2040 Comprehensive Plan. The development of land use assumptions included the following:

- Establishing impact fee service areas;
- Collection/determination of service units service area; and
- Projection of the ten-year service units by service area.

A detailed discussion is outlined in the Land Use Assumptions Chapter of this report.

Evaluation of Water System Master Plan

This task involved reviewing the 2024 Water System Master Plan and its growth projection compatibility with the Land Use Assumptions. The water demand projections were then used to determine the additional service units.

Impact Fee Capital Improvements Plan

This task involved reviewing the impact fee water capital improvements plan outlined in 2019 Impact Fee Study and the 2024 Water Master Plan. Discussions were also held with City Utility staff to identify projects that will be constructed in the 10-year planning window and meet the design criteria.

Impact Fee Analysis and Report

This task included calculating the additional service units, and credit reduction. These values were then used to determine the impact fee per service unit and the maximum assessable water impact fee by meter size.

2.2 DESIGN CRITERIA

In accordance with Chapter 290 of the Texas Administrative Code (Public Drinking Water) and the design criteria in the 2024 Water Master Plan, the following design criteria is followed when planning for future water infrastructure.

WATER LINES

Water distribution and transmission lines shall be sized to maintain a minimum of 35 pounds per square inch (psi) throughout the system during peak hour demands conditions. In addition to this, the transmission lines shall be designed for a maximum 3.0 feet per second.

STORAGE TANKS

(a) Elevated Storage Tanks

Elevated storage serves three purposes:

- Functionally, elevated storage equalizes the pumping rate to compensate for daily variations in demand and to maintain a fairly constant pumping rate (usually referred to as operational storage), or a pumping rate that conforms to the requirements of the electrical rate structure.
- Provides pressure maintenance and protection against surges created by instantaneous demand, such as fire flow and main breaks, and instantaneous change in supply, such as pumps turning on and off.
- Maintains a reserve capacity for fire protection and pressure maintenance in case of power failure to one or more pump stations. Sufficient storage should be maintained to provide four hours of fire flow demand during a loss of power to the pump station.

City criterion for elevated storage is provide sufficient capacity to satisfy ISO Fire Rating plus city wide maximum day demand.

Suggested storage capacity established by the TCEQ is adequate operational storage established by determining the required volume to equalize the daily fluctuations in flow during the maximum day demand, plus the reserve volume required for fire protection.

The minimum requirements for storage, according to Chapter 290 of the Texas Administrative Code, are as follows:

- Total Storage - Equal to 200 gallons per connection.
- Elevated Storage - Equal to 100 gallons per connection; or
- Elevated Storage – Equal to 200 gallons per connection for a firm pumping capacity reduction from 2.0 gallons per connection to 0.6 gallons per connection.

(b) Ground Storage Tanks

Ground storage serves two functions:

- Equalization for differing feed rates between the water supply and pumping to the system; and
- Emergency capacity in the event of temporary loss of water supply.

Generally, ground storage facilities are located at water supply points or at each pump station within the water distribution system. The design criteria recommended to size ground storage tank capacity within each pressure plane is to provide adequate storage volume to meet 8 hours of maximum day demand. In addition to these criteria for elevated and ground storage, the City must also meet TCEQ total storage capacity requirements of 200 gallons per connection.

PUMP STATIONS

Pumping capacities must provide the maximum demand, or the peak hour demand required by the water system or the suggested capacities established by the TCEQ. Pumping capacity should supply the maximum demand with sufficient redundancy to allow for the largest pump at the pump station to be out of service. This is known as firm pumping capacity.

Each pump station or pressure plane must have two or more pumps that have a total capacity of 2.0 gallons per minute per connection, or have a total capacity of at least 1,000 gallons per minute and the ability to meet peak hour demand with the largest pump out of service, whichever is less. If the system provides elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gpm per connection are required.

2.3 IMPACT FEE CAPITAL IMPROVEMENTS PLAN

The purpose of the Water Master Plan is to provide the City with a logical strategy for upgrading and expanding its water distribution system to accommodate future growth and for addressing existing system deficiencies. The Water Master Plan and the recommended system improvements are developed to accommodate growth through the 25-year planning period. The Impact Fee Capital Improvements Plan is developed using projects identified during the master planning process and through discussions with utility staff. State law only allows cost recovery associated with eligible projects in a ten (10) year planning window from the time of the impact fee study. The following details the projects and the eligible recoverable cost.

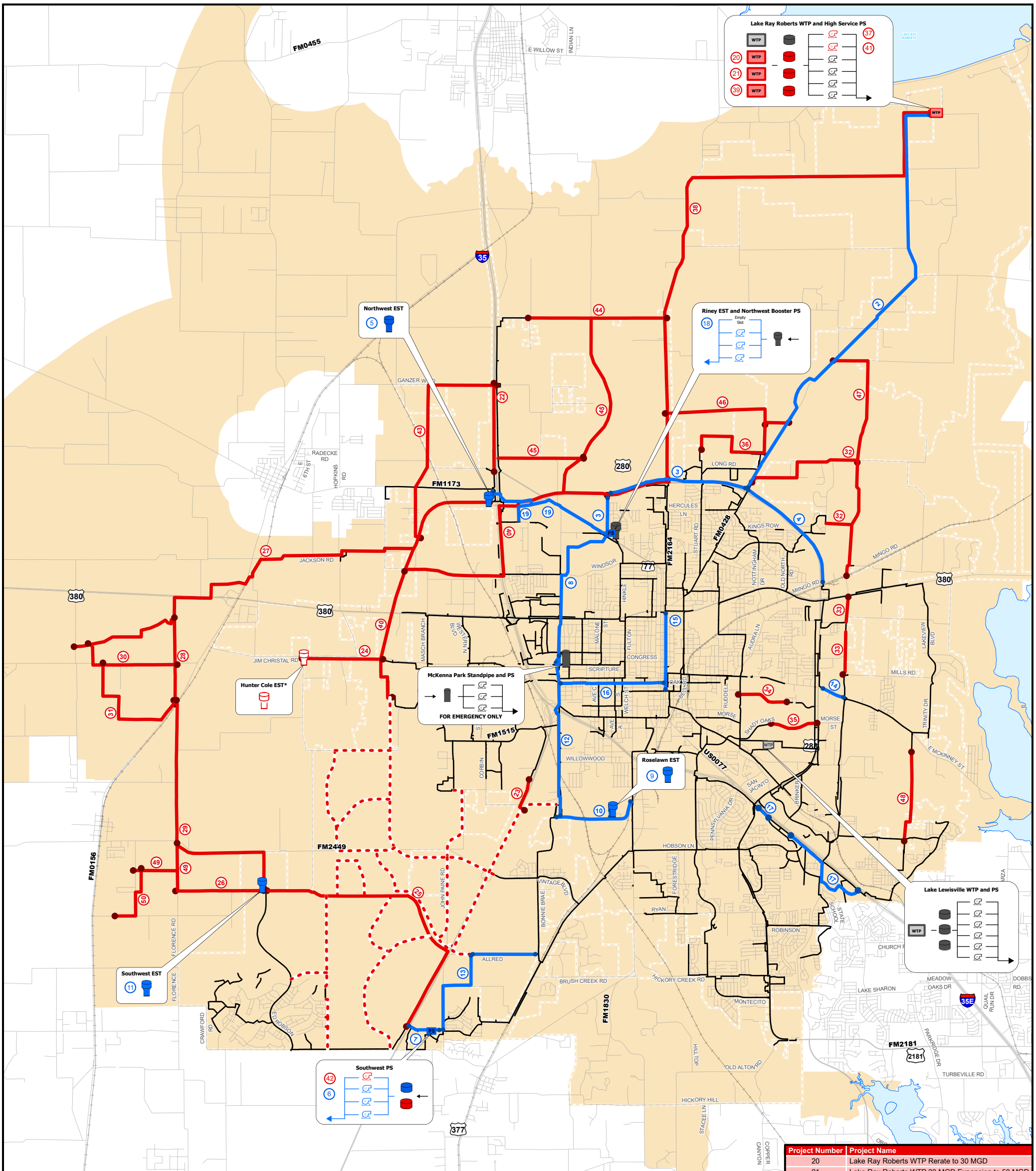
Nineteen (19) existing projects, thirty-one (31) proposed projects, and the Water Impact Fee Study are determined eligible for recoverable cost through impact fees over the next 10 years. The total cost of these projects is **$1,003,063,455**. The projected total recoverable through impact fees is **$535,273,791**. After debt service costs are added and the credit reduction calculation is complete, **$582,923,277** is

recoverable through Impact Fees serving the 10-year system needs. These impact fee capital improvements are shown in **Table 2.1** and illustrated in **Exhibit 2.1**.

Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Project #	Description	2023 Required Capacity *(Percent Utilization)*	2033 Required Capacity *(Percent Utilization)*	2023-2033 Required Capacity *(Percent Utilization)*	2033 Projected Recoverable Cost	Total Project Cost
EXISTING						
1	Lake Ray Roberts	90%	100%	10%	$15,330,616	$153,306,163
2	54" Finished Water Transmission Line	43%	100%	57%	$5,467,370	$9,590,299
3	Loop 288 Water Main - Sherman to UNT	35%	100%	65%	$2,835,202	$4,361,849
4	Loop 288 Water Main - Sherman to Hwy 380	43%	43%	0%	$0	$3,518,352
5	Northwest Elevated Storage Tank	55%	58%	2%	$58,500	$2,339,988
6	Southwest Pump Station	50%	100%	50%	$2,956,001	$5,912,002
7	Southwest PS Oversize Discharge Line (30" to 36")	32%	73%	41%	$116,426	$284,477
8	North-South Water Line Phase I	41%	51%	10%	$603,860	$6,038,601
9	Roselawn Elevated Storage Tank	73%	100%	27%	$1,679,851	$6,299,440
10	Roselawn Water Line	47%	57%	10%	$179,736	$1,797,363
11	Southwest Elevated Storage Tank	55%	58%	2%	$135,257	$5,410,280
12	North-South Water Line	26%	36%	10%	$1,087,030	$10,870,300
13	Allred Road / John Paine Road Water Lines	21%	56%	34%	$2,033,143	$5,930,000
14	McKinney Water Line	14%	21%	7%	$85,757	$1,200,600
15	Locust Water Line Upsize	9%	11%	3%	$36,622	$1,281,776
16	Hickory Water Line Upsize	19%	20%	1%	$7,121	$498,444
17	I-35E Frontage Water Line	21%	29%	7%	$72,894	$1,020,510
18	Northwest Booster Pump Station	15%	100%	85%	$12,331,809	$14,573,956
19	36" Northwest Water Line	12%	75%	63%	$9,383,078	$14,785,456
				Existing Subtotal	**$54,400,271**	**$249,019,855**
PROPOSED						
20	Lake Ray Roberts WTP Rerate to 30 MGD	0%	100%	100%	$40,000,000	$40,000,000
21	Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD	0%	100%	100%	$195,845,000	$195,845,000
22	16" Northwest I-35 Frontage Rd Water Line	0%	54%	54%	$2,442,960	$4,524,000
23	16" I-35W/Corbin Water Line	0%	22%	22%	$598,862	$2,722,100
24	42" Jim Christal EST Transmission Main Oversize	0%	81%	81%	$10,030,313	$12,345,000
25	24/30" West Allred Rd Transmission Main Oversize	0%	100%	100%	$742,000	$742,000
26	16" Ponder Water Line	0%	52%	52%	$2,249,520	$4,326,000
27	24/30" Rosebrook/Sanctuary Transmission Main	0%	63%	63%	$37,811,267	$59,702,000
28	24" Rosebrook Transmission Main	0%	60%	60%	$5,658,000	$9,430,000
29	24" North/South Transmission Main	0%	87%	87%	$20,291,267	$23,413,000
30	12" Old Stoney Rd Water Line	0%	26%	26%	$994,240	$3,824,000
31	12" Rosebrook Water Line	0%	32%	32%	$1,494,080	$4,669,000
32	12" Cooper Creek Rd Water Line	0%	30%	30%	$4,464,900	$14,883,000
33	12" N Mayhill Rd Water Line	0%	22%	22%	$959,860	$4,363,000
34	12" Duchess Dr Water Line	0%	30%	30%	$655,500	$2,185,000

Project #	Description	2023 Required Capacity *(Percent Utilization)*	2033 Required Capacity *(Percent Utilization)*	2023-2033 Required Capacity *(Percent Utilization)*	2033 Projected Recoverable Cost	Total Project Cost
35	12" Shady Oaks Dr Water Line	0%	36%	36%	$1,097,280	$3,048,000
36	12" Stuart Ridge Water Line	0%	46%	46%	$2,219,960	$4,826,000
37	Lake Ray Roberts HSPS Improvements Phase 1	0%	100%	100%	$5,530,000	$5,530,000
38	Lake Ray Roberts WTP 54/60" Transmission Main	0%	58%	58%	$68,973,551	$117,964,000
39	Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD	0%	10%	10%	$9,792,250	$97,922,500
40	24"/48" Loop 288 Transmission Main	0%	58%	58%	$40,406,863	$69,107,000
41	Lake Ray Roberts HSPS Improvements Phase 2	0%	35%	35%	$1,908,764	$5,530,000
42	Southwest PS Improvements	0%	25%	25%	$2,505,703	$10,087,000
43	12" Northwest Water Line	0%	30%	30%	$3,970,500	$13,235,000
44	16" Milam Rd Water Line	0%	58%	58%	$5,769,260	$9,947,000
45	16" North Central Water Line	0%	30%	30%	$3,656,400	$12,188,000
46	12" N Locust Rd to E Sherman Dr Water Line	0%	30%	30%	$1,187,700	$3,959,000
47	12" North Cooper Creek Rd Water Line	0%	36%	36%	$2,982,960	$8,286,000
48	12" Swisher Rd Water Line	0%	16%	16%	$534,560	$3,341,000
49	20" Ponder Farms Transmission Main	0%	100%	100%	$4,500,000	$4,500,000
50	12" Webster Meadows Transmission Main	0%	100%	100%	$1,500,000	$1,500,000
51	Water Impact Fees	0%	100%	100%	$100,000	$100,000
				Proposed Subtotal	**$480,873,520**	**$754,043,600**
				Total	**$535,273,791**	**$1,003,063,455**



LEGEND

Background Data
- Railroads
- Roads
- Lakes
- Denton City Limits
- Denton Impact Fee Service Area

Existing Infrastructure
- Water Treatment Plant (WTP)
- Existing Elevated Storage Tank (EST)
- Existing Ground Storage Tank (GST)
- Existing Standpipe
- Existing Water Line (12" or Greater)

Impact Fee CIP Projects
- Proposed Water Treatment Plant Expansion
- Existing Elevated Storage Tank
- Hunter-Cole Elevated Storage Tank
  *Future Jim Christal 3.0 MG EST
- Existing Pump Station
- Existing Water Line
- Proposed Water Line
- Hunter-Cole Water Line

Project Number	Project Name
1	Lake Ray Roberts
2	54" Finished Water Transmission Line
3	Loop 288 Water Main - Sherman to UNT
4	Loop 288 Water Main - Sherman to Hwy 380
5	Northwest Elevated Storage Tank
6	Southwest Pump Station
7	Southwest PS Oversize Discharge Line (30" to 36")
8	North-South Water Line Phase I
9	Roselawn Elevated Storage Tank
10	Roselawn Water Line
11	Southwest Elevated Storage Tank
12	North-South Water Line
13	Allred Road / John Paine Road Water Lines
14	McKinney Water Line
15	Locust Water Line Upsize
16	Hickory Water Line Upsize
17	I-35E Frontage Water Line
18	Northwest Booster Pump Station
19	36" Northwest Water Line

Project Number	Project Name
20	Lake Ray Roberts WTP Rerate to 30 MGD
21	Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD
22	16" Northwest I-35 Frontage Rd Water Line
23	16" I-35W/Corbin Water Line
24	42" Jim Christal EST Transmission Main
25	24/30" West Allred Rd Transmission Main Oversize
26	16" Ponder Water Line
27	24/30" Rosebrook/Sanctuary Transmission Main
28	24" Rosebrook Transmission Main
29	24" North/South Transmission Main
30	12" Old Stoney Rd Water Line
31	12" Rosebrook Water Line
32	12" Cooper Creek Rd Water Line
33	12" N Mayhill Rd Water Line
34	12" Duchess Dr Water Line
35	12" Shady Oaks Dr Water Line
36	12" Stuart Ridge Water Line
37	Lake Ray Roberts HSPS Improvements Phase 1
38	Lake Ray Roberts WTP 54/60" Transmission Main
39	Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD
40	24/48" Loop 288 Transmission Main
41	Lake Ray Roberts HSPS Improvements Phase 2
42	Southwest PS Improvements
43	12" Northwest Water Line
44	16" Milam Rd Water Line
45	16" North Central Water Line
46	12" N Locust Rd to E Sherman Dr Water Line
47	12" North Cooper Creek Rd Water Line
48	12" Swisher Rd Water Line
49	20" Ponder Farms Transmission Main
50	12" Webster Meadows Transmission Main
51	Water Impact Fees

CITY OF DENTON

CITY OF DENTON
WATER IMPACT FEE
CAPITAL IMPROVEMENTS PLAN

1 IN = 4,000 FT

January 2025

Kimley»Horn

This map product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

EXHIBIT 2.1

2.4 WATER IMPACT FEE CALCULATION

SERVICE UNITS

Chapter 395 of the Local Government Code defines a service unit as follows, "Service Unit means a standardized measure of consumption attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years."

SERVICE UNIT CALCULATION

A single service unit for Denton's water Impact Fees is the 5/8-inch x 3/4-inch meter. A service unit is the water demand of flow associated with the 5/8-inch x 3/4-inch meter, which is typically used by a single-family residence. All meters greater than 5/8-inch x 3/4-inch have a service unit multiplier determined by the ratio of each larger meter's capacity to the capacity of the 5/8-inch x 3/4-inch meter. The current service unit multipliers (service units/meter) are shown in **Table 2.2**.

Table 2.2 Meter Capacity Ratios

Meter Size	Service Units/ Meter[1]
5/8"x3/4"	1
1"	2.5
1-1/2"	5
2"	8
3"	22.5
4"	50
6"	100
8"	200
10"	325

Multiplying the number of existing connections for each meter size by the number of service units per meter yields the total service units for that meter size. Summing all meter sizes yields the total number of water service units connected to the City's water system as shown in **Table 2.3**. The current population in the water service area is divided by the total number of service units yielding a Persons per Service Unit number.

Table 2.3 Persons per Water Service Unit

Meter Size	Existing Connections[1]	Service Units/ Meter	Service Units
5/8"	40,662	1	40,662
1"	1,761	2.5	4,403
1-1/2"	922	5	4,610
2"	1,532	8	12,256
3"	99	22.5	2,228
4"	26	50	1,300
6"	11	100	1,100
8"	32	200	6,400
10"	2	325	650
Total Existing Connections:	45,047	Total Service Units:	73,609
		Total Served Population:	152,350
		Persons per Service Unit:	**2.07**

(1) Data Sources: City of Denton

In accordance with Chapter 395 of the Texas Local Government Code, the City of Denton defines a service unit based on historical and projected water demands. The service unit is the development type that predominately uses a 5/8-inch x 3/4-inch meter. The measure of consumption per service unit is based on a 5/8-inch meter x 3/4-inch meter and the data shown in **Table 2.4**.

Table 2.4 Water Service Unit Consumption Calculation

Year	Population	Service Units (2.07 person/unit)	Water Average Day Demand (MGD)[1]	Demand per Service Unit (GPD)
2014	123,200	59,517	17.28	290
2015	125,980	60,860	18.47	303
2016	128,160	61,913	17.50	283
2017	130,990	63,280	18.24	288
2018	134,460	64,957	19.63	302
2019	139,869	67,570	19.52	289
2020	141,882	68,542	20.40	298
2021	146,751	70,894	19.48	275
2022	149,509	72,227	23.20	321
2023	152,350	73,599	24.70	336
2024	164,737	79,583	24.88	313
2025	178,132	86,054	26.79	311
2026	192,615	93,051	28.70	308
2027	208,276	100,617	30.61	304
2028	225,210	108,797	32.52	299
2029	232,756	112,442	34.43	306
2030	240,554	116,210	35.72	307
2031	248,614	120,104	37.00	308
2032	256,944	124,128	38.29	308
2033	265,554	128,287	39.58	309
2034	270,865	130,852	40.87	312
			Average Flow per Service Unit	**303**

(1) Data Source: City of Denton

Based on the City's 10-year growth projections and the resulting water demand projections, water service will be required for an additional **52,774** Service Units by the year 2034 as shown in **Table 2.5**. The calculation is as follows:

- A service unit, which is a unit of development that consumes approximately **303** gallons per day (GPD), is a typical residential connection that uses a 5/8-inch x 3/4-inch meter.

Table 2.5 10-year Additional Service Unit Calculation

Year	Average Day Demand (MGD)	Service Unit Demand (GPD)	Projected Service Units
2024	24.875	303	82,096
2034	40.8657	303	134,870
10-year Additional Service Units			**52,774**

The City's existing water system is divided into three service areas (Service Area 1A, 1B and 2 as indicated in the Land Use Assumptions chapter). The calculated 10-year additional services units has been distributed across the three services areas based on projected growth and its associated water demand projections as shown in **Table 2.6**.

Table 2.6 10-year Additional Service Units by Service Area

Year		Service Area 1A	Service Area 1B	Service Area 2	Total
2024	Service Units	32,060	48,694	1,342	82,096
2034	Service Units	33,676	78,121	23,073	134,870
10-Year Service Units		**1,616**	**29,427**	**21,731**	**52,774**

2.5 PLAN FOR AWARDING IMPACT FEE CREDIT

Impact fee law allows for a credit calculation to credit back the utility revenues or ad valorem taxes that are allocated for paying a portion of future capital improvements. The intent of this credit is to prevent the City from double charging development for future capital improvements via Impact Fees and utility rates. If the City chooses not to do a financial analysis to determine the credit value, they are required by law to reduce the recoverable cost by fifty (50) percent. The City chose to perform a financial analysis.

MAXIMUM ASSESSABLE IMPACT FEE DETERMINATION

The impact fee determination method employed by NewGen Strategies and Solutions, LLC is developed through a financial based model that recognizes the requirements of Chapter 395, including the recognition of cash and/or debt financing, interest earnings, fund balances, and applicable credits associated with the use of utility revenues. In developing the components of the financial model, assumptions must be made that include the following:

- Financing
    - Method of financing (i.e. cash or debt financing)
    - The level of financing (e.g. 100% debt)
    - Cost of financing
    - Debt repayment structure
- Timing and Level of Expenditures and Revenues
- Interest Earnings
- Annual Service Unit Growth
- Portion of Utility Revenue Used to Fund Impact Fee Water Improvements

While the assumptions employed in determining the maximum assessable impact fee are a reasonable basis for forecasting, these assumptions may not reflect actual future conditions. To address this, Chapter 395 requires the monitoring of Impact Fees through the Capital Improvement Advisory Committee (CIAC) who can then update or revise Impact Fees to reflect the actual implementation of the impact fee program.

FINANCING

Once the cost of capacity added that is attributable to growth is determined, a City must decide how the cost will be financed: cash and/or debt. Actual costs of capital for any previously funded projects, whether partially or fully funded, are also included.

Based on discussions with City staff, it is assumed that the City will debt finance the future project costs. For debt financing, the cost of financing is based on the City's Financial Advisor's estimates of future debt costs for bonds issued with 30-year terms as shown in the Water Financial Analysis Appendix of this report. Debt service payments for each future debt issue are assumed to remain constant over the issue's term.

TIMING AND LEVEL OF EXPENDITURES AND REVENUES

The exact timing and annual level of cash capital expenditures over the forecast period is currently indeterminate, therefore it is assumed that capital expenditures will occur in amounts over the 10-year program period. It is also assumed that the City will expand debt proceeds over a 2-year timeframe for debt-financed capital projects. For the calculation of the maximum assessable impact fee, debt is assumed to be issued in equal amounts for each year. In order to recognize the full amount of debt to be issued for the cost of capacity added that is attributable to growth during the 10-year period, a portion of years eight, nine, and ten are assumed to be spend in the final three years.

INTEREST EARNINGS

While debt is issued over 30-year terms and Impact Fees developed are to be charged over a 10-year period, a sufficient fund balance must be generated to meet the future debt service obligations. Fund balances were identified for each service area as a potential source for the current Impact Fee CIP.

Because of the generation of the fund balance, excess monies will be available for interest earnings.

Chapter 395 states that interest earnings are funds of the impact fee account and are to be held to the same restrictions as impact fee revenues. In order to recognize that interest earnings are used to fund only impact fee eligible improvements, interest earnings are credited against the costs recoverable through Impact Fees. Chapter 395 does not require the upfront recognition of interest earnings in the impact fee determination. To acknowledge the time value of the impact fee payer's monies, interest earnings have been credited. For this analysis, interest is assumed to be earned at an annual rate of 1.89% per 10-year historical average.

Annual Service Unit Growth

The timing and annual level of service unit growth over the 10-year program period is currently indeterminate, therefore it is assumed that service unit growth will be consistent over the 10-year forecast.

Portion of Utility Revenue Used to Fund Impact Fee Water Improvements

Credit for the portion of ad valorem tax and/or utility service revenues generated by new service units during the program period are used for payment of the improvements included in the Water Impact Fee CIP. The credit is not a determination to recognize the total utility revenue generated by new service units, but is a credit for the portion of utility revenue that is used for payment of the improvements included in the Water Impact Fee CIP. Theoretically, the credit determination could be zero ($0) if the City does not utilize any of the new service unit utility revenue to fund improvements that are included in the Water Impact Fee CIP.

To be conservative and recognize potential cash flow issues that can occur with the funding of major capital improvement projects, it is assumed that the debt-funded projects (100% of the improvement costs included in the Water Impact Fee CIP but not otherwise funded) could potentially be funded by utility revenue.

When an impact fee program is in place, payments made through utility revenue will consist of revenue generated by new service units in the defined service area and existing service units throughout the City; therefore, the portion attributable to the new service units in the defined service area must be isolated. The credit calculation illustrating how the credit is isolated is shown in the Water Financial Analysis Appendix of this report.

2.6 MAXIMUM ASSESSABLE IMPACT FEE

A breakdown of the 10-year recoverable costs and the associated impact fee per service unit by service area is as follows:

Table 2.7 Service Area 1A - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$2,454,148
Financing Costs	$1,106,314
Interest Earnings	($604,035)
Pre Credit Recoverable Cost for Impact Fee	$2,956,427
Credit for Utility Revenues	($15,105)
Maximum Recoverable Cost for Impact Fee	**$2,941,322**

(1) Per NewGen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$2,941,322}{1,616}$$

$$\text{Impact fee per service units} = \$1,820$$

Therefore, the maximum assessable water impact fee for Service Area 1A is **$1,820.**

Table 2.8 Service Area 1B - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$292,309,445
Financing Costs	$129,102,582
Interest Earnings	($81,750,244)
Pre Credit Recoverable Cost for Impact Fee	$339,661,783
Credit for Utility Revenues	($23,479,052)
Maximum Recoverable Cost for Impact Fee	**$316,182,731**

(1) Per NewGen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$316,182,731}{29,427}$$

$$\text{Impact fee per service units} = \$10,745$$

Therefore, the maximum assessable water impact fee for Service Area 1B is **$10,745.**

Table 2.9 Service Area 2 - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$240,510,198
Financing Costs	$106,564,481
Interest Earnings	($68,197,039)
Pre Credit Recoverable Cost for Impact Fee	$278,877,640
Credit for Utility Revenues	($15,078,415)
Maximum Recoverable Cost for Impact Fee	**$263,799,224**

(1) Per Newgen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$263,799,224}{21,731}$$

$$\text{Impact fee per service units} = \$12,139$$

Therefore, the maximum assessable water impact fee for Service Area 2 is **$12,139.**

For a development that requires a different size meter, a service unit equivalent is established at a multiplier based on its capacity with respect to the 5/8-inch x 3/4-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 2.10**).

Table 2.10 Maximum Assessable Water Impact Fee by Service Area and Meter Size

Meter Size	Service Unit Equivalent	Service Area 1A Maximum Assessable Water Impact Fee	Service Area 1B Maximum Assessable Water Impact Fee	Service Area 2 Maximum Assessable Water Impact Fee
5/8"x3/4"	1	$1,820	$10,745	$12,139
1"	2.5	$4,550	$26,863	$30,348
1-1/2"	5	$9,100	$53,725	$60,695
2"	8	$14,560	$85,960	$97,112
3"	22.5	$40,950	$241,763	$273,128
4"	50	$91,000	$537,250	$606,950
6"	100	$182,000	$1,074,500	$1,213,900
8"	200	$364,000	$2,149,000	$2,427,800
10"	325	$591,500	$3,492,125	$3,945,175

CHAPTER 3

WASTEWATER IMPACT FEE STUDY

3.1 INTRODUCTION

The City of Denton retained the services of Kimley-Horn and Associates, Inc., for the purpose of updating the Impact Fees for wastewater system improvements required to serve new development.

The purpose of this report is to satisfy the requirements of the law and provide the City with an impact fee capital improvements plan and associated Impact Fees.

For convenience and reference, the following is excerpted from Chapter 395 of the code:

(b) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including but not limited to residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total project cost of implementing the capital improvements plan.

The impact fee study includes information from the 2023 Wastewater System Master Plan being completed at this time. The Impact Fees are based on recommended capital improvements outlined in the Wastewater Master Plan, input from City Staff, and the growth projections shown in the Land Use Assumptions Chapter of this report.

The study process was comprised of four tasks:

Land Use Assumptions

The land use assumptions used for this report were created by Kimley-Horn with input provided by the City of Denton and the Denton 2040 Comprehensive Plan. The development of land use assumptions included the following:

- Establishing impact fee service areas.
- Collection/determination of service units service area; and
- Projection of the ten-year service units by service area.

A detailed discussion is outlined in the Land Use Assumptions Chapter of this report.

Evaluation of Wastewater System Master Plan

This task involved reviewing the 2023 Wastewater Master Plan and its growth projection compatibility with the Land Use Assumptions. The wastewater flow projections were then used to determine the additional service units.

Impact Fee Capital Improvements Plan

This task involved reviewing the impact fee wastewater capital improvements plan outlined in 2019 Impact Fee Study and the 2023 Wastewater Master Plan. Discussions were also held with City Utility staff to identify projects that will be constructed in the 10-year planning window and meet the design criteria.

Impact Fee Analysis and Report

This task included calculating the additional service units, and credit reduction. These values were then used to determine the impact fee per service unit and the maximum assessable wastewater impact fee by meter size.

3.2 DESIGN CRITERIA

In accordance with the Chapter 217 of the Texas Administrative Code (Design Criteria for Domestic Wastewater Systems) and the design criteria in the *2023 Wastewater Master Plan* the following design criteria is followed when planning for future wastewater infrastructure.

COLLECTION LINES (INTERCEPTORS)

The design criteria for collection lines or interceptors is based on the TCEQ requirements that meet peak wet weather design flows and not exceed 80% of the pipe capacity.

LIFT STATIONS PUMPING CAPACITY

The design criteria for lift station pumping shall be to provide firm pumping capacity to meet the peak wet weather design flows. The firm pumping capacity is defined as the available total pumping capacity with the largest pump out of service.

LIFT STATION WET WELL CAPACITY

The design criteria for lift station wet wells are to provide adequate volumes to limit pump cycling to once every 10 minutes. Based on this criterion, the required operating volume for each pump can be calculated as

$V = tQ/4$ where,
t = Maximum pump cycling time = 10 minutes
Q = Lead pump discharge rate in gallons per minute (gpm)
V = Required wet well volume between pump start and stop elevation

FORCE MAINS

The design criteria recommended for force mains is to meet the required pumping capacity of the lift station at a velocity less than 7 feet per second and a maximum discharge pressure of 100 psi and to allow a minimum of 3 feet per second scouring velocity during a single pump operation.

3.3 IMPACT FEE CAPITAL IMPROVEMENTS PLAN

The purpose of the wastewater master plan is to provide the City with a logical strategy for upgrading and expanding its wastewater collection system to accommodate future growth and for addressing existing system deficiencies. The Wastewater Master Plan and the recommended system improvements are developed to accommodate growth through the 25-year planning period. The impact fee capital improvements plan is developed using projects identified during the master planning process and through discussions with utility staff. State law only allows cost recovery associated with eligible projects in a ten (10) year planning window from the time of the impact fee study. The following details the projects and the eligible recoverable cost.

Seventeen (17) existing projects, forty-seven (47) proposed projects, and the Wastewater Impact Fee Study are determined eligible for recoverable cost through Impact Fees over the next 10 years. The total cost of these projects is **$1,222,435,449**. The projected total recoverable through Impact Fees is **$636,342,861**. After debt service costs are added and the credit reduction calculation is complete, **$707,097,573** is recoverable through Impact Fees serving the 10-year system needs. These impact fee capital improvements are shown in **Table 3.1** and illustrated in **Exhibit 3.1**.

Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Project #	Description	2023 Required Capacity *(Percent Utilization)*	2033 Required Capacity *(Percent Utilization)*	2023-2033 Required Capacity *(Percent Utilization)*	2033 Projected Recoverable Cost	Total Project Cost
EXISTING						
1	Cooper Creek Interceptor III	52%	54%	2%	$26,887	$1,277,970
2	Cooper Creek Outfall (Loop 288)	52%	62%	11%	$411,553	$3,898,807
3	Krum Sewer Line	20%	42%	22%	$87,775	$398,450
4	Graveyard Branch Interceptor	8%	18%	10%	$484,130	$5,004,952
5	Leatherwood Interceptor	22%	25%	3%	$4,616	$156,592
6	Pecan Creek Interceptor (Ph 1 & 2)	57%	65%	8%	$257,047	$3,363,189
7	Pecan Creek Interceptor I	78%	84%	6%	$123,815	$1,975,672
8	Pecan Creek Interceptor II	37%	43%	6%	$103,913	$1,862,175
9	Pecan Creek Interceptor III	32%	37%	6%	$172,497	$3,079,149
10	Pecan Creek Interceptor IV	23%	31%	8%	$77,121	$978,285
11	Pecan WRP Expansion (6 MGD)	17%	100%	83%	$25,004,271	$30,005,125
12	Cooper Creek Interceptor I	48%	60%	12%	$309,649	$2,632,000
13	Cooper Creek Interceptor II	44%	54%	10%	$113,537	$1,128,000
14	Hickory Creek Interceptor I	27%	100%	73%	$1,058,753	$1,447,500
15	Hickory Creek Interceptor II	52%	90%	39%	$3,120,135	$8,102,500
16	Hickory Creek Interceptor III	24%	49%	25%	$721,323	$2,875,433
17	Hickory Creek Lift Station Detention Facility	35%	100%	65%	$6,435,000	$9,900,000
				Existing Subtotal	**$38,512,020**	**$78,085,799**
PROPOSED						
18	PCWRP Headworks Facility	62%	83%	22%	$12,333,923	$56,260,000
19	PCWRP 5.0 MGD Expansion to 26 MGD	0%	14%	14%	$16,800,000	$120,000,000
20	CCWRP 2.5 MGD MBR Plant	4%	73%	69%	$82,034,726	$118,800,000
21	Clear Creek Interceptor (27"- 42")	0%	49%	49%	$44,055,019	$89,440,000
22	Roark Branch Interceptor Oversize (27" - 42")	5%	35%	30%	$829,989	$2,810,200
23	Cole Ranch Interceptor Oversize (36"- 42")	0%	100%	100%	$4,809,000	$4,809,000
24	North Cole Ranch Sewer Line (36")	0%	60%	60%	$4,377,794	$7,310,000
25	Legends Sewer Line (12"- 15")	0%	100%	100%	$32,080,000	$32,080,000
26	Robson Ranch Sewer Line (12")	27%	30%	4%	$112,722	$3,086,000
27	Robson West Lift Station, Force Main, and Sewer Line Oversize	15%	26%	11%	$1,438,690	$13,079,000
28	Milam Creek Sewer Line (18"- 24")	19%	46%	26%	$3,630,769	$13,750,000
29	Denton ICC Sewer Line Oversize (18")	0%	10%	10%	$33,899	$324,720
30	Ganzer Rd Sewer Line (12")	49%	95%	46%	$1,167,692	$2,530,000
31	North Masch Sewer Line (12"- 18")	11%	45%	34%	$2,965,667	$8,680,000
32	Masch Sewer Line Replacement (15"- 18")	32%	86%	54%	$3,003,678	$5,560,000
33	North Loop 288 Sewer Line (12"- 15")	0%	22%	22%	$1,750,452	$7,980,000
34	Mingo Road Sewer Line (12")	0%	59%	59%	$2,580,649	$4,380,000
35	Lakeview Interceptor Replacement (24" - 30")	7%	24%	17%	$399,875	$2,367,000
36	Lakeview South Lift Station	0%	26%	26%	$2,191,051	$8,300,000

Project #	Description	2023 Required Capacity *(Percent Utilization)*	2033 Required Capacity *(Percent Utilization)*	2023-2033 Required Capacity *(Percent Utilization)*	2033 Projected Recoverable Cost	Total Project Cost
37	Grissom Sewer Line (15")	5%	36%	31%	$927,382	$2,960,000
38	Lakeview Ranch Sewer Line (24")	6%	23%	17%	$1,009,502	$5,820,000
39	United Copper Sewer Line (12"-24")	6%	18%	13%	$1,193,632	$9,500,000
40	Dry Fork Sewer Line (18")	73%	90%	17%	$627,467	$3,620,000
41	Hickory Creek Peak Flow Basin Improvements	0%	100%	100%	$23,400,000	$23,400,000
42	Cooper Creek Sewer Line Replacement (18"- 24")	60%	64%	4%	$147,710	$3,590,000
43	Pecan Creek Interceptor Replacement (36")	42%	77%	35%	$1,349,783	$3,890,000
44	Beaver Creek Sewer Line (12")	49%	95%	46%	$1,343,077	$2,910,000
45	North Milam Sewer Line (12"- 18")	0%	53%	53%	$3,667,912	$6,890,000
46	HCWRP 10.0 MGD MBR Plant	15%	73%	58%	$260,188,000	$448,600,000
47	Stark Farms Sewer Line (8"- 12")	7%	80%	73%	$978,783	$1,340,000
48	C Wolfe Road Interceptor (36")	0%	57%	57%	$10,282,047	$18,120,000
49	TN Skiles Road Interceptor (36")	0%	61%	61%	$8,855,122	$14,420,000
50	Ponder Sewer Line (12"- 15")	0%	45%	45%	$2,331,446	$5,230,000
51	South Hickory Creek Sewer Line (24")	0%	86%	86%	$19,345,135	$22,580,000
52	Wolf Branch Sewer Line (12"- 21")	0%	52%	52%	$9,466,267	$18,040,000
53	Sanctuary Sewer Line (12"- 18")	0%	99%	99%	$4,217,059	$4,280,000
54	Meadows Sewer Line (12")	0%	100%	100%	$2,130,000	$2,130,000
55	Cole Ranch West Sewer Line Oversize (15"- 18")	0%	40%	40%	$116,714	$294,000
56	East Clear Creek Sewer Line (8"- 15")	0%	52%	52%	$1,633,769	$3,170,000
57	East Milam Sewer Line (12"- 15")	0%	47%	47%	$1,358,994	$2,920,000
58	Stella Hills Lift Station, Force Main, and Onsite Sewer Line Oversize	11%	24%	13%	$639,957	$4,934,730
59	East McKinney Street Sewer Line (15" - 21")	0%	15%	15%	$473,921	$3,180,000
60	North Trinity Lift Station and Force Main Oversize	0%	15%	15%	$873,029	$5,858,000
61	North Trinity Road Sewer Line Oversize (15")	0%	15%	15%	$78,540	$527,000
62	Ponder Farms/Webster Meadows Lift Station and Force Main	0%	100%	100%	$11,500,000	$11,500,000
63	Ponder-Farms/Webster-Meadows Interceptor (15"-21")	0%	100%	100%	$13,000,000	$13,000,000
63	Wastewater Impact Fees	0%	100%	100%	$100,000	$100,000
				Proposed Subtotal	**$597,830,840**	**$1,144,349,650**
				Total	**$636,342,861**	**$1,222,435,449**

Clear Creek WRP
20 WRP

North Trinity Lift Station
60 Wet Well Force Main

Lakeview South Lift Station
36 Wet Well Force Main

Pecan Creek WRP
11 WRP
18 WRP
19 WRP

Stella Hills Lift Station
58 Wet Well Force Main

Hickory Creek Peak Flow Basin
17
41

Hickory Creek WRP
46 WRP

Robson West Lift Station
27 Wet Well Force Main

Project Number	Project Name
18	PCWRP Headworks Facility
19	PCWRP 5.0 MGD Expansion to 26 MGD
20	CCWRP 2.5 MGD MBR Plant
21	Clear Creek Interceptor (27"- 42")
22	Roark Branch Interceptor Oversize (27" - 42")
23	Cole Ranch Interceptor Oversize (36"- 42")
24	North Cole Ranch Sewer Line (36")
25	Legends Sewer Line (12"- 15")
26	Robson Ranch Sewer Line (12")
27	Robson West Lift Station, Force Main, and Sewer Line Oversize
28	Milam Creek Sewer Line (18"- 24")
29	Denton ICC Sewer Line Oversize (18")
30	Ganzer Rd Sewer Line (12")
31	North Masch Sewer Line (12"- 18")
32	Masch Sewer Line Replacement (15"- 18")
33	North Loop 288 Sewer Line (12"- 15")
34	Mingo Road Sewer Line (12")
35	Lakeview Interceptor Replacement (24" - 30")
36	Lakeview South Lift Station
37	Grissom Sewer Line (15")
38	Lakeview Ranch Sewer Line (24")
39	United Copper Sewer Line (12"-24")
40	Dry Fork Sewer Line (18")
41	Hickory Creek Peak Flow Basin Improvements
42	Cooper Creek Sewer Line Replacement (18"- 24")
43	Pecan Creek Interceptor Replacement (36")
44	Beaver Creek Sewer Line (12")
45	North Milam Sewer Line (12"- 18")
46	HCWRP 10.0 MGD MBR Plant
47	Stark Farms Sewer Line (8"- 12")
48	C Wolfe Road Interceptor (36")
49	TN Skiles Road Interceptor (36")
50	Ponder Sewer Line (12"- 15")
51	South Hickory Creek Sewer Line (24")
52	Wolf Branch Sewer Line (12"- 21")
53	Sanctuary Sewer Line (12"- 18")
54	Meadows Sewer Line (12")
55	Cole Ranch West Sewer Line Oversize (15"- 18")
56	East Clear Creek Sewer Line (8"- 15")
57	East Milam Sewer Line (12"- 15")
58	Stella Hills Lift Station, Force Main, and Onsite Sewer Line Oversize
59	East McKinney Sreet Sewer Line (15" - 21")
60	North Trinity Lift Station and Force Main Oversize
61	North Trinity Road Sewer Line Oversize (15")
62	Ponder Farms/Webster Meadows Lift Station and Force Main
63	Ponder Farms/Webster Meadows Interceptor (15" - 21")
64	Wastewater Impact Fees

Project Number	Project Name
1	Cooper Creek Interceptor III
2	Cooper Creek Outfall (Loop 288)
3	Krum Sewer Line
4	Graveyard Branch Interceptor
5	Leatherwood Interceptor
6	Pecan Creek Interceptor (Ph 1 & 2)
7	Pecan Creek Interceptor I
8	Pecan Creek Interceptor II
9	Pecan Creek Interceptor III
10	Pecan Creek Interceptor IV
11	Pecan WRP Expansion (6 MGD)
12	Cooper Creek Interceptor I
13	Cooper Creek Interceptor II
14	Hickory Creek Interceptor I
15	Hickory Creek Interceptor II
16	Hickory Creek Interceptor III
17	Hickory Creek Lift Station Detention Facility

LEGEND

Background Data
- Railroads
- Roads
- Lakes
- Denton City Limits
- Denton Impact Fee Service Area

Existing Infrastructure
- Ex. 8-10-inch Sewer Line*
- Ex. ≥12-inch Sewer Line
- Force Main
- LS Ex. Lift Station**

Impact Fee CIP Projects
- WRP Existing Water Reclamation Facility
- Existing Peak Flow Basin
- Existing Sewer Line
- WRP Proposed Water Reclamation Facility
- LS Proposed Lift Station
- Proposed Force Main
- Proposed Sewer Line
- Hunter-Cole Sewer Line

*Existing sewer lines smaller than 8" are not shown.
**Existing lift stations planned to be abandoned are not shown.

CITY OF DENTON

CITY OF DENTON
WASTEWATER IMPACT FEE
CAPITAL IMPROVEMENTS PLAN

1 IN = 4,000 FT
January 2025

Kimley»Horn

This map product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

EXHIBIT
3.1
470

3.4 WASTEWATER IMPACT FEE CALCULATION

SERVICE UNITS

Chapter 395 of the Local Government Code defines a service unit as follows, "Service Unit means a standardized measure of consumption attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years."

SERVICE UNIT CALCULATION

A single service unit for Denton's water Impact Fees is the 5/8-inch x 3/4-inch meter. A service unit is the wastewater flow associated with water demand of accommodated by a 5/8-inch x 3/4-inch meter, which is typically used by a single-family residence. All meters greater than 5/8-inch x 3/4-inch have a service unit multiplier determined by the ratio of each larger meter's capacity to the capacity of the 5/8-inch x 3/4-inch meter. The current service unit multipliers (service units/meter) are shown in **Table 3.2**.

Table 3.2 Meter Capacity Ratios

Meter Size	Service Units/ Meter[1]
5/8"x3/4"	1
1"	2.5
1-1/2"	5
2"	8
3"	22.5
4"	50
6"	100
8"	200
10"	325

Based on the City's 10-year growth projections and the resulting wastewater flow in relation to water demand projections, wastewater service will be required for an additional **52,276** Service Units by the year 2034 as shown in **Table 3.3**.

The City's existing wastewater system is a single service area because it treats wastewater at a single treatment facility. Over the next 10-years the City will construct two additional treatment facilities to accommodate growth and will therefore divide into three service areas (Pecan Creek, Hickory Creek, Clear Creek as indicated in the Land Use Assumptions chapter). The calculated 10-year additional services units has been distributed across the three services areas based on projected growth and its associated wastewater flow projections as shown in **Table 3.3**.

Table 3.3 10-year Additional Service Units by Service Area

Year		Pecan Creek	Hickory Creek	Clear Creek	Total
2024	Service Units	59,597	21,283	1,216	82,096
2034	Service Units	67,213	56,695	10,464	134,372
10-Year Service Units		**7,616**	**35,412**	**9,248**	**52,276**

3.5 PLAN FOR AWARDING IMPACT FEE CREDIT

Impact fee law allows for a credit calculation to credit back the utility revenues or ad valorem taxes that are allocated for paying a portion of future capital improvements. The intent of this credit is to prevent the City from double charging development for future capital improvements via Impact Fees and utility rates. If the City chooses not to do a financial analysis to determine the credit value, they are required by law to reduce the recoverable cost by 50 percent. The City chose to perform a financial analysis.

MAXIMUM ASSESSABLE IMPACT FEE DETERMINATION

The impact fee determination method employed by NewGen Strategies and Solutions, LLC is developed through a financial based model that recognizes the requirements of Chapter 395, including the recognition of cash and/or debt financing, interest earnings, fund balances, and applicable credits associated with the use of utility revenues. In developing the components of the financial model, assumptions must be made that include the following:

- Financing
    - Method of financing (i.e. cash or debt financing)
    - The level of financing (e.g. 100% debt)
    - Cost of financing
    - Debt repayment structure

- Timing and Level of Expenditures and Revenues
- Interest Earnings
- Annual Service Unit Growth
- Portion of Utility Revenue Used to Fund Impact Fee Wastewater Improvements

While the assumptions employed in determining the maximum assessable impact fee are a reasonable basis for forecasting, these assumptions may not reflect actual future conditions. To address this, Chapter 395 requires the monitoring of Impact Fees through the Capital Improvement Advisory Committee (CIAC) who can then update or revise Impact Fees to reflect the actual implementation of the impact fee program.

FINANCING

Once the cost of capacity added that is attributable to growth is determined, a City must decide how the cost will be financed: cash and/or debt. Actual costs of capital for any previously funded projects, whether partially or fully funded, are also included.

Based on discussions with City staff, it is assumed that the City will debt finance the future project costs. For debt financing, the cost of financing is based on the City's Financial Advisor's estimates of future debt costs for bonds issued with 30-year terms as shown in the Wastewater Financial Analysis Appendix of this report. Debt service payments for each future debt issue are assumed to remain constant over the issue's term.

TIMING AND LEVEL OF EXPENDITURES AND REVENUES

The exact timing and annual level of cash capital expenditures over the forecast period is currently indeterminate, therefore it is assumed that capital expenditures will occur in amounts over the 10-year program period. It is also assumed that the City will expand debt proceeds over a 2-year timeframe for debt-financed capital projects. For the calculation of the maximum assessable impact fee, debt is assumed to be issued in equal amounts for each year. In order to recognize the full amount of debt to be issued for the cost of capacity added that is attributable to growth during the 10-year period, a portion of years eight, nine, and ten are assumed to be spend in the final three years.

INTEREST EARNINGS

While debt is issued over 30-year terms and Impact Fees developed are to be charged over a 10-year period, a sufficient fund balance must be generated to meet the future debt service obligations. Fund balances were identified for each service area as a potential source for the current Impact Fee CIP. Because of the generation of the fund balance, excess monies will be available for interest earnings.

Chapter 395 states that interest earnings are funds of the impact fee account and are to be held to the same restrictions as impact fee revenues. In order to recognize that interest earnings are used to fund only impact fee eligible improvements, interest earnings are credited against the costs recoverable through

Impact Fees. Chapter 395 does not require the upfront recognition of interest earnings in the impact fee determination. To acknowledge the time value of the impact fee payer's monies, interest earnings have been credited. For this analysis, interest is assumed to be earned at an annual rate of 1.89% per 10-year historical average.

Annual Service Unit Growth

The timing and annual level of service unit growth over the 10-year program period is currently indeterminate, therefore it is assumed that service unit growth will be consistent over the 10-year forecast.

Portion of Utility Revenue Used to Fund Impact Fee Wastewater Improvements

Credit for the portion of ad valorem tax and/or utility service revenues generated by new service units during the program period are used for payment of the improvements included in the Wastewater Impact Fee CIP. The credit is not a determination to recognize the total utility revenue generated by new service units but is a credit for the portion of utility revenue that is used for payment of the improvements included in the Wastewater Impact Fee CIP. Theoretically, the credit determination could be zero ($0) if the City does not utilize any of the new service unit utility revenue to fund improvements that are included in the Wastewater Impact Fee CIP.

To be conservative and recognize potential cash flow issues that can occur with the funding of major capital improvement projects, it is assumed that the debt-funded projects (100% of the improvement costs included in the Wastewater Impact Fee CIP but not otherwise funded) could potentially be funded by utility revenue.

When an impact fee program is in place, payments made through utility revenue will consist of revenue generated by new service units in the defined service area and existing service units throughout the City; therefore, the portion attributable to the new service units in the defined service area must be isolated. The credit calculation illustrating how the credit is isolated is shown in the Wastewater Financial Analysis Appendix of this report.

3.6 MAXIMUM ASSESSABLE IMPACT FEE

A breakdown of the 10-year recoverable costs and the associated impact fee per service unit by service area is as follows:

Table 3.4 Pecan Creek Service - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$69,883,844
Financing Costs	$34,160,000
Interest Earnings	($13,234,573)
Pre Credit Recoverable Cost for Impact Fee	$90,809,271
Credit for Utility Revenues	($2,347,057)
Maximum Recoverable Cost for Impact Fee	**$88,462,214**

(1) Per NewGen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$88,462,214}{7,616}$$

$$\text{Impact fee per service units} = \$11,615$$

Therefore, the maximum assessable wastewater impact fee for Pecan Creek Service Area is **$11,615.**

Table 3.5 Hickory Creek Service Area - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$426,546,589
Financing Costs	$190,088,853
Interest Earnings	($124,870,363)
Pre Credit Recoverable Cost for Impact Fee	$491,765,079
Credit for Utility Revenues	($38,817,845)
Maximum Recoverable Cost for Impact Fee	**$452,947,234**

(1) Per NewGen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$452,947,234}{35,412}$$

$$\text{Impact fee per service units} = \$12,791$$

Therefore, the maximum assessable wastewater impact fee for Hickory Creek Service Area is **$12,791.**

Table 3.6 Clear Creek Service Area - 10-Year Recoverable Cost Breakdown

Recoverable Impact Fee CIP Costs	$139,912,428
Financing Costs	$47,194,860
Interest Earnings	($17,484,683)
Pre Credit Recoverable Cost for Impact Fee	$169,622,605
Credit for Utility Revenues	($3,934,480)
Maximum Recoverable Cost for Impact Fee	**$165,688,125**

(1) Per NewGen Strategies and Solutions, LLC financial analysis, See Appendix A.

$$\text{Impact fee per service units} = \frac{\text{10-year recoverable costs}}{\text{10-year additional service units}}$$

$$\text{Impact fee per service units} = \frac{\$165,688,125}{9,248}$$

$$\text{Impact fee per service units} = \$17,916$$

Therefore, the maximum assessable wastewater impact fee for Clear Creek is **$17,916**.

For a development that requires a different size meter, a service unit equivalent is established at a multiplier based on its capacity with respect to the 5/8-inch x 3/4-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 2.10**).

Table 3.7 Maximum Assessable Wastewater Impact Fee by Service Area and Meter Size

Meter Size	Service Unit Equivalent	Pecan Creek Maximum Assessable Water Impact Fee	Hickory Creek Maximum Assessable Water Impact Fee	Clear Creek Maximum Assessable Water Impact Fee
5/8"x3/4"	1	$11,615	$12,791	$17,916
1"	2.5	$29,038	$31,977	$44,790
1-1/2"	5	$58,075	$63,954	$89,581
2"	8	$92,920	$102,326	$143,329
3"	22.5	$261,338	$287,793	$403,112
4"	50	$580,750	$639,539	$895,805
6"	100	$1,161,500	$1,279,078	$1,791,610
8"	200	$2,323,000	$2,558,157	$3,583,221
10"	325	$3,774,875	$4,157,005	$5,822,734

APPENDIX

WATER FINANCIAL ANALYSIS

City of Denton - 2024 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1A

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	1,616
3	Total Cost of the Water Impact Fee CIP	$ 10,654,473
4	Recoverable Cost for Impact Fee Planning Period	$ 2,454,148
5	Percent Recoverable for Water Impact Fee Planning Period (Line 4 / Line 3)	23.03%
6	Financing Costs (From Financial Analysis)	$ 1,106,314
7	Interest Earnings (From Financial Analysis)	$ (604,035)
8	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 2,956,427
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 1,830
10	Credit for Utility Revenues (From Financial Analysis)	$ (15,105)
11	Recoverable Cost of Water Impact Fee and Financing (Line 8 + Line 10)	$ 2,941,322
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 1,820

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 1A

Recoverable Impact Fee CIP Costs	$	2,454,148	Table 2.1
Financing Cost		1,106,314	See Detail Below
Existing Fund Balance		-	Water Appendices - page 1
Interest Earnings		(604,035)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	2,956,427	Sum of Above
Credit for Utility Revenues		(15,105)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**2,941,322**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	2,231,971	Water Appendices - page 2
Existing Annual Debt Service		1,269,285	Water Appendices - page 2
Principal Component (New and Existing Debt)		(2,394,943)	Water Appendices - page 1
Financing Costs	$	1,106,314	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1A

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	162
Existing Fund Balance[3]	$ -

Portion of Projects Funded by Existing Debt[4]	$ 850,650
Non-debt Funded Project Cost[5]	59,206
New Project Cost Funded Through New Debt[6]	1,544,292
Total Recoverable Project Cost[7]	$ 2,454,148

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 154,429	3.80%	20
2	154,429	3.80%	20
3	154,429	3.80%	20
4	154,429	3.80%	20
5	154,429	3.80%	20
6	154,429	3.80%	20
7	154,429	3.80%	20
8	154,429	3.80%	20
9	154,429	3.80%	20
10	154,429	3.80%	20
Total	$ 1,544,292		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 83,135
2	160,350
3	160,350
4	160,350
5	160,350
6	160,350
7	160,350
8	160,350
9	160,350
10	237,564
Total	$ 1,603,498

(1) Per discussions with City Staff
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 1A

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 11,160	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 11,160
2	11,160	11,160	-	-	-	-	-	-	-	-	22,320
3	11,160	11,160	11,160	-	-	-	-	-	-	-	33,480
4	11,160	11,160	11,160	11,160	-	-	-	-	-	-	44,639
5	11,160	11,160	11,160	11,160	11,160	-	-	-	-	-	55,799
6	11,160	11,160	11,160	11,160	11,160	11,160	-	-	-	-	66,959
7	11,160	11,160	11,160	11,160	11,160	11,160	11,160	-	-	-	78,119
8	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	-	-	89,279
9	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	-	100,439
10	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
11	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
12	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
13	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
14	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
15	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
16	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
17	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
18	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
19	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
20	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	111,599
21	-	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	100,439
22	-	-	11,160	11,160	11,160	11,160	11,160	11,160	11,160	11,160	89,279
23	-	-	-	11,160	11,160	11,160	11,160	11,160	11,160	11,160	78,119
24	-	-	-	-	11,160	11,160	11,160	11,160	11,160	11,160	66,959
25	-	-	-	-	-	11,160	11,160	11,160	11,160	11,160	55,799
26	-	-	-	-	-	-	11,160	11,160	11,160	11,160	44,639
27	-	-	-	-	-	-	-	11,160	11,160	11,160	33,480
28	-	-	-	-	-	-	-	-	11,160	11,160	22,320
29	-	-	-	-	-	-	-	-	-	11,160	11,160
	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 223,197	$ 2,231,971

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 11,160	$ 83,135	$ (154,429)	$ 63,464	$ (147)	$ 3,183
2	22,320	160,350	(154,429)	63,464	(336)	91,368
3	33,480	160,350	(154,429)	63,464	(569)	102,295
4	44,639	160,350	(154,429)	63,464	(844)	113,180
5	55,799	160,350	(154,429)	63,464	(1,162)	124,022
6	66,959	160,350	(154,429)	63,464	(1,522)	134,822
7	78,119	160,350	(154,429)	63,464	(1,924)	145,580
8	89,279	160,350	(154,429)	63,464	(2,368)	156,296
9	100,439	160,350	(154,429)	63,464	(2,853)	166,971
10	111,599	237,564	(154,429)	63,464	(3,379)	254,819
11	111,599	-	-	63,464	-	175,063
12	111,599	-	-	63,464	-	175,063
13	111,599	-	-	63,464	-	175,063
14	111,599	-	-	63,464	-	175,063
15	111,599	-	-	63,464	-	175,063
16	111,599	-	-	63,464	-	175,063
17	111,599	-	-	63,464	-	175,063
18	111,599	-	-	63,464	-	175,063
19	111,599	-	-	63,464	-	175,063
20	111,599	-	-	63,464	-	175,063
21	100,439	-	-	-	-	100,439
22	89,279	-	-	-	-	89,279
23	78,119	-	-	-	-	78,119
24	66,959	-	-	-	-	66,959
25	55,799	-	-	-	-	55,799
26	44,639	-	-	-	-	44,639
27	33,480	-	-	-	-	33,480
28	22,320	-	-	-	-	22,320
29	11,160	-	-	-	-	11,160
	$ 2,231,971	$ 1,603,498	$ (1,544,292)	$ 1,269,285	$ (15,105)	$ 3,545,357

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 1A

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ -
1	$ 1,820	162	$ 294,132	$ 3,183	$ 290,949	$ 3,637	294,586
2	1,820	162	294,132	91,368	202,764	9,899	507,249
3	1,820	162	294,132	102,295	191,837	15,079	714,165
4	1,820	162	294,132	113,180	180,952	20,116	915,234
5	1,820	162	294,132	124,022	170,110	25,007	1,110,351
6	1,820	162	294,132	134,822	159,311	29,750	1,299,412
7	1,820	162	294,132	145,580	148,553	34,342	1,482,307
8	1,820	162	294,132	156,296	137,836	38,781	1,658,924
9	1,820	162	294,132	166,971	127,162	43,063	1,829,148
10	1,820	162	294,132	254,819	39,313	46,220	1,914,681
11	-	-	-	175,063	(175,063)	45,679	1,785,297
12	-	-	-	175,063	(175,063)	42,444	1,652,679
13	-	-	-	175,063	(175,063)	39,129	1,516,744
14	-	-	-	175,063	(175,063)	35,730	1,377,412
15	-	-	-	175,063	(175,063)	32,247	1,234,596
16	-	-	-	175,063	(175,063)	28,677	1,088,210
17	-	-	-	175,063	(175,063)	25,017	938,164
18	-	-	-	175,063	(175,063)	21,266	784,367
19	-	-	-	175,063	(175,063)	17,421	626,725
20	-	-	-	175,063	(175,063)	13,480	465,142
21	-	-	-	100,439	(100,439)	10,373	375,077
22	-	-	-	89,279	(89,279)	8,261	294,059
23	-	-	-	78,119	(78,119)	6,375	222,315
24	-	-	-	66,959	(66,959)	4,721	160,076
25	-	-	-	55,799	(55,799)	3,304	107,582
26	-	-	-	44,639	(44,639)	2,132	65,074
27	-	-	-	33,480	(33,480)	1,208	32,802
28	-	-	-	22,320	(22,320)	541	11,024
29	-	-	-	11,160	(11,160)	136	-
			2,941,322	3,545,357		604,035	

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 1A

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	162	327	$ 3,183	$ 6,435
2	28	1.9721	1.0000	162	319	91,368	180,192
3	27	1.9240	1.0000	162	311	102,295	196,821
4	26	1.8771	1.0000	162	303	113,180	212,452
5	25	1.8313	1.0000	162	296	124,022	227,126
6	24	1.7867	1.0000	162	289	134,822	240,882
7	23	1.7431	1.0000	162	282	145,580	253,759
8	22	1.7006	1.0000	162	275	156,296	265,793
9	21	1.6591	1.0000	162	268	166,971	277,021
10	20	1.6186	1.0000	162	262	254,819	412,458
11	19	1.5792	1.0000	-	-	175,063	276,451
12	18	1.5406	1.0000	-	-	175,063	269,709
13	17	1.5031	1.0000	-	-	175,063	263,130
14	16	1.4664	1.0000	-	-	175,063	256,712
15	15	1.4306	1.0000	-	-	175,063	250,451
16	14	1.3957	1.0000	-	-	175,063	244,343
17	13	1.3617	1.0000	-	-	175,063	238,383
18	12	1.3285	1.0000	-	-	175,063	232,569
19	11	1.2961	1.0000	-	-	175,063	226,896
20	10	1.2645	1.0000	-	-	175,063	221,362
21	9	1.2336	1.0000	-	-	100,439	123,904
22	8	1.2035	1.0000	-	-	89,279	107,451
23	7	1.1742	1.0000	-	-	78,119	91,727
24	6	1.1456	1.0000	-	-	66,959	76,705
25	5	1.1176	1.0000	-	-	55,799	62,362
26	4	1.0904	1.0000	-	-	44,639	48,673
27	3	1.0638	1.0000	-	-	33,480	35,614
28	2	1.0378	1.0000	-	-	22,320	23,164
29	1	1.0125	1.0000	-	-	11,160	11,299
					2,930		$ 5,333,843

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	5,333,843
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	5,333,843
Total Escalated Service Units		2,930
Impact Fee for Water Service Area	**$**	**1,820**

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 1A

Impact Fee Project Name[1]	Cost In Service Area [1]	Percent in Demand	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 4,693,949	10%	$ 469,395	$ 469,395	$ -	$ -	$ 469,395
54" Finished Water Transmission Line	293,637	57%	167,401	140,694	-	26,706	167,401
Loop 288 Water Main - Sherman to UNT	133,552	65%	86,809	86,809	-	-	86,809
Loop 288 Water Main - Sherman to Hwy 380	183,135	0%	-	-	-	-	-
North-South Water Line Phase I	314,318	10%	31,432	31,432	-	-	31,432
Roselawn Elevated Storage Tank	192,877	27%	51,434	51,434	-	-	51,434
North-South Water Line	565,815	10%	56,581	37,230	-	19,352	56,581
Locust Water Line Upsize	1,281,776	3%	36,622	31,251	-	5,371	36,622
Hickory Water Line Upsize	498,444	1%	7,121	2,406	-	4,714	7,121
42" Jim Christal EST Transmission Main	377,981	81%	307,109	-	307,109	-	307,109
24/48" Loop 288 Transmission Main	2,115,928	58%	1,237,183	-	1,237,183	-	1,237,183
Water Impact Fee Report Preparation	3,062	100%	3,062	-	-	3,062	3,062
Total	$ 10,654,473		$ 2,454,148	$ 850,650	$ 1,544,292	$ 59,206	$ 2,454,148

(1) Derived from Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 1A

(2) Per discussions with City staff and City files

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 1A

2024 Service Units[1]	82,096	
Ten Year Growth in Service Units[2]	1,616	
	10	years
Annual Growth in Service Units	162	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$ 74,624	$ 85,784	$ 96,944	$ 108,104	$ 119,264	$ 130,423	$ 141,583	$ 152,743	$ 163,903	$ 175,063	$ 1,248,435
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 74,624	$ 85,784	$ 96,944	$ 108,104	$ 119,264	$ 130,423	$ 141,583	$ 152,743	$ 163,903	$ 175,063	$ 1,248,435
Current Service Units	82,258	82,419	82,581	82,742	82,904	83,066	83,227	83,389	83,550	83,712	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 0.91	$ 1.04	$ 1.17	$ 1.31	$ 1.44	$ 1.57	$ 1.70	$ 1.83	$ 1.96	$ 2.09	
Annual Growth in Service Units (Cumulative)	162	323	485	646	808	970	1,131	1,293	1,454	1,616	
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 147	$ 336	$ 569	$ 844	$ 1,162	$ 1,522	$ 1,924	$ 2,368	$ 2,853	$ 3,379	$ 15,105

Credit Amount	**$**	**15,105**

(1) Derived from Table 2.5 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

City of Denton - 2024 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1B

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	29,427
3	Total Cost of the Water Impact Fee CIP	$ 573,022,860
4	Recoverable Cost for Impact Fee Planning Period	$ 292,309,445
5	Percent Recoverable for Water Impact Fee Planning Period (Line 4 / Line 3)	51.01%
6	Financing Costs (From Financial Analysis)	$ 129,102,582
7	Interest Earnings (From Financial Analysis)	$ (81,750,244)
8	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 339,661,784
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 11,542
10	Credit for Utility Revenues (From Financial Analysis)	$ (23,479,052)
11	Recoverable Cost of Water Impact Fee and Financing (Line 8 + Line 10)	$ 316,182,731
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 10,745

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 1B

Recoverable Impact Fee CIP Costs	$	292,309,445	Table 2.1
Financing Cost		129,102,582	See Detail Below
Existing Fund Balance		-	Water Appendices - page 1
Interest Earnings		(81,750,244)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	339,661,784	Sum of Above
Credit for Utility Revenues		(23,479,052)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**316,182,731**	Total Cost of the Water Impact Fee CIP

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived
one-half of the new impact fee project costs will be funded through new debt issues (Page 7 of
Appendix E -). Interest costs are derived from forecasted debt issues.
from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	376,804,966	Water Appendices - page 2
Existing Annual Debt Service		39,438,370	Water Appendices - page 2
Principal Component (New and Existing Debt)		(287,140,753)	Water Appendices - page 1
Financing Costs	$	129,102,582	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018
Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended
(i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held
to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings
are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated
by new service units during the ten-year timeframe that are used to fund impact fee eligible projects
for which the new service units were charged an impact fee. The intent of this amendment is to avoid
double-charging the new service units for impact fee capital improvements. The credit recognizes utility
revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of
Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1B

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	2,943
Existing Fund Balance[3]	$ -
Total Cost of the Water Impact Fee CIP	
Portion of Projects Funded by Existing Debt[4]	$ 26,430,833
Recoverable	5,168,692
New Project Cost Funded Through New Debt[6]	260,709,921
Total Recoverable Project Cost[7]	$ 292,309,445

II. New Debt Issues Assumptions

	Principal[8]	Interest[9]	Term
1	$ 26,070,992	3.80%	20
2	26,070,992	3.80%	20
3	26,070,992	3.80%	20
4	26,070,992	3.80%	20
5	26,070,992	3.80%	20
6	26,070,992	3.80%	20
7	26,070,992	3.80%	20
8	26,070,992	3.80%	20
9	26,070,992	3.80%	20
10	26,070,992	3.80%	20
Total	$ 260,709,921		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 13,552,365
2	26,587,861
3	26,587,861
4	26,587,861
5	26,587,861
6	26,587,861
7	26,587,861
8	26,587,861
9	26,587,861
10	39,623,357
Total	$ 265,878,613

(1) Per discussions with City Staff
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 1B

I. New Debt Service Detail

Year	Series of the Water Imp	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,884,025
2	1,884,025	1,884,025	-	-	-	-	-	-	-	-	3,768,050
3	1,884,025	1,884,025	1,884,025	-	-	-	-	-	-	-	5,652,074
4	1,884,025	1,884,025	1,884,025	1,884,025	-	-	-	-	-	-	7,536,099
5	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	-	-	-	-	-	9,420,124
6	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	-	-	-	-	11,304,149
7	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	-	-	-	13,188,174
8	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	-	-	15,072,199
9	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	-	16,956,223
10	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
11	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
12	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
13	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
14	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
15	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
16	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
17	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
18	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
19	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
20	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	18,840,248
21	-	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	16,956,223
22	-	-	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	15,072,199
23	-	-	-	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	13,188,174
24	-	-	-	-	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	11,304,149
25	-	-	-	-	-	1,884,025	1,884,025	1,884,025	1,884,025	1,884,025	9,420,124
26	-	-	-	-	-	-	1,884,025	1,884,025	1,884,025	1,884,025	7,536,099
27	-	-	-	-	-	-	-	1,884,025	1,884,025	1,884,025	5,652,074
28	-	-	-	-	-	-	-	-	1,884,025	1,884,025	3,768,050
29	-	-	-	-	-	-	-	-	-	1,884,025	1,884,025
	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 37,680,497	$ 376,804,966

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 1,884,025	$ 13,552,365	$ (26,070,992)	$ 1,971,918	$ (133,433)	$ (8,796,117)
2	3,768,050	26,587,861	(26,070,992)	1,971,918	(383,972)	5,872,866
3	5,652,074	26,587,861	(26,070,992)	1,971,918	(740,244)	7,400,618
4	7,536,099	26,587,861	(26,070,992)	1,971,918	(1,192,307)	8,832,580
5	9,420,124	26,587,861	(26,070,992)	1,971,918	(1,731,425)	10,177,487
6	11,304,149	26,587,861	(26,070,992)	1,971,918	(2,349,893)	11,443,043
7	13,188,174	26,587,861	(26,070,992)	1,971,918	(3,040,891)	12,636,071
8	15,072,199	26,587,861	(26,070,992)	1,971,918	(3,798,356)	13,762,630
9	16,956,223	26,587,861	(26,070,992)	1,971,918	(4,616,885)	14,828,126
10	18,840,248	39,623,357	(26,070,992)	1,971,918	(5,491,644)	28,872,888
11	18,840,248	-	-	1,971,918	-	20,812,167
12	18,840,248	-	-	1,971,918	-	20,812,167
13	18,840,248	-	-	1,971,918	-	20,812,167
14	18,840,248	-	-	1,971,918	-	20,812,167
15	18,840,248	-	-	1,971,918	-	20,812,167
16	18,840,248	-	-	1,971,918	-	20,812,167
17	18,840,248	-	-	1,971,918	-	20,812,167
18	18,840,248	-	-	1,971,918	-	20,812,167
19	18,840,248	-	-	1,971,918	-	20,812,167
20	18,840,248	-	-	1,971,918	-	20,812,167
21	16,956,223	-	-	-	-	16,956,223
22	15,072,199	-	-	-	-	15,072,199
23	13,188,174	-	-	-	-	13,188,174
24	11,304,149	-	-	-	-	11,304,149
25	9,420,124	-	-	-	-	9,420,124
26	7,536,099	-	-	-	-	7,536,099
27	5,652,074	-	-	-	-	5,652,074
28	3,768,050	-	-	-	-	3,768,050
29	1,884,025	-	-	-	-	1,884,025
	$376,804,966	$265,878,613	$ (260,709,921)	$ 39,438,370	$ (23,479,052)	$397,932,976

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 1B

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial	Total Cost of the Water Impact Fee CIP						$ -
1	$ 10,745	2,943	$ 31,618,273	$ (8,796,117)	$ 40,414,390	$ 505,180	40,919,570
2	10,745	2,943	31,618,273	5,872,866	25,745,407	1,344,807	68,009,784
3	10,745	2,943	31,618,273	7,400,618	24,217,655	2,002,965	94,230,405
4	10,745	2,943	31,618,273	8,832,580	22,785,693	2,640,581	119,656,679
5	10,745	2,943	31,618,273	10,177,487	21,440,786	3,259,427	144,356,893
6	10,745	2,943	31,618,273	11,443,043	20,175,230	3,861,113	168,393,235
7	10,745	2,943	31,618,273	12,636,071	18,982,203	4,447,108	191,822,546
8	10,745	2,943	31,618,273	13,762,630	17,855,643	5,018,759	214,696,949
9	10,745	2,943	31,618,273	14,828,126	16,790,147	5,577,301	237,064,397
10	10,745	2,943	31,618,273	28,872,888	2,745,385	5,960,927	245,770,709
11	-	-	-	20,812,167	(20,812,167)	5,884,116	230,842,658
12	-	-	-	20,812,167	(20,812,167)	5,510,914	215,541,406
13	-	-	-	20,812,167	(20,812,167)	5,128,383	199,857,622
14	-	-	-	20,812,167	(20,812,167)	4,736,288	183,781,744
15	-	-	-	20,812,167	(20,812,167)	4,334,392	167,303,968
16	-	-	-	20,812,167	(20,812,167)	3,922,447	150,414,249
17	-	-	-	20,812,167	(20,812,167)	3,500,204	133,102,286
18	-	-	-	20,812,167	(20,812,167)	3,067,405	115,357,524
19	-	-	-	20,812,167	(20,812,167)	2,623,786	97,169,144
20	-	-	-	20,812,167	(20,812,167)	2,169,077	78,526,053
21	-	-	-	16,956,223	(16,956,223)	1,751,199	63,321,028
22	-	-	-	15,072,199	(15,072,199)	1,394,623	49,643,453
23	-	-	-	13,188,174	(13,188,174)	1,076,234	37,531,513
24	-	-	-	11,304,149	(11,304,149)	796,986	27,024,350
25	-	-	-	9,420,124	(9,420,124)	557,857	18,162,083
26	-	-	-	7,536,099	(7,536,099)	359,851	10,985,835
27	-	-	-	5,652,074	(5,652,074)	203,995	5,537,755
28	-	-	-	3,768,050	(3,768,050)	91,343	1,861,049
29	-	-	-	1,884,025	(1,884,025)	22,976	-
			316,182,731	397,932,976		81,750,244	

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 1B

Year	Number of Years to of the Water Impact	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	2,943	5,949	$ (8,796,117)	$ (17,780,921)
2	28	1.9721	1.0000	2,943	5,804	5,872,866	11,582,158
3	27	1.9240	1.0000	2,943	5,662	7,400,618	14,239,132
4	26	1.8771	1.0000	2,943	5,524	8,832,580	16,579,798
5	25	1.8313	1.0000	2,943	5,389	10,177,487	18,638,388
6	24	1.7867	1.0000	2,943	5,258	11,443,043	20,444,923
7	23	1.7431	1.0000	2,943	5,129	12,636,071	22,025,821
8	22	1.7006	1.0000	2,943	5,004	13,762,630	23,404,407
9	21	1.6591	1.0000	2,943	4,882	14,828,126	24,601,331
10	20	1.6186	1.0000	2,943	4,763	28,872,888	46,734,618
11	19	1.5792	1.0000	-	-	20,812,167	32,865,626
12	18	1.5406	1.0000	-	-	20,812,167	32,064,025
13	17	1.5031	1.0000	-	-	20,812,167	31,281,976
14	16	1.4664	1.0000	-	-	20,812,167	30,519,001
15	15	1.4306	1.0000	-	-	20,812,167	29,774,635
16	14	1.3957	1.0000	-	-	20,812,167	29,048,424
17	13	1.3617	1.0000	-	-	20,812,167	28,339,926
18	12	1.3285	1.0000	-	-	20,812,167	27,648,708
19	11	1.2961	1.0000	-	-	20,812,167	26,974,350
20	10	1.2645	1.0000	-	-	20,812,167	26,316,439
21	9	1.2336	1.0000	-	-	16,956,223	20,917,756
22	8	1.2035	1.0000	-	-	15,072,199	18,140,059
23	7	1.1742	1.0000	-	-	13,188,174	15,485,416
24	6	1.1456	1.0000	-	-	11,304,149	12,949,477
25	5	1.1176	1.0000	-	-	9,420,124	10,528,030
26	4	1.0904	1.0000	-	-	7,536,099	8,216,999
27	3	1.0638	1.0000	-	-	5,652,074	6,012,438
28	2	1.0378	1.0000	-	-	3,768,050	3,910,529
29	1	1.0125	1.0000	-	-	1,884,025	1,907,575
					53,364		$ 573,371,044

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	573,371,044
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	573,371,044
Total Escalated Service Units		53,364
Impact Fee for Water Service Area	**$**	**10,745**

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 1B

Impact Fee Project Name[1]	Cost In Service Area [1]	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 85,485,098	$ 8,548,510	$ 8,548,510	$ -	$ -	$ 8,548,510
54" Finished Water Transmission Line	5,347,650	3,048,662	2,562,290	-	486,372	3,048,662
Loop 288 Water Main - Sherman to UNT	2,432,212	1,580,938	1,580,938	-	-	1,580,938
Loop 288 Water Main - Sherman to Hwy 380	3,335,217	-	-	-	-	-
Northwest Elevated Storage Tank	2,339,988	58,500	58,500	-	-	58,500
Southwest Pump Station	3,400,717	1,700,358	1,700,358	-	-	1,700,358
Southwest PS Oversize Discharge Line (30" to 36")	163,638	66,971	66,971	-	-	66,971
North-South Water Line Phase I	5,724,283	572,429	572,429	-	-	572,429
Roselawn Elevated Storage Tank	3,512,633	936,702	936,702	-	-	936,702
Roselawn Water Line	1,033,884	103,388	103,388	-	-	103,388
Southwest Elevated Storage Tank	3,112,115	77,803	77,803	-	-	77,803
North-South Water Line	10,304,485	1,030,449	678,022	-	352,426	1,030,449
Allred Road / John Paine Road Water Lines	3,411,070	1,169,510	301,745	-	867,765	1,169,510
McKinney Water Line	1,200,600	85,758	63,329	-	22,429	85,758
I-35E Frontage Water Line	1,020,510	72,894	72,894	-	-	72,894
Northwest Booster Pump Station	8,383,268	7,093,535	4,417,073	-	2,676,462	7,093,535
36" Northwest Water Line	8,504,928	5,397,358	4,689,881	-	707,477	5,397,358
Lake Ray Roberts WTP Rerate to 30 MGD	23,008,902	23,008,902	-	23,008,902	-	23,008,902
Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD	112,654,462	112,654,462	-	112,654,462	-	112,654,462
16" Northwest I-35 Frontage Rd Water Line	4,524,000	2,442,960	-	2,442,960	-	2,442,960
16" I-35W/Corbin Water Line	2,722,100	598,862	-	598,862	-	598,862
42" Jim Christal EST Transmission Main	6,883,699	5,593,006	-	5,593,006	-	5,593,006
24/30" West Allred Rd Transmission Main Oversize	426,815	426,815	-	426,815	-	426,815
24" Rosebrook Transmission Main	5,424,349	3,254,609	-	3,254,609	-	3,254,609
24" North/South Transmission Main	13,467,686	11,671,994	-	11,671,994	-	11,671,994
12" Cooper Creek Rd Water Line	14,883,000	4,464,900	-	4,464,900	-	4,464,900
12" N Mayhill Rd Water Line	4,363,000	959,860	-	959,860	-	959,860
12" Duchess Dr Water Line	2,185,000	655,500	-	655,500	-	655,500
12" Shady Oaks Dr Water Line	3,048,000	1,097,280	-	1,097,280	-	1,097,280
12" Stuart Ridge Water Line	4,826,000	2,219,960	-	2,219,960	-	2,219,960
Lake Ray Roberts HSPS Improvements Phase 1	3,180,981	3,180,981	-	3,180,981	-	3,180,981
Lake Ray Roberts WTP 54/60" Transmission Main	67,855,554	39,675,142	-	39,675,142	-	39,675,142
Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD	56,327,231	5,632,723	-	5,632,723	-	5,632,723
24/48" Loop 288 Transmission Main	38,534,776	22,531,284	-	22,531,284	-	22,531,284
Lake Ray Roberts HSPS Improvements Phase 2	3,180,981	1,097,964	-	1,097,964	-	1,097,964
Southwest PS Improvements	5,802,270	1,441,337	-	1,441,337	-	1,441,337
12" Northwest Water Line	13,235,000	3,970,500	-	3,970,500	-	3,970,500
16" Milam Rd Water Line	9,947,000	5,769,260	-	5,769,260	-	5,769,260
16" North Central Water Line	12,188,000	3,656,400	-	3,656,400	-	3,656,400
12" N Locust Rd to E Sherman Dr Water Line	3,959,000	1,187,700	-	1,187,700	-	1,187,700
12" North Cooper Creek Rd Water Line	8,286,000	2,982,960	-	2,982,960	-	2,982,960
12" Swisher Rd Water Line	3,341,000	534,560	-	534,560	-	534,560
Water Impact Fee Report Preparation	55,761	55,761	-	-	55,761	55,761
Total	$ 573,022,860	$ 292,309,445	$ 26,430,833	$ 260,709,921	$ 5,168,692	$ 292,309,445

(1) Derived from Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 1B

(2) Per discussions with City staff and City files

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 1B

2024 Service Units[1]	82,096	
Ten Year Growth in Ser	Total Cost of the Water Impact Fee CIP	29,427
	10	years
Annual Growth in Service Units		2,943

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$ 3,855,943	$ 5,739,968	$ 7,623,993	$ 9,508,018	$11,392,043	$13,276,067	$15,160,092	$17,044,117	$18,928,142	$20,812,167	$ 123,340,551
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 3,855,943	$ 5,739,968	$ 7,623,993	$ 9,508,018	$11,392,043	$13,276,067	$15,160,092	$17,044,117	$18,928,142	$20,812,167	$ 123,340,551
Current Service Units	85,039	87,981	90,924	93,867	96,810	99,752	102,695	105,638	108,581	111,523	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 45.34	$ 65.24	$ 83.85	$ 101.29	$ 117.67	$ 133.09	$ 147.62	$ 161.34	$ 174.32	$ 186.62	
Annual Growth in Service Units (Cumulative)	2,943	5,885	8,828	11,771	14,714	17,656	20,599	23,542	26,485	29,427	
Annual Water Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 133,433	$ 383,972	$ 740,244	$ 1,192,307	$ 1,731,425	$ 2,349,893	$ 3,040,891	$ 3,798,356	$ 4,616,885	$ 5,491,644	$ 23,479,052

Credit Amount	**$**	**23,479,052**

(1) Derived from Table 2.5 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

City of Denton - 2024 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 2

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	21,731
3	Total Cost of the Water Impact Fee CIP	$ 419,386,122
4	Recoverable Cost for Impact Fee Planning Period	$ 240,510,198
5	Percent Recoverable for Water Impact Fee Planning Period (Line 4 / Line 3)	57.35%
6	Financing Costs (From Financial Analysis)	$ 106,564,481
7	Interest Earnings (From Financial Analysis)	$ (68,197,039)
8	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 278,877,639
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 12,833
10	Credit for Utility Revenues (From Financial Analysis)	$ (15,078,415)
11	Recoverable Cost of Water Impact Fee and Financing (Line 8 + Line 10)	$ 263,799,224
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 12,139

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 2

Recoverable Impact Fee CIP Costs	$	240,510,198	Table 2.1
Financing Cost		106,564,481	See Detail Below
Existing Fund Balance		-	Water Appendices - page 1
Interest Earnings		(68,197,039)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	278,877,639	Sum of Above
Credit for Utility Revenues		(15,078,415)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**263,799,224**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	315,826,720	Water Appendices - page 2
Existing Annual Debt Service		28,067,078	Water Appendices - page 2
Principal Component (New and Existing Debt)		(237,329,318)	Water Appendices - page 1
Financing Costs	$	106,564,481	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 2

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	2,173
Existing Fund Balance[3]	$ -

Portion of Projects Funded by Existing Debt[4]	$ 18,810,013
Non-debt Funded Project Cost[5]	3,180,880
New Project Cost Funded Through New Debt[6]	218,519,305
Total Recoverable Project Cost[7]	$ 240,510,198

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 21,851,930	3.80%	20
2	21,851,930	3.80%	20
3	21,851,930	3.80%	20
4	21,851,930	3.80%	20
5	21,851,930	3.80%	20
6	21,851,930	3.80%	20
7	21,851,930	3.80%	20
8	21,851,930	3.80%	20
9	21,851,930	3.80%	20
10	21,851,930	3.80%	20
Total	$ 218,519,305		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 11,244,053
2	22,170,018
3	22,170,018
4	22,170,018
5	22,170,018
6	22,170,018
7	22,170,018
8	22,170,018
9	22,170,018
10	33,095,984
Total	$ 221,700,185

(1) Per discussions with City Staff
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 2

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 1,579,134	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,579,134
2	1,579,134	1,579,134	-	-	-	-	-	-	-	-	3,158,267
3	1,579,134	1,579,134	1,579,134	-	-	-	-	-	-	-	4,737,401
4	1,579,134	1,579,134	1,579,134	1,579,134	-	-	-	-	-	-	6,316,534
5	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	-	-	-	-	-	7,895,668
6	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	-	-	-	-	9,474,802
7	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	-	-	-	11,053,935
8	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	-	-	12,633,069
9	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	-	14,212,202
10	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
11	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
12	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
13	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
14	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
15	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
16	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
17	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
18	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
19	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
20	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	15,791,336
21	-	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	14,212,202
22	-	-	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	12,633,069
23	-	-	-	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	11,053,935
24	-	-	-	-	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	9,474,802
25	-	-	-	-	-	1,579,134	1,579,134	1,579,134	1,579,134	1,579,134	7,895,668
26	-	-	-	-	-	-	1,579,134	1,579,134	1,579,134	1,579,134	6,316,534
27	-	-	-	-	-	-	-	1,579,134	1,579,134	1,579,134	4,737,401
28	-	-	-	-	-	-	-	-	1,579,134	1,579,134	3,158,267
29	-	-	-	-	-	-	-	-	-	1,579,134	1,579,134
	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 31,582,672	$ 315,826,720

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 1,579,134	$ 11,244,053	$ (21,851,930)	$ 1,403,354	$ (76,911)	$ (7,702,300)
2	3,158,267	22,170,018	(21,851,930)	1,403,354	(229,351)	4,650,358
3	4,737,401	22,170,018	(21,851,930)	1,403,354	(451,763)	6,007,079
4	6,316,534	22,170,018	(21,851,930)	1,403,354	(739,124)	7,298,852
5	7,895,668	22,170,018	(21,851,930)	1,403,354	(1,086,878)	8,530,232
6	9,474,802	22,170,018	(21,851,930)	1,403,354	(1,490,887)	9,705,356
7	11,053,935	22,170,018	(21,851,930)	1,403,354	(1,947,382)	10,827,995
8	12,633,069	22,170,018	(21,851,930)	1,403,354	(2,452,924)	11,901,587
9	14,212,202	22,170,018	(21,851,930)	1,403,354	(3,004,367)	12,929,278
10	15,791,336	33,095,984	(21,851,930)	1,403,354	(3,598,828)	24,839,915
11	15,791,336	-	-	1,403,354	-	17,194,690
12	15,791,336	-	-	1,403,354	-	17,194,690
13	15,791,336	-	-	1,403,354	-	17,194,690
14	15,791,336	-	-	1,403,354	-	17,194,690
15	15,791,336	-	-	1,403,354	-	17,194,690
16	15,791,336	-	-	1,403,354	-	17,194,690
17	15,791,336	-	-	1,403,354	-	17,194,690
18	15,791,336	-	-	1,403,354	-	17,194,690
19	15,791,336	-	-	1,403,354	-	17,194,690
20	15,791,336	-	-	1,403,354	-	17,194,690
21	14,212,202	-	-	-	-	14,212,202
22	12,633,069	-	-	-	-	12,633,069
23	11,053,935	-	-	-	-	11,053,935
24	9,474,802	-	-	-	-	9,474,802
25	7,895,668	-	-	-	-	7,895,668
26	6,316,534	-	-	-	-	6,316,534
27	4,737,401	-	-	-	-	4,737,401
28	3,158,267	-	-	-	-	3,158,267
29	1,579,134	-	-	-	-	1,579,134
	$315,826,720	$ 221,700,185	$ (218,519,305)	$ 28,067,078	$ (15,078,415)	$331,996,263

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 2

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ -
1	$ 12,139	2,173	$ 26,379,922	$ (7,702,300)	$ 34,082,223	$ 426,028	34,508,251
2	12,139	2,173	26,379,922	4,650,358	21,729,564	1,134,326	57,372,140
3	12,139	2,173	26,379,922	6,007,079	20,372,843	1,688,964	79,433,947
4	12,139	2,173	26,379,922	7,298,852	19,081,070	2,224,362	100,739,380
5	12,139	2,173	26,379,922	8,530,232	17,849,691	2,741,606	121,330,676
6	12,139	2,173	26,379,922	9,705,356	16,674,566	3,241,699	141,246,941
7	12,139	2,173	26,379,922	10,827,995	15,551,928	3,725,573	160,524,441
8	12,139	2,173	26,379,922	11,901,587	14,478,336	4,194,090	179,196,867
9	12,139	2,173	26,379,922	12,929,278	13,450,645	4,648,055	197,295,567
10	12,139	2,173	26,379,922	24,839,915	1,540,007	4,951,639	203,787,213
11	-	-	-	17,194,690	(17,194,690)	4,879,747	191,472,270
12	-	-	-	17,194,690	(17,194,690)	4,571,873	178,849,453
13	-	-	-	17,194,690	(17,194,690)	4,256,303	165,911,066
14	-	-	-	17,194,690	(17,194,690)	3,932,843	152,649,219
15	-	-	-	17,194,690	(17,194,690)	3,601,297	139,055,826
16	-	-	-	17,194,690	(17,194,690)	3,261,462	125,122,598
17	-	-	-	17,194,690	(17,194,690)	2,913,131	110,841,040
18	-	-	-	17,194,690	(17,194,690)	2,556,092	96,202,442
19	-	-	-	17,194,690	(17,194,690)	2,190,127	81,197,880
20	-	-	-	17,194,690	(17,194,690)	1,815,013	65,818,203
21	-	-	-	14,212,202	(14,212,202)	1,467,803	53,073,803
22	-	-	-	12,633,069	(12,633,069)	1,168,932	41,609,666
23	-	-	-	11,053,935	(11,053,935)	902,067	31,457,799
24	-	-	-	9,474,802	(9,474,802)	668,010	22,651,007
25	-	-	-	7,895,668	(7,895,668)	467,579	15,222,918
26	-	-	-	6,316,534	(6,316,534)	301,616	9,208,000
27	-	-	-	4,737,401	(4,737,401)	170,982	4,641,582
28	-	-	-	3,158,267	(3,158,267)	76,561	1,559,876
29	-	-	-	1,579,134	(1,579,134)	19,258	-
			263,799,224	331,996,263		68,197,039	

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 2

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	2,173	4,393	$ (7,702,300)	$ (15,569,824)
2	28	1.9721	1.0000	2,173	4,286	4,650,358	9,171,193
3	27	1.9240	1.0000	2,173	4,181	6,007,079	11,557,899
4	26	1.8771	1.0000	2,173	4,079	7,298,852	13,700,810
5	25	1.8313	1.0000	2,173	3,980	8,530,232	15,621,712
6	24	1.7867	1.0000	2,173	3,883	9,705,356	17,340,252
7	23	1.7431	1.0000	2,173	3,788	10,827,995	18,874,180
8	22	1.7006	1.0000	2,173	3,695	11,901,587	20,239,560
9	21	1.6591	1.0000	2,173	3,605	12,929,278	21,450,954
10	20	1.6186	1.0000	2,173	3,517	24,839,915	40,206,714
11	19	1.5792	1.0000	-	-	17,194,690	27,153,071
12	18	1.5406	1.0000	-	-	17,194,690	26,490,801
13	17	1.5031	1.0000	-	-	17,194,690	25,844,684
14	16	1.4664	1.0000	-	-	17,194,690	25,214,326
15	15	1.4306	1.0000	-	-	17,194,690	24,599,342
16	14	1.3957	1.0000	-	-	17,194,690	23,999,358
17	13	1.3617	1.0000	-	-	17,194,690	23,414,008
18	12	1.3285	1.0000	-	-	17,194,690	22,842,935
19	11	1.2961	1.0000	-	-	17,194,690	22,285,790
20	10	1.2645	1.0000	-	-	17,194,690	21,742,234
21	9	1.2336	1.0000	-	-	14,212,202	17,532,641
22	8	1.2035	1.0000	-	-	12,633,069	15,204,458
23	7	1.1742	1.0000	-	-	11,053,935	12,979,416
24	6	1.1456	1.0000	-	-	9,474,802	10,853,867
25	5	1.1176	1.0000	-	-	7,895,668	8,824,282
26	4	1.0904	1.0000	-	-	6,316,534	6,887,244
27	3	1.0638	1.0000	-	-	4,737,401	5,039,447
28	2	1.0378	1.0000	-	-	3,158,267	3,277,689
29	1	1.0125	1.0000	-	-	1,579,134	1,598,873
					39,407		$ 478,377,917

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	478,377,917
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	478,377,917
Total Escalated Service Units		39,407
Impact Fee for Water Service Area	**$**	**12,139**

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 2

Impact Fee Project Name[1]	Cost In Service Area [1]	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 63,127,116	$ 6,312,712	$ 6,312,712	$ -	$ -	$ 6,312,712
54" Finished Water Transmission Line	3,949,012	2,251,307	2,251,307	-	-	2,251,307
Loop 288 Water Main - Sherman to UNT	1,796,085	1,167,455	1,167,455	-	-	1,167,455
Southwest Pump Station	2,511,285	1,255,643	1,255,643	-	-	1,255,643
Southwest PS Oversize Discharge Line (30" to 36")	120,839	49,455	49,455	-	-	49,455
Roselawn Elevated Storage Tank	2,593,930	691,715	691,715	-	-	691,715
Roselawn Water Line	763,479	76,348	76,348	-	-	76,348
Southwest Elevated Storage Tank	2,298,165	57,454	57,454	-	-	57,454
Allred Road / John Paine Road Water Lines	2,518,930	863,633	222,826	-	640,807	863,633
Northwest Booster Pump Station	6,190,688	5,238,274	3,261,821	-	1,976,453	5,238,274
36" Northwest Water Line	6,280,528	3,985,720	3,463,278	-	522,442	3,985,720
Lake Ray Roberts WTP Rerate to 30 MGD	16,991,098	16,991,098	-	16,991,098	-	16,991,098
Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD	83,190,538	83,190,538	-	83,190,538	-	83,190,538
42" Jim Christal EST Transmission Main	5,083,320	4,130,197	-	4,130,197	-	4,130,197
24/30" West Allred Rd Transmission Main Oversize	315,185	315,185	-	315,185	-	315,185
16" Ponder Water Line	4,326,000	2,249,520	-	2,249,520	-	2,249,520
24/30" Rosebrook/Sanctuary Transmission Main	59,702,000	37,811,267	-	37,811,267	-	37,811,267
24" Rosebrook Transmission Main	4,005,651	2,403,391	-	2,403,391	-	2,403,391
24" North/South Transmission Main	9,945,314	8,619,272	-	8,619,272	-	8,619,272
12" Old Stoney Rd Water Line	3,824,000	994,240	-	994,240	-	994,240
12" Rosebrook Water Line	4,669,000	1,494,080	-	1,494,080	-	1,494,080
Lake Ray Roberts HSPS Improvements Phase 1	2,349,019	2,349,019	-	2,349,019	-	2,349,019
Lake Ray Roberts WTP 54/60" Transmission Main	50,108,446	29,298,408	-	29,298,408	-	29,298,408
Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD	41,595,269	4,159,527	-	4,159,527	-	4,159,527
24/48" Loop 288 Transmission Main	28,456,296	16,638,396	-	16,638,396	-	16,638,396
Lake Ray Roberts HSPS Improvements Phase 2	2,349,019	810,800	-	810,800	-	810,800
Southwest PS Improvements	4,284,730	1,064,366	-	1,064,366	-	1,064,366
20" Ponder Farms Transmission Main	4,500,000	4,500,000	-	4,500,000	-	4,500,000
12" Webster Meadows Transmission Main	1,500,000	1,500,000	-	1,500,000	-	1,500,000
Water Impact Fee Report Preparation	41,177	41,177	-	-	41,177	41,177
Total	$ 419,386,122	$ 240,510,198	$ 18,810,013	$ 218,519,305	$ 3,180,880	$ 240,510,198

(1) Derived from Table 2.1 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 2

(2) Per discussions with City staff and City files

City of Denton - 2024 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 2

2024 Service Units[1]	82,096	
Ten Year Growth in Service Units[2]	21,731	
	10	years
Annual Growth in Service Units	2,173	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$2,982,488	$4,561,621	$6,140,755	$ 7,719,888	$ 9,299,022	$ 10,878,156	$ 12,457,289	$ 14,036,423	$ 15,615,556	$ 17,194,690	$ 100,885,887
Net Impact Fee Eligible Debt Service Funded by Other Sources	$2,982,488	$4,561,621	$6,140,755	$ 7,719,888	$ 9,299,022	$ 10,878,156	$ 12,457,289	$ 14,036,423	$ 15,615,556	$ 17,194,690	$ 100,885,887
Current Service Units	84,269	86,442	88,615	90,788	92,961	95,134	97,308	99,481	101,654	103,827	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 35.39	$ 52.77	$ 69.30	$ 85.03	$ 100.03	$ 114.35	$ 128.02	$ 141.10	$ 153.62	$ 165.61	
Annual Growth in Service Units (Cumulative)	2,173	4,346	6,519	8,692	10,865	13,038	15,212	17,385	19,558	21,731	
Annual Water Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 76,911	$ 229,351	$ 451,763	$ 739,124	$ 1,086,878	$ 1,490,887	$ 1,947,382	$ 2,452,924	$ 3,004,367	$ 3,598,828	$ 15,078,415

Credit Amount	**$**	**15,078,415**

(1) Derived from Table 2.5 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.6 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

APPENDIX

WASTEWATER FINANCIAL ANALYSIS

City of Denton - 2024 Wastewater Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area Pecan Creek

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	7,616
3	Total Cost of the Wastewater Impact Fee CIP	$ 294,802,074
4	Recoverable Cost for Impact Fee Planning Period	$ 69,883,844
5	Percent Recoverable for Wastewater Impact Fee Planning Period (Line 4 / Line 3)	23.71%
6	Financing Costs (From Financial Analysis)	$ 34,160,000
7	Interest Earnings (From Financial Analysis)	$ (13,234,573)
8	Recoverable Cost of Wastewater Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 90,809,272
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 11,923
10	Credit for Utility Revenues (From Financial Analysis)	$ (2,347,057)
11	Recoverable Cost of Wastewater Impact Fee and Financing (Line 8 + Line 10)	$ 88,462,214
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 11,615

SUMMARY OF WASTEWATER IMPACT FEE DETERMINATION

Wastewater Service Area: Pecan Creek

Recoverable Impact Fee CIP Costs	$	69,883,844	Table 3.1
Financing Cost		34,160,000	See Detail Below
Existing Fund Balance		-	Wastewater Appendices - page 1
Interest Earnings		(13,234,573)	Wastewater Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	90,809,271	Sum of Above
Credit for Utility Revenues		(2,347,057)	Wastewater Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**88,462,214**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	19,678,504	Wastewater Appendices - page 2
Existing Annual Debt Service		84,255,782	Wastewater Appendices - page 2
Principal Component (New and Existing Debt)		(69,774,285)	Wastewater Appendices - page 1
Financing Costs	$	34,160,000	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Wastewater Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Wastewater Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Wastewater Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area: Pecan Creek

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	762
Existing Fund Balance[3]	$ -

Portion of Projects Funded by Existing Debt[4]	$ 56,158,803
Non-debt Funded Project Cost[5]	109,559
New Project Cost Funded Through New Debt[6]	13,615,482
Total Recoverable Project Cost[7]	$ 69,883,844

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 1,361,548	3.80%	20
2	1,361,548	3.80%	20
3	1,361,548	3.80%	20
4	1,361,548	3.80%	20
5	1,361,548	3.80%	20
6	1,361,548	3.80%	20
7	1,361,548	3.80%	20
8	1,361,548	3.80%	20
9	1,361,548	3.80%	20
10	1,361,548	3.80%	20
Total	$ 13,615,482		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 691,730
2	1,372,504
3	1,372,504
4	1,372,504
5	1,372,504
6	1,372,504
7	1,372,504
8	1,372,504
9	1,372,504
10	2,053,278
Total	$ 13,725,041

(1) Per discussions with City Staff
(2) Derived from Table 3.3 10-year Additional Single-Family Equivalent Calculation
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Wastewater Service Area: Pecan Creek

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 98,393	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 98,393
2	98,393	98,393	-	-	-	-	-	-	-	-	196,785
3	98,393	98,393	98,393	-	-	-	-	-	-	-	295,178
4	98,393	98,393	98,393	98,393	-	-	-	-	-	-	393,570
5	98,393	98,393	98,393	98,393	98,393	-	-	-	-	-	491,963
6	98,393	98,393	98,393	98,393	98,393	98,393	-	-	-	-	590,355
7	98,393	98,393	98,393	98,393	98,393	98,393	98,393	-	-	-	688,748
8	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	-	-	787,140
9	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	-	885,533
10	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
11	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
12	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
13	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
14	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
15	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
16	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
17	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
18	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
19	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
20	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	983,925
21	-	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	885,533
22	-	-	98,393	98,393	98,393	98,393	98,393	98,393	98,393	98,393	787,140
23	-	-	-	98,393	98,393	98,393	98,393	98,393	98,393	98,393	688,748
24	-	-	-	-	98,393	98,393	98,393	98,393	98,393	98,393	590,355
25	-	-	-	-	-	98,393	98,393	98,393	98,393	98,393	491,963
26	-	-	-	-	-	-	98,393	98,393	98,393	98,393	393,570
27	-	-	-	-	-	-	-	98,393	98,393	98,393	295,178
28	-	-	-	-	-	-	-	-	98,393	98,393	196,785
29	-	-	-	-	-	-	-	-	-	98,393	98,393
	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 1,967,850	$ 19,678,504

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 98,393	$ 691,730	$ (1,361,548)	$ 4,212,789	$ (39,628)	$ 3,601,735
2	196,785	1,372,504	(1,361,548)	4,212,789	(80,326)	4,340,204
3	295,178	1,372,504	(1,361,548)	4,212,789	(122,066)	4,396,856
4	393,570	1,372,504	(1,361,548)	4,212,789	(164,820)	4,452,495
5	491,963	1,372,504	(1,361,548)	4,212,789	(208,560)	4,507,148
6	590,355	1,372,504	(1,361,548)	4,212,789	(253,260)	4,560,840
7	688,748	1,372,504	(1,361,548)	4,212,789	(298,896)	4,613,596
8	787,140	1,372,504	(1,361,548)	4,212,789	(345,444)	4,665,442
9	885,533	1,372,504	(1,361,548)	4,212,789	(392,879)	4,716,399
10	983,925	2,053,278	(1,361,548)	4,212,789	(441,179)	5,447,265
11	983,925	-	-	4,212,789	-	5,196,714
12	983,925	-	-	4,212,789	-	5,196,714
13	983,925	-	-	4,212,789	-	5,196,714
14	983,925	-	-	4,212,789	-	5,196,714
15	983,925	-	-	4,212,789	-	5,196,714
16	983,925	-	-	4,212,789	-	5,196,714
17	983,925	-	-	4,212,789	-	5,196,714
18	983,925	-	-	4,212,789	-	5,196,714
19	983,925	-	-	4,212,789	-	5,196,714
20	983,925	-	-	4,212,789	-	5,196,714
21	885,533	-	-	-	-	885,533
22	787,140	-	-	-	-	787,140
23	688,748	-	-	-	-	688,748
24	590,355	-	-	-	-	590,355
25	491,963	-	-	-	-	491,963
26	393,570	-	-	-	-	393,570
27	295,178	-	-	-	-	295,178
28	196,785	-	-	-	-	196,785
29	98,393	-	-	-	-	98,393
	$ 19,678,504	$ 13,725,041	$ (13,615,482)	$ 84,255,782	$ (2,347,057)	$ 101,696,787

(1) Wastewater Appendices - page 2 Section I
(2) Wastewater Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Wastewater Appendices - page 6

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Wastewater Service Area: Pecan Creek

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ -
1	$ 11,615	762	$ 8,846,221	$ 3,601,735	$ 5,244,486	$ 65,556	5,310,042
2	11,615	762	8,846,221	4,340,204	4,506,018	189,076	10,005,136
3	11,615	762	8,846,221	4,396,856	4,449,365	305,745	14,760,247
4	11,615	762	8,846,221	4,452,495	4,393,726	423,928	19,577,900
5	11,615	762	8,846,221	4,507,148	4,339,074	543,686	24,460,660
6	11,615	762	8,846,221	4,560,840	4,285,382	665,084	29,411,125
7	11,615	762	8,846,221	4,613,596	4,232,625	788,186	34,431,936
8	11,615	762	8,846,221	4,665,442	4,180,780	913,058	39,525,774
9	11,615	762	8,846,221	4,716,399	4,129,822	1,039,767	44,695,364
10	11,615	762	8,846,221	5,447,265	3,398,956	1,159,871	49,254,191
11	-	-	-	5,196,714	(5,196,714)	1,166,396	45,223,873
12	-	-	-	5,196,714	(5,196,714)	1,065,638	41,092,796
13	-	-	-	5,196,714	(5,196,714)	962,361	36,858,443
14	-	-	-	5,196,714	(5,196,714)	856,502	32,518,231
15	-	-	-	5,196,714	(5,196,714)	747,997	28,069,513
16	-	-	-	5,196,714	(5,196,714)	636,779	23,509,578
17	-	-	-	5,196,714	(5,196,714)	522,781	18,835,644
18	-	-	-	5,196,714	(5,196,714)	405,932	14,044,862
19	-	-	-	5,196,714	(5,196,714)	286,163	9,134,310
20	-	-	-	5,196,714	(5,196,714)	163,399	4,100,995
21	-	-	-	885,533	(885,533)	91,456	3,306,918
22	-	-	-	787,140	(787,140)	72,834	2,592,612
23	-	-	-	688,748	(688,748)	56,206	1,960,070
24	-	-	-	590,355	(590,355)	41,622	1,411,337
25	-	-	-	491,963	(491,963)	29,134	948,508
26	-	-	-	393,570	(393,570)	18,793	573,731
27	-	-	-	295,178	(295,178)	10,654	289,207
28	-	-	-	196,785	(196,785)	4,770	97,193
29	-	-	-	98,393	(98,393)	1,200	-
			88,462,214	101,696,787		13,234,573	

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Wastewater Service Area: Pecan Creek

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	762	1,540	$ 3,601,735	$ 7,280,733
2	28	1.9721	1.0000	762	1,502	4,340,204	8,559,522
3	27	1.9240	1.0000	762	1,465	4,396,856	8,459,755
4	26	1.8771	1.0000	762	1,430	4,452,495	8,357,861
5	25	1.8313	1.0000	762	1,395	4,507,148	8,254,098
6	24	1.7867	1.0000	762	1,361	4,560,840	8,148,708
7	23	1.7431	1.0000	762	1,328	4,613,596	8,041,918
8	22	1.7006	1.0000	762	1,295	4,665,442	7,933,941
9	21	1.6591	1.0000	762	1,264	4,716,399	7,824,974
10	20	1.6186	1.0000	762	1,233	5,447,265	8,817,125
11	19	1.5792	1.0000	-	-	5,196,714	8,206,415
12	18	1.5406	1.0000	-	-	5,196,714	8,006,258
13	17	1.5031	1.0000	-	-	5,196,714	7,810,983
14	16	1.4664	1.0000	-	-	5,196,714	7,620,472
15	15	1.4306	1.0000	-	-	5,196,714	7,434,607
16	14	1.3957	1.0000	-	-	5,196,714	7,253,275
17	13	1.3617	1.0000	-	-	5,196,714	7,076,366
18	12	1.3285	1.0000	-	-	5,196,714	6,903,771
19	11	1.2961	1.0000	-	-	5,196,714	6,735,387
20	10	1.2645	1.0000	-	-	5,196,714	6,571,109
21	9	1.2336	1.0000	-	-	885,533	1,092,422
22	8	1.2035	1.0000	-	-	787,140	947,358
23	7	1.1742	1.0000	-	-	688,748	808,720
24	6	1.1456	1.0000	-	-	590,355	676,282
25	5	1.1176	1.0000	-	-	491,963	549,823
26	4	1.0904	1.0000	-	-	393,570	429,130
27	3	1.0638	1.0000	-	-	295,178	313,997
28	2	1.0378	1.0000	-	-	196,785	204,226
29	1	1.0125	1.0000	-	-	98,393	99,622
					13,811		$ 160,418,856

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	160,418,856
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	160,418,856
Total Escalated Service Units		13,811
Impact Fee for Wastewater Service Area	**$**	**11,615**

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Wastewater Service Area: Pecan Creek

Impact Fee Project Name[1]	Cost In Service Area [1]	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Cooper Creek Interceptor III	$ 1,277,970	$ 26,887	$ 26,887	$ -	$ -	$ 26,887
Cooper Creek Outfall (Loop 288)	3,898,807	411,553	411,553	-	-	411,553
Graveyard Branch Interceptor	5,004,952	484,130	484,130	-	-	484,130
Pecan Creek Interceptor (Ph 1 & 2)	3,363,189	257,047	257,047	-	-	257,047
Pecan Creek Interceptor I	1,975,672	123,815	123,815	-	-	123,815
Pecan Creek Interceptor II	1,862,175	103,913	103,913	-	-	103,913
Pecan Creek Interceptor III	3,079,149	172,497	172,497	-	-	172,497
Pecan Creek Interceptor IV	978,285	77,121	77,121	-	-	77,121
Pecan WRP Expansion (6 MGD)	30,005,125	25,004,271	25,004,271	-	-	25,004,271
Cooper Creek Interceptor I	2,632,000	309,649	266,084	-	43,565	309,649
Cooper Creek Interceptor II	1,128,000	113,537	97,563	-	15,974	113,537
PCWRP Headworks Facility	56,260,000	12,333,923	12,333,923	-	-	12,333,923
PCWRP 5.0 MGD Expansion to 26 MGD	120,000,000	16,800,000	16,800,000	-	-	16,800,000
North Loop 288 Sewer Line (12"- 15")	7,980,000	1,750,452	-	1,750,452	-	1,750,452
Mingo Road Sewer Line (12")	4,380,000	2,580,649	-	2,580,649	-	2,580,649
Lakeview Interceptor Replacement (24" - 30")	2,367,000	399,875	-	399,875	-	399,875
Lakeview South Lift Station	8,300,000	2,191,051	-	2,191,051	-	2,191,051
Grissom Sewer Line (15")	2,960,000	927,382	-	927,382	-	927,382
Lakeview Ranch Sewer Line (24")	5,820,000	1,009,502	-	1,009,502	-	1,009,502
United Copper Sewer Line (12"-24")	9,500,000	1,193,632	-	1,193,632	-	1,193,632
Cooper Creek Sewer Line Replacement (18"- 24")	3,590,000	147,710	-	147,710	-	147,710
Pecan Creek Interceptor Replacement (36")	3,890,000	1,349,783	-	1,349,783	-	1,349,783
Stella Hills Lift Station, Force Main, and Onsite Sewer Line Oversize	4,934,730	639,957	-	639,957	-	639,957
East McKinney Sreet Sewer Line (15" - 21")	3,180,000	473,921	-	473,921	-	473,921
North Trinity Lift Station and Force Main Oversize	5,858,000	873,029	-	873,029	-	873,029
North Trinity Road Sewer Line Oversize (15")	527,000	78,540	-	78,540	-	78,540
Wastewater Impact Fee Report Preparation	50,020	50,020	-	-	50,020	50,020
Total	$ 294,802,074	$ 69,883,844	$ 56,158,803	$ 13,615,482	$ 109,559	$ 69,883,844

(1) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

(2) Per discussions with City staff and City files

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Wastewater Service Area: Pecan Creek

2024 Service Units[1]	82,096	
Ten Year Growth in Service Units[1]	7,616	
	10	years
Annual Growth in Service Units	762	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[2]	$ 4,311,182	$ 4,409,574	$ 4,507,967	$ 4,606,359	$ 4,704,752	$ 4,803,144	$ 4,901,537	$ 4,999,929	$ 5,098,322	$ 5,196,714	$ 47,539,479
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 4,311,182	$ 4,409,574	$ 4,507,967	$ 4,606,359	$ 4,704,752	$ 4,803,144	$ 4,901,537	$ 4,999,929	$ 5,098,322	$ 5,196,714	$ 47,539,479
Current Service Units	82,858	83,619	84,381	85,142	85,904	86,666	87,427	88,189	88,951	89,712	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 52.03	$ 52.73	$ 53.42	$ 54.10	$ 54.77	$ 55.42	$ 56.06	$ 56.70	$ 57.32	$ 57.93	
Annual Growth in Service Units (Cumulative)	762	1,523	2,285	3,046	3,808	4,570	5,331	6,093	6,855	7,616	
Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 39,628	$ 80,326	$ 122,066	$ 164,820	$ 208,560	$ 253,260	$ 298,896	$ 345,444	$ 392,879	$ 441,179	$ 2,347,057

Credit Amount **$ 2,347,057**

(1) Derived from Table 3.3 10-year Additional Single-Family Equivalent Calculation
(2) Wastewater Appendices - page 2 Section II

City of Denton - 2024 Wastewater Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	35,412
3	Total Cost of the Wastewater Impact Fee CIP	$ 685,550,867
4	Recoverable Cost for Impact Fee Planning Period	$ 426,546,589
5	Percent Recoverable for Wastewater Impact Fee Planning Period (Line 4 / Line 3)	62.22%
6	Financing Costs (From Financial Analysis)	$ 190,088,853
7	Interest Earnings (From Financial Analysis)	$ (124,870,363)
8	Recoverable Cost of Wastewater Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 491,765,079
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 13,887
10	Credit for Utility Revenues (From Financial Analysis)	$ (38,817,845)
11	Recoverable Cost of Wastewater Impact Fee and Financing (Line 8 + Line 10)	$ 452,947,234
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 12,791

SUMMARY OF WASTEWATER IMPACT FEE DETERMINATION

Wastewater Service Area: Hickory Creek

Recoverable Impact Fee CIP Costs	$	426,546,589	Table 3.1
Financing Cost		190,088,853	See Detail Below
Existing Fund Balance		-	Wastewater Appendices - page 1
Interest Earnings		(124,870,363)	Wastewater Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	491,765,079	Sum of Above
Credit for Utility Revenues		(38,817,845)	Wastewater Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**452,947,234**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	599,911,952	Wastewater Appendices - page 2
Existing Annual Debt Service		15,754,514	Wastewater Appendices - page 2
Principal Component (New and Existing Debt)		(425,577,613)	Wastewater Appendices - page 1
Financing Costs	$	190,088,853	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Wastewater Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Wastewater Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Wastewater Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area: Hickory Creek

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	3,541
Existing Fund Balance[3]	$ -

Portion of Projects Funded by Existing Debt[4]	$ 10,500,818
Non-debt Funded Project Cost[5]	968,975
New Project Cost Funded Through New Debt[6]	415,076,795
Total Recoverable Project Cost[7]	$ 426,546,589

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 41,507,680	3.80%	20
2	41,507,680	3.80%	20
3	41,507,680	3.80%	20
4	41,507,680	3.80%	20
5	41,507,680	3.80%	20
6	41,507,680	3.80%	20
7	41,507,680	3.80%	20
8	41,507,680	3.80%	20
9	41,507,680	3.80%	20
10	41,507,680	3.80%	20
Total	$ 415,076,795		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 20,850,737
2	41,604,577
3	41,604,577
4	41,604,577
5	41,604,577
6	41,604,577
7	41,604,577
8	41,604,577
9	41,604,577
10	62,358,417
Total	$ 416,045,771

(1) Per discussions with City Staff
(2) Derived from Table 3.3 10-year Additional Service Units by Service Area
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Wastewater Service Area: Hickory Creek

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 2,999,560	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 2,999,560
2	2,999,560	2,999,560	-	-	-	-	-	-	-	-	5,999,120
3	2,999,560	2,999,560	2,999,560	-	-	-	-	-	-	-	8,998,679
4	2,999,560	2,999,560	2,999,560	2,999,560	-	-	-	-	-	-	11,998,239
5	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	-	-	-	-	-	14,997,799
6	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	-	-	-	-	17,997,359
7	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	-	-	-	20,996,918
8	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	-	-	23,996,478
9	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	-	26,996,038
10	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
11	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
12	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
13	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
14	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
15	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
16	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
17	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
18	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
19	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
20	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	29,995,598
21	-	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	26,996,038
22	-	-	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	23,996,478
23	-	-	-	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	20,996,918
24	-	-	-	-	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	17,997,359
25	-	-	-	-	-	2,999,560	2,999,560	2,999,560	2,999,560	2,999,560	14,997,799
26	-	-	-	-	-	-	2,999,560	2,999,560	2,999,560	2,999,560	11,998,239
27	-	-	-	-	-	-	-	2,999,560	2,999,560	2,999,560	8,998,679
28	-	-	-	-	-	-	-	-	2,999,560	2,999,560	5,999,120
29	-	-	-	-	-	-	-	-	-	2,999,560	2,999,560
	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 59,991,195	$ 599,911,952

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 2,999,560	$ 20,850,737	$ (41,507,680)	$ 787,726	$ (156,607)	$ (17,026,264)
2	5,999,120	41,604,577	(41,507,680)	787,726	(538,993)	6,344,749
3	8,998,679	41,604,577	(41,507,680)	787,726	(1,121,291)	8,762,012
4	11,998,239	41,604,577	(41,507,680)	787,726	(1,881,437)	11,001,426
5	14,997,799	41,604,577	(41,507,680)	787,726	(2,800,500)	13,081,922
6	17,997,359	41,604,577	(41,507,680)	787,726	(3,862,143)	15,019,838
7	20,996,918	41,604,577	(41,507,680)	787,726	(5,052,196)	16,829,345
8	23,996,478	41,604,577	(41,507,680)	787,726	(6,358,305)	18,522,796
9	26,996,038	41,604,577	(41,507,680)	787,726	(7,769,652)	20,111,009
10	29,995,598	62,358,417	(41,507,680)	787,726	(9,276,721)	42,357,339
11	29,995,598	-	-	787,726	-	30,783,323
12	29,995,598	-	-	787,726	-	30,783,323
13	29,995,598	-	-	787,726	-	30,783,323
14	29,995,598	-	-	787,726	-	30,783,323
15	29,995,598	-	-	787,726	-	30,783,323
16	29,995,598	-	-	787,726	-	30,783,323
17	29,995,598	-	-	787,726	-	30,783,323
18	29,995,598	-	-	787,726	-	30,783,323
19	29,995,598	-	-	787,726	-	30,783,323
20	29,995,598	-	-	787,726	-	30,783,323
21	26,996,038	-	-	-	-	26,996,038
22	23,996,478	-	-	-	-	23,996,478
23	20,996,918	-	-	-	-	20,996,918
24	17,997,359	-	-	-	-	17,997,359
25	14,997,799	-	-	-	-	14,997,799
26	11,998,239	-	-	-	-	11,998,239
27	8,998,679	-	-	-	-	8,998,679
28	5,999,120	-	-	-	-	5,999,120
29	2,999,560	-	-	-	-	2,999,560
	$ 599,911,952	$ 416,045,771	$ (415,076,795)	$ 15,754,514	$ (38,817,845)	$ 577,817,596

(1) Wastewater Appendices - page 2 Section I
(2) Wastewater Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Wastewater Appendices - page 6

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Wastewater Service Area: Hickory Creek

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ -
1	$ 12,791	3,541	$ 45,294,723	$ (17,026,264)	$ 62,320,987	$ 779,012	63,099,999
2	12,791	3,541	45,294,723	6,344,749	38,949,974	2,064,375	104,114,348
3	12,791	3,541	45,294,723	8,762,012	36,532,712	3,059,518	143,706,577
4	12,791	3,541	45,294,723	11,001,426	34,293,298	4,021,331	182,021,205
5	12,791	3,541	45,294,723	13,081,922	32,212,801	4,953,190	219,187,196
6	12,791	3,541	45,294,723	15,019,838	30,274,885	5,858,116	255,320,197
7	12,791	3,541	45,294,723	16,829,345	28,465,378	6,738,822	290,524,397
8	12,791	3,541	45,294,723	18,522,796	26,771,927	7,597,759	324,894,084
9	12,791	3,541	45,294,723	20,111,009	25,183,714	8,437,149	358,514,946
10	12,791	3,541	45,294,723	42,357,339	2,937,384	8,999,591	370,451,921
11	-	-	-	30,783,323	(30,783,323)	8,876,506	348,545,104
12	-	-	-	30,783,323	(30,783,323)	8,328,836	326,090,617
13	-	-	-	30,783,323	(30,783,323)	7,767,474	303,074,768
14	-	-	-	30,783,323	(30,783,323)	7,192,078	279,483,522
15	-	-	-	30,783,323	(30,783,323)	6,602,297	255,302,495
16	-	-	-	30,783,323	(30,783,323)	5,997,771	230,516,943
17	-	-	-	30,783,323	(30,783,323)	5,378,132	205,111,752
18	-	-	-	30,783,323	(30,783,323)	4,743,002	179,071,430
19	-	-	-	30,783,323	(30,783,323)	4,091,994	152,380,101
20	-	-	-	30,783,323	(30,783,323)	3,424,711	125,021,489
21	-	-	-	26,996,038	(26,996,038)	2,788,087	100,813,538
22	-	-	-	23,996,478	(23,996,478)	2,220,382	79,037,442
23	-	-	-	20,996,918	(20,996,918)	1,713,475	59,753,999
24	-	-	-	17,997,359	(17,997,359)	1,268,883	43,025,523
25	-	-	-	14,997,799	(14,997,799)	888,166	28,915,890
26	-	-	-	11,998,239	(11,998,239)	572,919	17,490,570
27	-	-	-	8,998,679	(8,998,679)	324,781	8,816,671
28	-	-	-	5,999,120	(5,999,120)	145,428	2,962,980
29	-	-	-	2,999,560	(2,999,560)	36,580	-
			452,947,233	577,817,596		124,870,363	

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Wastewater Service Area: Hickory Creek

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	3,541	7,158	$ (17,026,264)	$ (34,417,761)
2	28	1.9721	1.0000	3,541	6,984	6,344,749	12,512,782
3	27	1.9240	1.0000	3,541	6,813	8,762,012	16,858,517
4	26	1.8771	1.0000	3,541	6,647	11,001,426	20,650,979
5	25	1.8313	1.0000	3,541	6,485	13,081,922	23,957,383
6	24	1.7867	1.0000	3,541	6,327	15,019,838	26,835,470
7	23	1.7431	1.0000	3,541	6,173	16,829,345	29,335,081
8	22	1.7006	1.0000	3,541	6,022	18,522,796	31,499,434
9	21	1.6591	1.0000	3,541	5,875	20,111,009	33,366,159
10	20	1.6186	1.0000	3,541	5,732	42,357,339	68,561,000
11	19	1.5792	1.0000	-	-	30,783,323	48,611,622
12	18	1.5406	1.0000	-	-	30,783,323	47,425,973
13	17	1.5031	1.0000	-	-	30,783,323	46,269,242
14	16	1.4664	1.0000	-	-	30,783,323	45,140,724
15	15	1.4306	1.0000	-	-	30,783,323	44,039,730
16	14	1.3957	1.0000	-	-	30,783,323	42,965,591
17	13	1.3617	1.0000	-	-	30,783,323	41,917,649
18	12	1.3285	1.0000	-	-	30,783,323	40,895,268
19	11	1.2961	1.0000	-	-	30,783,323	39,897,822
20	10	1.2645	1.0000	-	-	30,783,323	38,924,704
21	9	1.2336	1.0000	-	-	26,996,038	33,303,201
22	8	1.2035	1.0000	-	-	23,996,478	28,880,825
23	7	1.1742	1.0000	-	-	20,996,918	24,654,363
24	6	1.1456	1.0000	-	-	17,997,359	20,616,889
25	5	1.1176	1.0000	-	-	14,997,799	16,761,698
26	4	1.0904	1.0000	-	-	11,998,239	13,082,301
27	3	1.0638	1.0000	-	-	8,998,679	9,572,415
28	2	1.0378	1.0000	-	-	5,999,120	6,225,961
29	1	1.0125	1.0000	-	-	2,999,560	3,037,054
					64,216		$ 821,382,075

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	821,382,075
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	821,382,075
Total Escalated Service Units		64,216
Impact Fee for Wastewater Service Area	**$**	**12,791**

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Wastewater Service Area: Hickory Creek

Impact Fee Project Name[1]	Cost In Service Area [1]	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Krum Sewer Line	$ 398,450	$ 87,775	$ 87,775	$ -	$ -	$ 87,775
Leatherwood Interceptor	156,592	4,616	4,616	-	-	4,616
Hickory Creek Interceptor I	1,447,500	1,058,753	1,052,544	-	6,208	1,058,753
Hickory Creek Interceptor II	8,102,500	3,120,135	3,101,839	-	18,296	3,120,135
Hickory Creek Interceptor III	2,875,433	721,323	566,544	-	154,779	721,323
Hickory Creek Lift Station Detention Facility	9,900,000	6,435,000	5,687,500	-	747,500	6,435,000
Roark Branch Interceptor Oversize (27" - 42")	2,810,200	829,989	-	829,989	-	829,989
Cole Ranch Interceptor Oversize (36"- 42")	4,809,000	4,809,000	-	4,809,000	-	4,809,000
North Cole Ranch Sewer Line (36")	7,310,000	4,377,794	-	4,377,794	-	4,377,794
Legends Sewer Line (12"- 15")	32,080,000	32,080,000	-	32,080,000	-	32,080,000
Robson Ranch Sewer Line (12")	3,086,000	112,722	-	112,722	-	112,722
Robson West Lift Station, Force Main, and Sewer Line Oversize	13,079,000	1,438,690	-	1,438,690	-	1,438,690
North Masch Sewer Line (12"- 18")	8,680,000	2,965,667	-	2,965,667	-	2,965,667
Masch Sewer Line Replacement (15"- 18")	5,560,000	3,003,678	-	3,003,678	-	3,003,678
Dry Fork Sewer Line (18")	3,620,000	627,467	-	627,467	-	627,467
Hickory Creek Peak Flow Basin Improvements	23,400,000	23,400,000	-	23,400,000	-	23,400,000
HCWRP 10.0 MGD MBR Plant	448,600,000	260,188,000	-	260,188,000	-	260,188,000
C Wolfe Road Interceptor (36")	18,120,000	10,282,047	-	10,282,047	-	10,282,047
TN Skiles Road Interceptor (36")	14,420,000	8,855,122	-	8,855,122	-	8,855,122
Ponder Sewer Line (12"- 15")	5,230,000	2,331,446	-	2,331,446	-	2,331,446
South Hickory Creek Sewer Line (24")	22,580,000	19,345,135	-	19,345,135	-	19,345,135
Wolf Branch Sewer Line (12"- 21")	18,040,000	9,466,267	-	9,466,267	-	9,466,267
Sanctuary Sewer Line (12"- 18")	4,280,000	4,217,059	-	4,217,059	-	4,217,059
Meadows Sewer Line (12")	2,130,000	2,130,000	-	2,130,000	-	2,130,000
Cole Ranch West Sewer Line Oversize (15"- 18")	294,000	116,714	-	116,714	-	116,714
Ponder Farms/Webster Meadows Lift Station and Force Main	11,500,000	11,500,000	-	11,500,000	-	11,500,000
Ponder Farms/Webster Meadows Interceptor (15"-21")	13,000,000	13,000,000	-	13,000,000	-	13,000,000
Wastewater Impact Fee Report Preparation	42,192	42,192	-	-	42,192	42,192
Total	$ 685,550,867	$ 426,546,589	$ 10,500,818	$ 415,076,795	$ 968,975	$ 426,546,589

(1) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

(2) Per discussions with City staff and City files

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Wastewater Service Area: Hickory Creek

2024 Service Units[1]	82,096	
Ten Year Growth in Service Units[1]	35,412	
	10	years
Annual Growth in Service Units	3,541	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[2]	$3,787,285	$6,786,845	$9,786,405	$ 12,785,965	$ 15,785,524	$ 18,785,084	$ 21,784,644	$ 24,784,204	$ 27,783,764	$ 30,783,323	$ 172,853,044
Net Impact Fee Eligible Debt Service Funded by Other Sources	$3,787,285	$6,786,845	$9,786,405	$ 12,785,965	$ 15,785,524	$ 18,785,084	$ 21,784,644	$ 24,784,204	$ 27,783,764	$ 30,783,323	$ 172,853,044
Current Service Units	85,637	89,178	92,719	96,261	99,802	103,343	106,884	110,425	113,966	117,508	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 44.22	$ 76.10	$ 105.55	$ 132.83	$ 158.17	$ 181.77	$ 203.82	$ 224.44	$ 243.79	$ 261.97	
Annual Growth in Service Units (Cumulative)	3,541	7,082	10,623	14,165	17,706	21,247	24,788	28,329	31,870	35,412	
Annual Wastewater Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt	$ 156,607	$ 538,993	$1,121,291	$ 1,881,437	$ 2,800,500	$ 3,862,143	$ 5,052,196	$ 6,358,305	$ 7,769,652	$ 9,276,721	$ 38,817,845

Credit Amount **$ 38,817,845**

(1) Derived from Table 3.3 10-year Additional Service Units by Service Area
(2) Wastewater Appendices - page 2 Section II

City of Denton - 2024 Wastewater Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area

0	Existing Fund Balance	$ -
1	Existing Number of Service Units Over Entire City	82,096
2	Additional Service Units Added During Planning Period In the Service Area	9,248
3	Total Cost of the Wastewater Impact Fee CIP	$ 242,082,508
4	Recoverable Cost for Impact Fee Planning Period	$ 139,912,428
5	Percent Recoverable for Wastewater Impact Fee Planning Period (Line 4 / Line 3)	57.80%
6	Financing Costs (From Financial Analysis)	$ 47,194,860
7	Interest Earnings (From Financial Analysis)	$ (17,484,683)
8	Recoverable Cost of Wastewater Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 169,622,605
9	Pre-Credit Maximum Fee (Line 8 / Line 2)	$ 18,341
10	Credit for Utility Revenues (From Financial Analysis)	$ (3,934,480)
11	Recoverable Cost of Wastewater Impact Fee and Financing (Line 8 + Line 10)	$ 165,688,125
12	Maximum Assessable Fee (Line 11 / Line 2)	$ 17,916

SUMMARY OF WASTEWATER IMPACT FEE DETERMINATION

Wastewater Service Area: Pecan Creek

Recoverable Impact Fee CIP Costs	$	139,912,428	Table 3.3
Financing Cost		47,194,860	See Detail Below
Existing Fund Balance		-	Wastewater Appendices - page 1
Interest Earnings		(17,484,683)	Wastewater Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	169,622,605	Sum of Above
Credit for Utility Revenues		(3,934,480)	Wastewater Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**165,688,125**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	19,966,716	Wastewater Appendices - page 2
Existing Annual Debt Service		123,077,765	Wastewater Appendices - page 2
Principal Component (New and Existing Debt)		(95,849,621)	Wastewater Appendices - page 1
Financing Costs	$	47,194,860	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Wastewater Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Wastewater Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Wastewater Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area: Pecan Creek

I. General Assumptions

Annual Interest Rate on Deposits[1]	2.50%
Annual Service Unit Growth[2]	925
Existing Fund Balance[3]	$ -

Portion of Projects Funded by Existing Debt[4]	$ 82,034,726
Non-debt Funded Project Cost[5]	44,062,806
New Project Cost Funded Through New Debt[6]	13,814,895
Total Recoverable Project Cost[7]	$ 139,912,428

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 1,381,489	3.80%	20
2	1,381,489	3.80%	20
3	1,381,489	3.80%	20
4	1,381,489	3.80%	20
5	1,381,489	3.80%	20
6	1,381,489	3.80%	20
7	1,381,489	3.80%	20
8	1,381,489	3.80%	20
9	1,381,489	3.80%	20
10	1,381,489	3.80%	20
Total	$ 13,814,895		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 5,097,025
2	5,787,770
3	5,787,770
4	5,787,770
5	5,787,770
6	5,787,770
7	5,787,770
8	5,787,770
9	5,787,770
10	6,478,515
Total	$ 57,877,701

(1) Per discussions with City Staff
(2) Derived from Table 3.3 10-year Additional Service Units by Service Area
(3) Balance from 03/30/2024 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt per discussions with City Staff
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Wastewater Service Area: Pecan Creek

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 99,834	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 99,834
2	99,834	99,834	-	-	-	-	-	-	-	-	199,667
3	99,834	99,834	99,834	-	-	-	-	-	-	-	299,501
4	99,834	99,834	99,834	99,834	-	-	-	-	-	-	399,334
5	99,834	99,834	99,834	99,834	99,834	-	-	-	-	-	499,168
6	99,834	99,834	99,834	99,834	99,834	99,834	-	-	-	-	599,001
7	99,834	99,834	99,834	99,834	99,834	99,834	99,834	-	-	-	698,835
8	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	-	-	798,669
9	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	-	898,502
10	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
11	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
12	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
13	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
14	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
15	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
16	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
17	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
18	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
19	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
20	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	998,336
21	-	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	898,502
22	-	-	99,834	99,834	99,834	99,834	99,834	99,834	99,834	99,834	798,669
23	-	-	-	99,834	99,834	99,834	99,834	99,834	99,834	99,834	698,835
24	-	-	-	-	99,834	99,834	99,834	99,834	99,834	99,834	599,001
25	-	-	-	-	-	99,834	99,834	99,834	99,834	99,834	499,168
26	-	-	-	-	-	-	99,834	99,834	99,834	99,834	399,334
27	-	-	-	-	-	-	-	99,834	99,834	99,834	299,501
28	-	-	-	-	-	-	-	-	99,834	99,834	199,667
29	-	-	-	-	-	-	-	-	-	99,834	99,834
	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 1,996,672	$ 19,966,716

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 99,834	$ 5,097,025	$ (1,381,489)	$ 6,153,888	$ (69,665)	$ 9,899,593
2	199,667	5,787,770	(1,381,489)	6,153,888	(139,994)	10,619,842
3	299,501	5,787,770	(1,381,489)	6,153,888	(210,967)	10,648,703
4	399,334	5,787,770	(1,381,489)	6,153,888	(282,561)	10,676,942
5	499,168	5,787,770	(1,381,489)	6,153,888	(354,758)	10,704,579
6	599,001	5,787,770	(1,381,489)	6,153,888	(427,538)	10,731,632
7	698,835	5,787,770	(1,381,489)	6,153,888	(500,884)	10,758,120
8	798,669	5,787,770	(1,381,489)	6,153,888	(574,776)	10,784,061
9	898,502	5,787,770	(1,381,489)	6,153,888	(649,199)	10,809,472
10	998,336	6,478,515	(1,381,489)	6,153,888	(724,137)	11,525,112
11	998,336	-	-	6,153,888	-	7,152,224
12	998,336	-	-	6,153,888	-	7,152,224
13	998,336	-	-	6,153,888	-	7,152,224
14	998,336	-	-	6,153,888	-	7,152,224
15	998,336	-	-	6,153,888	-	7,152,224
16	998,336	-	-	6,153,888	-	7,152,224
17	998,336	-	-	6,153,888	-	7,152,224
18	998,336	-	-	6,153,888	-	7,152,224
19	998,336	-	-	6,153,888	-	7,152,224
20	998,336	-	-	6,153,888	-	7,152,224
21	898,502	-	-	-	-	898,502
22	798,669	-	-	-	-	798,669
23	698,835	-	-	-	-	698,835
24	599,001	-	-	-	-	599,001
25	499,168	-	-	-	-	499,168
26	399,334	-	-	-	-	399,334
27	299,501	-	-	-	-	299,501
28	199,667	-	-	-	-	199,667
29	99,834	-	-	-	-	99,834
	$ 19,966,716	$ 57,877,701	$ (13,814,895)	$ 123,077,765	$ (3,934,480)	$ 183,172,808

(1) Wastewater Appendices - page 2 Section I
(2) Wastewater Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Wastewater Appendices - page 6

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Wastewater Service Area: Pecan Creek

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ -
1	$ 17,916	925	$ 16,568,812	$ 9,899,593	$ 6,669,219	$ 83,365	6,752,585
2	17,916	925	16,568,812	10,619,842	5,948,971	243,177	12,944,732
3	17,916	925	16,568,812	10,648,703	5,920,109	397,620	19,262,461
4	17,916	925	16,568,812	10,676,942	5,891,870	555,210	25,709,541
5	17,916	925	16,568,812	10,704,579	5,864,234	716,041	32,289,817
6	17,916	925	16,568,812	10,731,632	5,837,180	880,210	39,007,207
7	17,916	925	16,568,812	10,758,120	5,810,692	1,047,814	45,865,713
8	17,916	925	16,568,812	10,784,061	5,784,751	1,218,952	52,869,417
9	17,916	925	16,568,812	10,809,472	5,759,341	1,393,727	60,022,485
10	17,916	925	16,568,812	11,525,112	5,043,700	1,563,608	66,629,793
11	-	-	-	7,152,224	(7,152,224)	1,576,342	61,053,911
12	-	-	-	7,152,224	(7,152,224)	1,436,945	55,338,632
13	-	-	-	7,152,224	(7,152,224)	1,294,063	49,480,471
14	-	-	-	7,152,224	(7,152,224)	1,147,609	43,475,856
15	-	-	-	7,152,224	(7,152,224)	997,494	37,321,126
16	-	-	-	7,152,224	(7,152,224)	843,625	31,012,527
17	-	-	-	7,152,224	(7,152,224)	685,910	24,546,213
18	-	-	-	7,152,224	(7,152,224)	524,253	17,918,242
19	-	-	-	7,152,224	(7,152,224)	358,553	11,124,571
20	-	-	-	7,152,224	(7,152,224)	188,711	4,161,058
21	-	-	-	898,502	(898,502)	92,795	3,355,351
22	-	-	-	798,669	(798,669)	73,900	2,630,583
23	-	-	-	698,835	(698,835)	57,029	1,988,777
24	-	-	-	599,001	(599,001)	42,232	1,432,007
25	-	-	-	499,168	(499,168)	29,561	962,400
26	-	-	-	399,334	(399,334)	19,068	582,134
27	-	-	-	299,501	(299,501)	10,810	293,443
28	-	-	-	199,667	(199,667)	4,840	98,616
29	-	-	-	99,834	(99,834)	1,217	-
			165,688,125	183,172,808		17,484,683	

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Wastewater Service Area: Pecan Creek

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	2.0215	1.0000	925	1,869	$ 9,899,593	$ 20,011,544
2	28	1.9721	1.0000	925	1,824	10,619,842	20,943,895
3	27	1.9240	1.0000	925	1,779	10,648,703	20,488,598
4	26	1.8771	1.0000	925	1,736	10,676,942	20,041,884
5	25	1.8313	1.0000	925	1,694	10,704,579	19,603,670
6	24	1.7867	1.0000	925	1,652	10,731,632	19,173,867
7	23	1.7431	1.0000	925	1,612	10,758,120	18,752,383
8	22	1.7006	1.0000	925	1,573	10,784,061	18,339,123
9	21	1.6591	1.0000	925	1,534	10,809,472	17,933,985
10	20	1.6186	1.0000	925	1,497	11,525,112	18,654,930
11	19	1.5792	1.0000	-	-	7,152,224	11,294,466
12	18	1.5406	1.0000	-	-	7,152,224	11,018,992
13	17	1.5031	1.0000	-	-	7,152,224	10,750,236
14	16	1.4664	1.0000	-	-	7,152,224	10,488,035
15	15	1.4306	1.0000	-	-	7,152,224	10,232,229
16	14	1.3957	1.0000	-	-	7,152,224	9,982,663
17	13	1.3617	1.0000	-	-	7,152,224	9,739,183
18	12	1.3285	1.0000	-	-	7,152,224	9,501,642
19	11	1.2961	1.0000	-	-	7,152,224	9,269,895
20	10	1.2645	1.0000	-	-	7,152,224	9,043,800
21	9	1.2336	1.0000	-	-	898,502	1,108,422
22	8	1.2035	1.0000	-	-	798,669	961,233
23	7	1.1742	1.0000	-	-	698,835	820,565
24	6	1.1456	1.0000	-	-	599,001	686,187
25	5	1.1176	1.0000	-	-	499,168	557,875
26	4	1.0904	1.0000	-	-	399,334	435,415
27	3	1.0638	1.0000	-	-	299,501	318,596
28	2	1.0378	1.0000	-	-	199,667	207,217
29	1	1.0125	1.0000	-	-	99,834	101,082
					16,771		$ 300,461,612

Annual Interest Rate:		2.50%
Present Value of Initial Impact Fee Fund Balance	$	-
Total Escalated Expense for Entire Period	$	300,461,612
Less Future Value of Initial Impact Fee Fund Balance		-
Sub-Total	$	300,461,612
Total Escalated Service Units		16,771
Impact Fee for Wastewater Service Area	**$**	**17,916**

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Wastewater Service Area: Pecan Creek

Impact Fee Project Name[1]	Cost In Service Area [1]	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
CCWRP 2.5 MGD MBR Plant	$ 118,800,000	$ 82,034,726	$ 82,034,726	$ -	$ -	$ 82,034,726
Clear Creek Interceptor (27"- 42")	89,440,000	44,055,019	-	-	44,055,019	44,055,019
Milam Creek Sewer Line (18"- 24")	13,750,000	3,630,769	-	3,630,769	-	3,630,769
Denton ICC Sewer Line Oversize (18")	324,720	33,899	-	33,899	-	33,899
Ganzer Rd Sewer Line (12")	2,530,000	1,167,692	-	1,167,692	-	1,167,692
Beaver Creek Sewer Line (12")	2,910,000	1,343,077	-	1,343,077	-	1,343,077
North Milam Sewer Line (12"- 18")	6,890,000	3,667,912	-	3,667,912	-	3,667,912
Stark Farms Sewer Line (8"- 12")	1,340,000	978,783	-	978,783	-	978,783
East Clear Creek Sewer Line (8"- 15")	3,170,000	1,633,769	-	1,633,769	-	1,633,769
East Milam Sewer Line (12"- 15")	2,920,000	1,358,994	-	1,358,994	-	1,358,994
Wastewater Impact Fee Report Preparation	7,788	7,788	-	-	7,788	7,788
Total	$ 242,082,508	$ 139,912,428	$ 82,034,726	$ 13,814,895	$ 44,062,806	$ 139,912,428

(1) Table 3.1 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

(2) Per discussions with City staff and City files

City of Denton - 2024 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Credit Determination

Wastewater Service Area: Pecan Creek

2024 Service Units[1]	82,096	
Ten Year Growth in Service Units[1]	9,248	
	10	years
Annual Growth in Service Units	925	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[2]	$ 6,253,722	$ 6,353,555	$ 6,453,389	$ 6,553,223	$ 6,653,056	$ 6,752,890	$ 6,852,723	$ 6,952,557	$ 7,052,390	$ 7,152,224	$ 67,029,729
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 6,253,722	$ 6,353,555	$ 6,453,389	$ 6,553,223	$ 6,653,056	$ 6,752,890	$ 6,852,723	$ 6,952,557	$ 7,052,390	$ 7,152,224	$ 67,029,729
Current Service Units	83,021	83,946	84,870	85,795	86,720	87,645	88,570	89,495	90,419	91,344	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 75.33	$ 75.69	$ 76.04	$ 76.38	$ 76.72	$ 77.05	$ 77.37	$ 77.69	$ 78.00	$ 78.30	
Annual Growth in Service Units (Cumulative)	925	1,850	2,774	3,699	4,624	5,549	6,474	7,399	8,323	9,248	
Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 69,665	$ 139,994	$ 210,967	$ 282,561	$ 354,758	$ 427,538	$ 500,884	$ 574,776	$ 649,199	$ 724,137	$ 3,934,480

Credit Amount **$ 3,934,480**

(1) Derived from Table 3.3 10-year Additional Service Units by Service Area

(2) Wastewater Appendices - page 2 Section II

APPENDIX

CONSIDERATION FOR THE HUNTER RANCH AND COLE RANCH OPERATING AGREEMENTS

APPENDIX – CONSIDERATION FOR THE HUNTER RANCH AND COLE RANCH OPERATING AGREEMENTS

Introduction

Consideration for Hunter Ranch and Cole Ranch Operating Agreement

The City of Denton has operating agreements with the Hunter Ranch District (Ordinance No. 20-763 – Operating Agreement with Hunter Ranch Improvement District No. 1) and the Cole Ranch District (Ordinance No. 20-761 – Operating Agreement with Cole Ranch Improvement District No. 1) which stipulate certain calculations to be included in the Water and Wastewater Impact Fee Study. The purpose of this appendix is to explain what calculations were performed, and how they will be used in the administration of both the Impact Fee Program and the operating agreements. The terms City Offsites, District Cost, District Area Revenue, and District Tax Revenue are defined in Section 4.11 of the operating agreements.

Consideration for Hunter Ranch and Cole Ranch Operating Agreement

The operating agreements define City Offsites as specific water and wastewater infrastructure that are to be constructed by the City. The City Offsites are described in Exhibits K1-A and K1-B of the operating agreements. City Offsite facilities are impact fee eligible water and wastewater infrastructure that are anticipated to be funded in part by impact fees collected within the service area (including within the districts) and by district financial participation in the form of District Tax assessed and paid from properties in the districts. As part of the operating agreements, the Water and Wastewater Impact Fee Study is to include a capacity analysis which shows “what portion of each City Offsite will serve the District Area and what portion will serve other areas of the City”. This preliminary non-binding analysis is provided in the tables included in this appendix. Maps identifying the City Offsite facilities and development Improvement Projects as identified within the context of the 2025 Water and Wastewater Impact Fee CIP are provided in Exhibits 1 and 2. The original maps of the City Offsites from the operating agreements are included in Exhibits K1-A and K1-B.

Executive Summary

Water Capacity Analysis

Hunter Ranch

For Hunter Ranch seven (7) City Offsite projects (See Exhibits 1, K-1A and L) were identified for capacity analysis. Exhibit 1 correlates the City impact fee projects to Exhibit K1-A projects from the Hunter/Cole Agreements. As illustrated in the City's 2025 Water and Wastewater Impact Fee Study the total cost of these projects is approximately $502 million with a 10-year recoverable cost of approximately $325 million and a Hunter Ranch Service Area 2 10-year utilization cost of approximately $27.5 million.

Cole Ranch

For Cole Ranch seven (7) City Offsite projects (See Exhibits 1, K1-A and L) were identified for capacity analysis. As illustrated in the City's 2025 Water and Wastewater Impact Fee the total cost of these projects is approximately $502 million with a 10-year recoverable cost of approximately $325 million and a Cole Ranch Service Area 2 10-year utilization cost of approximately $30.2 million and a Service Area 1B 10-year utilization cost of approximately $745,000.

Wastewater Capacity Analysis

Hunter Ranch

For Hunter Ranch two (2) City Offsite projects (See Exhibit 2, K1-B and L) were identified for capacity analysis. Exhibit 2 correlates the City impact fee projects to Exhibit K1-B projects from the Hunter/Cole Agreements. As illustrated in the City's 2025 Water and Wastewater Impact Fee Study the total cost of these projects is approximately $472 million with a 10-year recoverable cost of approximately $284 million and a Hunter Ranch Hickory Creek Service Area 10-year utilization cost of approximately $34 million.

Cole Ranch

For Cole Ranch two (2) City Offsite projects (See Exhibit 2, K1-B and L) were identified for capacity analysis. As illustrated in the City's 2025 Water and Wastewater Impact Fee the total cost of these projects is approximately $472 million with a 10-year recoverable cost of approximately $284 million and a Cole Ranch Hickory Creek Service Area 10-year utilization cost of approximately $39.7 million.

Calculations

Water Recoverable Cost Calculation

The water capital projects shown in Table 1 match the City of Denton Impact Fee Capital Improvement projects and they correspond to "City Offsite" projects shown on Exhibit K1-A and Exhibit L. The first two columns of Table 1 list the corresponding "City Offsite" and Impact Fee Capital Improvement projects. The last three columns of Table 1 list the recoverable cost attributed to Hunter and Cole Ranch per "City Offsite" project and service area.

Table 1
City-Offsite Water Capital Improvements Plan

City Offsite Project	Impact Fee Project	Description	Total Project Cost	10-Year Recoverable Cost	Area 2 Recoverable Cost	Area 1B Recoverable Cost	Area 2 Hunter Recoverable Cost	Area 2 Cole Recoverable Cost	Area 1B Cole Recoverable Cost
O-1	21	Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD	$195,845,000	$195,845,000	$83,190,538	$112,654,462	$16,638,108	$18,301,918	$450,618
O-1	37	Lake Ray Roberts HSPS Improvements Phase 1	$5,530,000	$5,530,000	$2,349,019	$3,180,981	$469,804	$516,784	$12,724
O-2	42	Southwest PS Improvements	$10,087,000	$2,505,703	$1,064,366	$1,441,337	$212,873	$234,160	$5,765
O-3	40	24/48" Loop 288 Transmission Main	$69,107,000	$40,406,863	$16,638,396	$22,531,284	$3,327,679	$3,660,447	$90,125
O-6	39	Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD	$97,922,500	$9,792,250	$4,159,527	$5,632,723	$831,905	$915,096	$22,531
O-6	41	Lake Ray Roberts HSPS Improvements Phase 2	$5,530,000	$1,908,764	$810,800	$1,097,964	$162,160	$178,376	$4,392
O-7	38	Lake Ray Roberts WTP 54/60" Transmission Main	$117,964,000	$68,973,551	$29,298,408	$39,675,142	$5,859,682	$6,445,650	$158,701
		Total	**$501,985,500**	**$324,962,130**	**$137,511,055**	**$186,213,892**	**$27,502,211**	**$30,252,432**	**$744,856**

Note: From Exhibit L Offsite Projects O-4, O-5 and O-8 do not exist as City Impact Fee Capital Improvement Projects. Therefore, they are not part of the calculation.

Wastewater Impact Fee Calculation

Recoverable Cost Calculation

The wastewater capital projects shown in Table 2 match the listed City of Denton Impact Fee Capital Improvement projects and they correspond to "City Offsite" projects shown on Exhibit K1-B and Exhibit L. The first two columns of Table 2 list the corresponding "City Offsite" and Impact Fee Capital Improvement projects. The last two columns of Table 2 list the recoverable cost attributed to Hunter and Cole Ranch per "City Offsite" project.

Table 2
City-Offsite Wastewater Capital Improvements Plan

City Offsite Project	Impact Fee Project	Description	Total Project Cost	10-Year Recoverable Cost	Hickory Creek Recoverable Cost	Hickory Creek Hunter Recoverable Cost	Hickory Creek Cole Recoverable Cost
Sub O-1*	41	Hickory Creek Peak Flow Basin Improvements	$23,400,000	$23,400,000	$23,400,000	$2,808,000	$3,276,000
O-2	46	HCWRP 10.0 MGD MBR Plant	$448,600,000	$260,188,000	$260,188,000	$31,222,560	$36,426,320
		Total	**$472,000,000**	**$283,588,000**	**$283,588,000**	**$34,030,560**	**$39,702,320**

Note: *Sub O-1 indicates Hunter/Cole Project O-1 is replaced by Impact Fee project 41. From Exhibit L Offsite Project O-3 is no longer a project and O-5 is planned for design and construction beyond the 10-year planning window. Therefore, they are not part of the calculation.

EXHIBITS

Lake Ray Roberts WTP and High Service PS

Northwest EST

Riney EST and Northwest Booster PS

McKenna Park Standpipe and PS

FOR EMERGENCY ONLY

Roselawn EST

Lake Lewisville WTP and PS

Southwest EST

Southwest PS

LEGEND

Background Data
- Railroads
- Roads
- Lakes

Service Areas
- 1A
- 1B
- 2

Existing Infrastructure
- WTP Water Treatment Plant (WTP)
- PS Existing Pump Station
- Existing Elevated Storage Tank (EST)
- Existing Ground Storage Tank (GST)
- Existing Standpipe
- Existing Water Line (12" or Greater)

City Offsite Projects
- WTP Proposed Water Treatment Plant Expansion
- Proposed Water Line
- I35E_Mayhill_Water_Lines

City Offsite Projects

Agreement Project Number	Impact Fee Project Number	Project Name
O-1	21	Lake Ray Roberts WTP 20 MGD Expansion to 50 MGD
O-1	37	Lake Ray Roberts HSPS Improvements Phase 1
O-2	42	Southwest PS Improvements
O-3	40	24/48" Loop 288 Transmission Main
O-6	39	Lake Ray Roberts WTP 10 MGD Expansion to 60 MGD
O-6	41	Lake Ray Roberts HSPS Improvements Phase 2
O-7	38	Lake Ray Roberts WTP 54/60" Transmission Main

CITY OF DENTON

CITY OF DENTON
CITY OFFSITE
WATER PROJECTS

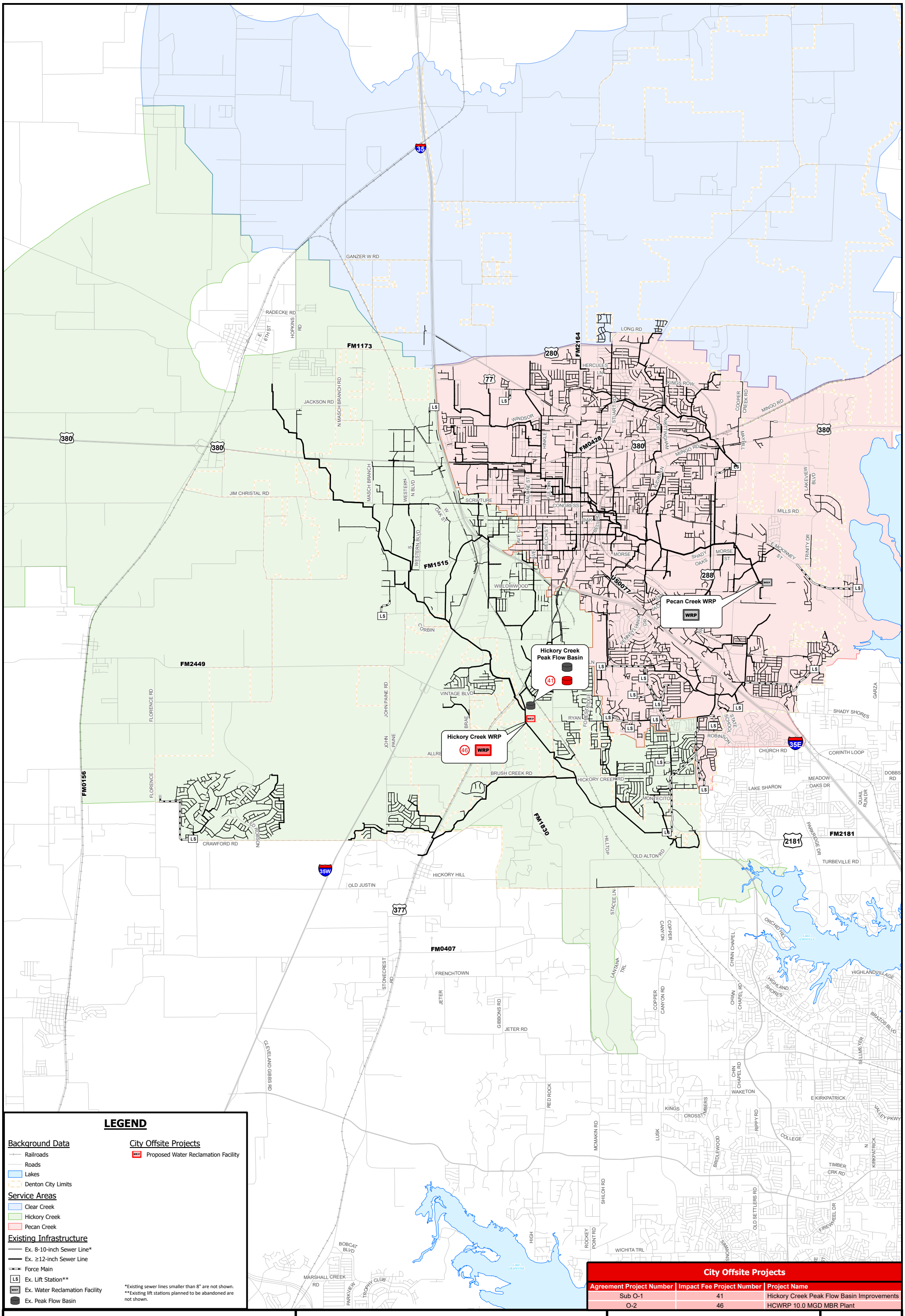
1 IN = 4,000 FT

June 2025

Kimley»Horn

This map product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

EXHIBIT 1



LEGEND

Background Data
- Railroads
- Roads
- Lakes
- Denton City Limits

Service Areas
- Clear Creek
- Hickory Creek
- Pecan Creek

Existing Infrastructure
- Ex. 8-10-inch Sewer Line*
- Ex. ≥12-inch Sewer Line
- Force Main
- LS Ex. Lift Station**
- WRP Ex. Water Reclamation Facility
- Ex. Peak Flow Basin

City Offsite Projects
- WRP Proposed Water Reclamation Facility

*Existing sewer lines smaller than 8" are not shown.
**Existing lift stations planned to be abandoned are not shown.

City Offsite Projects

Agreement Project Number	Impact Fee Project Number	Project Name
Sub O-1	41	Hickory Creek Peak Flow Basin Improvements
O-2	46	HCWRP 10.0 MGD MBR Plant

CITY OF DENTON

CITY OF DENTON
CITY OFFSITE
WASTEWATER PROJECTS

1 IN = 4,000 FT

March 2025

Kimley»Horn

This map product is for information purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

EXHIBIT

2

534

EXHIBIT K1-A - MAPS OF CITY OFFSITES

FIGURE 1

CITY OF DENTON

WATER DISTRIBUTION SYSTEM RECOMMENDED IMPROVEMENTS OFFSITE PROJECTS

LEGEND

- Pressure Reducing Valve
- Pump Station
- Ground Storage Tank
- Elevated Storage Tank
- Water Treatment Plant
- Under Design/Construction Water Line
- 10" and Smaller Water Line
- 12" and Larger Water Line
- Road
- Railroad
- Stream
- Lake
- Parcel
- Hunter/Cole Development
- City Limit
- ETJ Boundary
- Other City Limit

CITY OF DENTON

FREESE AND NICHOLS

February 11, 2020

NOTE: Recommended improvements are sized for existing and ultimate Hunter/Cole Development projections. Recommended improvements do not include future growth projections outside of the Hunter/Cole Development.

O-# **Offsite Improvements**

PRESSURE PLANES (HGL)

- Central (826')
- East (745')
- Northwest (900')
- Southeast (745')
- Southwest (905')

RECOMMENDED IMPROVEMENTS

Short-Term Improvements

- WTP Water Treatment Plant

Intermediate-Term Improvements

- Ground Storage Tank
- PS Pump Station
- Water Line

Long-Term Improvements

- Water Line

Lake Ray Roberts Water Treatment Plant
Treatment Capacity = 20.0 MGD
Project O-1: Expand Treatment Capacity to 50.0 MGD
Project O-6: Expand Treatment Capacity to 70.0 MGD
Firm Pumping Capacity = 38.2 MGD
Project O-1: Expand Firm Pumping Capacity to 55.0 MGD
Project O-6: Expand Firm Pumping Capacity to 70.0 MGD

1.0 MG Northwest Elevated Storage Tank
Overflow Elevation = 900'

Highway 380 Booster Pump Station
Firm Pumping Capacity = 10.0 MGD
2.0 MG Ground Storage
Expand Firm Pumping Capacity to 25.0 MGD
4.0 MG Ground Storage

2.0 MG Riney Road Elevated Storage Tank
Overflow Elevation = 826'

2.0 MG McKenna Park Standpipe

McKenna Park Pump Station
Firm Pumping Capacity = 4.3 MGD

Lake Lewisville Water Treatment Plant
Treatment Capacity = 30.0 MGD
Firm Pumping Capacity = 36.5 MGD

3.0 MG Roselawn Elevated Storage Tank
Overflow Elevation = 826'

3.0 MG Southwest Elevated Storage Tank
Overflow Elevation = 905'

2.0 MG Southwest Ground Storage Tank

2.0 MG Southwest #2 Ground Storage Tank

Southwest Pump Station
Firm Pumping Capacity = 6.1 MGD
15.0 MGD Expansion

Lake Ray Roberts

Lake Lewisville

Sanger

Krum

Aubrey

Shady Shores

Corinth

Lake Dallas

Hickory Creek

Argyle

Copper Canyon

Lantana

Highland Village

0 3,600 7,200

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FIGURE 2

CITY OF DENTON

WASTEWATER SYSTEM RECOMMENDED IMPROVEMENTS OFFSITE PROJECTS

LEGEND

- Flow Meter
- Manhole
- Lift Station
- Private Lift Station
- Water Reclamation Plant
- 10" and Smaller Wastewater Line
- 12" and Larger Wastewater Line
- Force Main
- Road
- Railroad
- Stream
- Lake
- Parcel
- Hunter/Cole Development
- City Limit
- ETJ Boundary
- Other City Limit

CITY OF DENTON

FREESE AND NICHOLS

February 11, 2020

NOTE: Recommended improvements are sized for existing and ultimate Hunter/Cole Development projections. Recommended improvements do not include future growth projections outside of the Hunter/Cole Development.

O-# Offsite Improvements

MAJOR BASINS

- Basin C
- Basin H
- Basin M
- Basin P
- Basin R
- Basin T

RECOMMENDED IMPROVEMENTS

Under Design/Construction Improvements

- Lift Station
- Water Reclamation Plant
- Wastewater Line
- Force Main

Short-Term Improvements

- Water Reclamation Plant

Intermediate-Term Improvements

- Lift Station
- Weir
- Wastewater Line
- Force Main

Robson
Water Reclamation Plant
Permitted Capacity: 0.375 MGD
Existing Avg. Day Flow: 0.29 MGD
Existing Peak Day Flow: 0.77 MGD
(To Be Decommissioned)

Robson Ranch East
Lift Station
Firm Capacity: 2.25 MGD
(To Be Decommissioned)

Robson
Lift Station
Firm Capacity: 1.25 MGD

Robson Southwest
Lift Station

Aldi
Lift Station
(To Be Decommissioned)

Airport
Lift Station

Dakota
Lift Station

Private
Lift Station

Vintage
Lift Station
(To Be Decommissioned)

To Be Abandoned

Proposed Hickory Creek
Water Reclamation Plant
Permitted Avg. Day Capacity: 3.00 MGD
Expand Permitted Avg. Day Capacity to 6.00 MGD
Expand Permitted Avg. Day Capacity to 11.00 MGD

Proposed Lift Station
Firm Pumping Capacity: 5.00 MGD

Proposed 4.00 MGD
Diversion Weir

Hickory Creek
Lift Station
Firm Pumping Capacity: 11.00 MGD

University
Lift Station

Cooper Creek
Lift Station

Adkisson Troy H Lagrone
Lift Station

Woodrow Buchanan
Lift Station

Lakewood Estates
Lift Station

Lakeview Ranch Trinity
Lift Station

Grissom
Lift Station

Pecan Creek
Water Reclamation Plant
Permitted Avg. Day Capacity: 21.00 MGD

PE-A1-047 Flow Meter
Existing Avg. Day Flow: 5.89 MGD
Existing Peak Hour Flow: 20.80 MGD

State School Wet Weather
Lift Station

Tractor Supply
Lift Station

Ruidosa
Lift Station

Laredo
Lift Station

Green House
Lift Station

Spencer Oaks
Lift Station

S I-35E Garner
Lift Station

Golden Triangle
Lift Station

Hobson
Lift Station

Bent Oaks
Lift Station

Teasley Trails
Lift Station

Sundown
Lift Station

Granada
Lift Station

Denton West
Lift Station

Good Sam
Lift Station

Lexington Park
Lift Station

Oakmont II
Lift Station

Wimbleton
Lift Station

Preserve
Lift Station

Classic Used Car
Lift Station

Wynstone
Lift Station

Upper Trinity
Lift Station

O-1 O-2 O-3 O-4 O-5

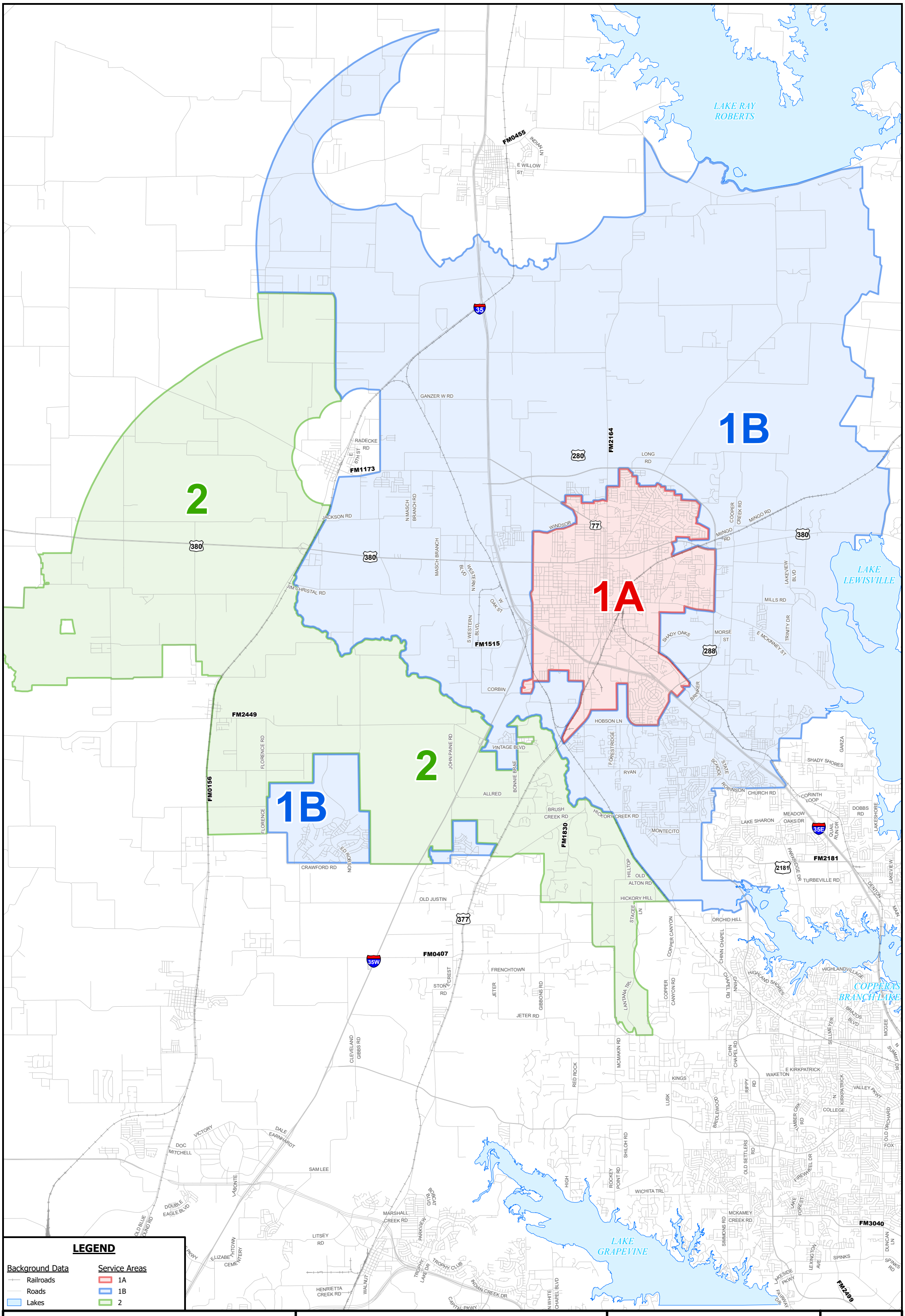
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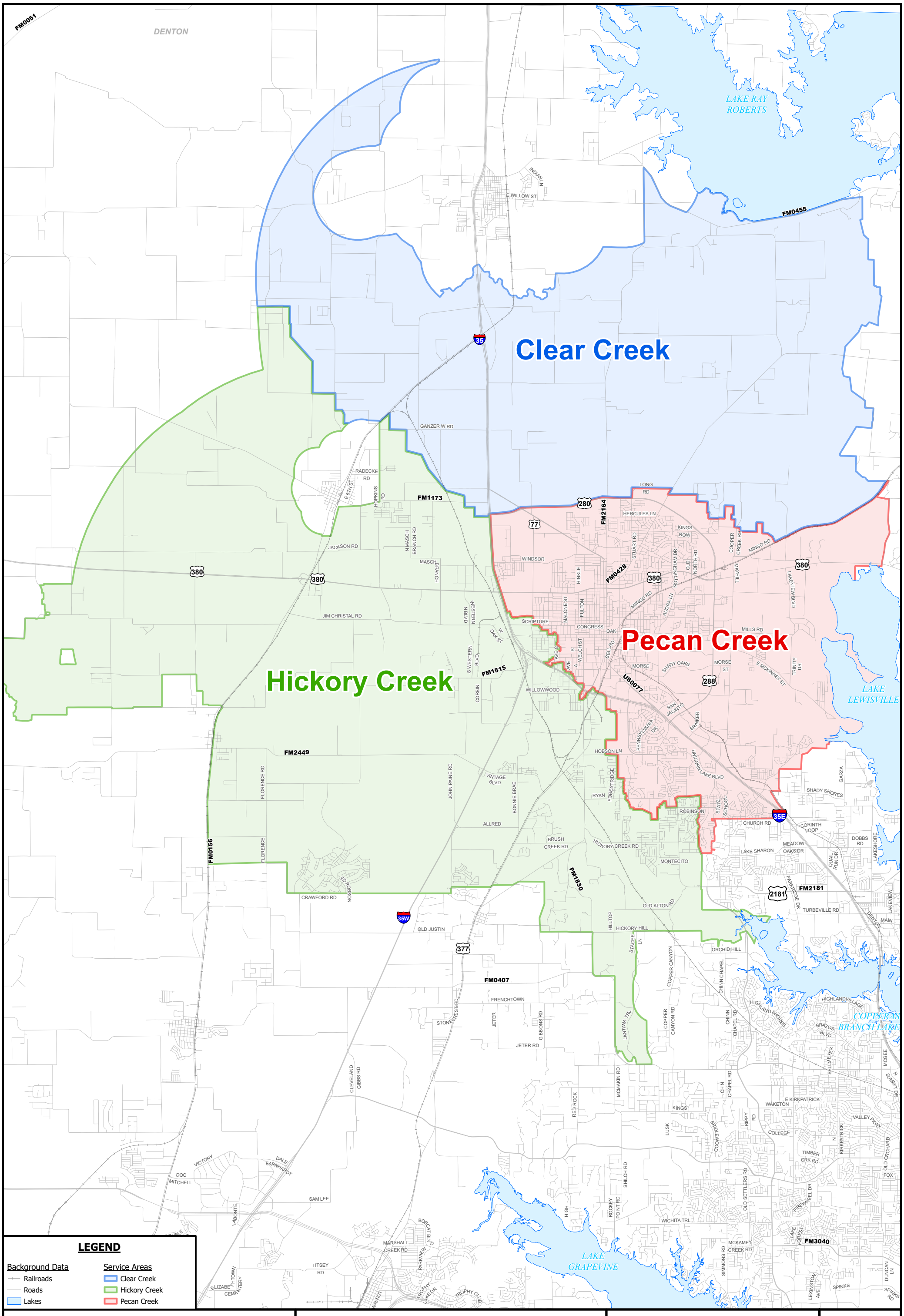
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EXHIBIT L - LIST OF IMPROVEMENT PROJECTS

Exhibit L - List of Improvement Projects

Project Number	Project Name	Project Type	Construction Party	Service	Facility Type	Required Right of Way	City Utilization	Development Utilization	Estimate	City Cost	MMD/ Development Cost	MMD Reimbursement?	COD Off-Site/ MMD Participation	Ownership	Maintainance
D-1	12/20-inch Robson Ranch Transmission Main	Offsite	MMD	Water					$ 2,856,600	$ -	$ 2,856,600	Eligible	N/A	COD	COD
D-2	36-inch I-35 Transmission Main	Offsite	MMD	Water					$ 13,405,900	$ -	$ 13,405,900	Eligible	N/A	COD	COD
D-3	30-inch Cole Ranch Transmission Main	Offsite	MMD	Water					$ 12,266,600	$ -	$ 12,266,600	Eligible	N/A	COD	COD
D-4	24-inch Southwest EST Transmission Main	Offsite	MMD	Water					$ 12,151,900	$ -	$ 12,151,900	Eligible	N/A	COD	COD
D-5	12/16-inch John Pane Transmission Main	Onsite	MMD	Water					$ 4,388,000	$ -	$ 4,388,000	Eligible	N/A	COD	COD
D-6	12-inch Underwood Transmission Main	Offsite	MMD	Water					$ 2,888,200	$ -	$ 2,888,200	Eligible	N/A	COD	COD
D-7	2.0 MG Hunter Cole Elevated Storage Tank & 24-inch Water Line	Onsite	MMD	Water					$ 10,841,900	$ -	$ 10,841,900	Eligible	N/A	COD	COD
D-8	12/16-inch Hunter Ranch Transmission Main	Onsite	MMD	Water					$ 5,896,600	$ -	$ 5,896,600	Eligible	N/A	COD	COD
D-9	12-inch Cole Ranch Looping Transmission Main	Onsite	MMD	Water					$ 4,326,700	$ -	$ 4,326,700	Eligible	N/A	COD	COD
D-10	12-inch Hunter Ranch Looping Transmission Main	Onsite	MMD	Water					$ 2,284,300	$ -	$ 2,284,300	Eligible	N/A	COD	COD
D-1	27-inch Cole Ranch Interceptor Phase-2	Offsite	MMD	Wastewater					$ 14,177,100	$ -	$ 14,177,100	Eligible	N/A	COD	COD
D-2	24/36-inch Roark Branch Interceptor Phase 1	Offsite	MMD	Wastewater					$ 11,915,200	$ -	$ 11,915,200	Eligible	N/A	COD	COD
D-3	24-inch Creekway Drive Interceptor	Offsite	MMD	Wastewater					$ 8,440,800	$ -	$ 8,440,800	Eligible	N/A	COD	COD
D-4	21/27/30-inch Roark Branch Interceptor Phase 2	Onsite	MMD	Wastewater					$ 17,108,800	$ -	$ 17,108,800	Eligible	N/A	COD	COD
D-5	8/12/15-inch Hunter Ranch West Collectors	Onsite	MMD	Wastewater					$ 4,772,100	$ -	$ 4,772,100	Eligible	N/A	COD	COD
D-6	8/12/15/21-inch Cole Ranch Collectors	Onsite	MMD	Wastewater					$ 13,032,000	$ -	$ 13,032,000	Eligible	N/A	COD	COD
D-7	27-inch Cole Ranch Interceptor Phase 1	Offsite	MMD	Wastewater					$ 3,975,300	$ -	$ 3,975,300	Eligible	N/A	COD	COD
D-8	8/12/15-inch Hunter Ranch East Collectors	Onsite	MMD	Wastewater					$ 7,525,900	$ -	$ 7,525,900	Eligible	N/A	COD	COD
D-9	8/12/15-inch Hunter Ranch Central Collectors	Onsite	MMD	Wastewater					$ 5,737,900	$ -	$ 5,737,900	Eligible	N/A	COD	COD
D-10	8/15-inch Hunter Ranch South Collectors	Onsite	MMD	Wastewater					$ 4,254,800	$ -	$ 4,254,800	Eligible	N/A	COD	COD
O-1	Lake Ray Roberts WTP Expansion #1	Offsite	COD	Water			60.00%	40.00%	$ 70,020,000	$ 70,020,000	$ -	N/A	N/A	COD	COD
O-2	Southwest Pump Station Improvements	Offsite	COD	Water			15.00%	85.00%	$ 6,325,000	$ 6,325,000	$ -	N/A	$ 5,376,250	COD	COD
O-3	36/42-inch North Loop 288 Transmission Main	Offsite	COD	Water			20.00%	80.00%	$ 48,614,700	$ 48,614,700	$ -	N/A	$ 38,891,760	COD	COD
O-4	Highway 380 Pump Station Improvements Phase 1	Offsite	COD	Water			10.00%	90.00%	$ 6,325,000	$ 6,325,000	$ -	N/A	$ 5,692,500	COD	COD
O-5	36-inch West Loop 288 Transmission Main	Offsite	COD	Water			10.00%	90.00%	$ 7,120,400	$ 7,120,400	$ -	N/A	$ 6,408,360	COD	COD
O-6	Lake Ray Roberts WTP Expansion #2	Offsite	COD	Water			50.00%	50.00%	$ 50,331,000	$ 50,331,000	$ -	N/A	N/A	COD	COD
O-7	42-inch LRRWTP Transmission Main	Offsite	COD	Water			40.00%	60.00%	$ 57,716,700	$ 57,716,700	$ -	N/A	N/A	COD	COD
O-8	Highway 380 Pump Station Improvements Phase 2	Offsite	COD	Water			10.00%	90.00%	$ 6,325,000	$ 6,325,000	$ -	N/A	$ 5,692,500	COD	COD
O-9	16-inch Jim Christal Transmission Main	Offsite	COD	Water			30.00%	70.00%	$ 4,528,200	$ 4,528,200	$ -	N/A	$ 3,169,740	COD	COD
O-1	Proposed Hickory Creek WRP Phase 1	Offsite	COD	Wastewater			20.00%	80.00%	$ 65,010,100	$ 65,010,100	$ -	N/A	N/A	COD	COD
O-2	Proposed Hickory Creek WRP Phase 2	Offsite	COD	Wastewater			5.00%	95.00%	$ 44,850,000	$ 44,850,000	$ -	N/A	N/A	COD	COD
O-3	Proposed Diversion Lift Station	Offsite	COD	Wastewater			50.00%	50.00%	$ 10,007,600	$ 10,007,600	$ -	N/A	$ 5,003,800	COD	COD
O-4	12/15-inch Robson Ranch Interceptor	Offsite	COD	Wastewater			100.00%	0.00%	$ 4,884,200	$ 4,884,200	$ -	N/A	N/A	COD	COD
O-5	Proposed Hickory Creek WRP Phase 3	Offsite	COD	Wastewater			40.00%	60.00%	$ 74,750,000	$ 74,750,000	$ -	N/A	N/A	COD	COD
52925	Loop 288 SB - North of R7	Offsite	TXDOT	Roads	Freeway	6-lane divided			$ -	$ -	$ -	N/A	N/A	TXDOT	TXDOT
52946	Loop 288 SB - West of R1	Offsite	TXDOT	Roads	Freeway	6-lane divided			$ -	$ -	$ -	N/A	N/A	TXDOT	TXDOT
51039	Jim Christal Road - East of Loop 288	Offsite	COD	Roads	Minor	4-lane divided	98.59%	1.41%	$ 19,674,900	$ 19,674,900	$ -	N/A	$ 277,416	COD	COD
45891	Vintage Blvd - East of IH 35W	Offsite	COD/County	Roads	Principal	6-lane divided	90.57%	9.43%	$ 15,000,700	$ 15,000,700	$ -	N/A	$ 1,414,566	COD	COD
52790	R3/FM 2449 - West of Loop 288	Onsite	MMD	Roads	Principal	6-lane divided			$ 12,500,200	$ -	$ 12,500,200	Eligible	N/A	COD/TXDOT	COD/TXDOT
52776	R2/Allred Road - East of R9/West of US 377	Offsite	COD	Roads	Principal	6-lane divided	93.75%	6.25%	$ 11,589,900	$ 11,589,900	$ -	N/A	$ 724,369	COD	COD
52771	R2/Allred Road - East of John Paine Road	Onsite	MMD	Roads	Principal	6-lane divided			$ 7,775,700	$ -	$ 7,775,700	Eligible	N/A	COD	COD
52773	R2/Allred Road - West of John Paine Road	Onsite	MMD	Roads	Principal	6-lane divided			$ 26,420,500	$ -	$ 26,420,500	Eligible	N/A	COD	COD
52709	Crawford Road - West of IH 35 W	Offsite	TXDOT/COD/County	Roads	Minor	4-lane divided	83.87%	16.13%	$ 11,470,700	$ 11,470,700	$ -	N/A	$ 1,850,224	COD	COD
52758	Robson Ranch - East/West of R1	Offsite	TXDOT/COD/County	Roads	Principal	6-lane divided	90.77%	9.23%	$ 8,383,600	$ 8,383,600	$ -	N/A	$ 773,806	COD	COD
52879	R6 - South of FM 2449	Onsite	MMD	Roads	Minor	4-lane divided			$ 24,968,700	$ -	$ 24,968,700	Eligible	N/A	COD	COD
52866	R7 - West of Loop 288	Onsite	MMD	Roads	Minor	4-lane divided			$ 10,551,700	$ -	$ 10,551,700	Eligible	N/A	COD	COD
52823	R16 - North of FM 2449	Onsite	MMD	Roads	Collector	4-lane divided			$ 9,842,200	$ -	$ 9,842,200	Eligible	N/A	COD	COD
52943	R10 - East of Loop 288	Onsite	MMD	Roads	Minor	4-lane divided			$ 1,596,100	$ -	$ 1,596,100	Eligible	N/A	COD	COD
52872	R18 - West of John Paine Road	Onsite	MMD	Roads	Collector	4-lane divided			$ 8,423,500	$ -	$ 8,423,500	Eligible	N/A	COD	COD
52791	R15 - North of Allred Road	Onsite	MMD	Roads	Collector	4-lane divided			$ 6,384,200	$ -	$ 6,384,200	Eligible	N/A	COD	COD
52828	R5 - North of Allred Road	Onsite	MMD	Roads	Minor	4-lane divided			$ 19,684,500	$ -	$ 19,684,500	Eligible	N/A	COD	COD
52853	R13 - North of R2	Onsite	MMD	Roads	Collector	4-lane divided			$ 10,019,600	$ -	$ 10,019,600	Eligible	N/A	COD	COD
52767	R12 - West of R4	Onsite	MMD	Roads	Collector	4-lane divided			$ 17,379,400	$ -	$ 17,379,400	Eligible	N/A	COD	COD
52953	R1/John Paine Road - North/South of Allred Road	Onsite	MMD	Roads	Principal	4-lane divided			$ 41,787,600	$ -	$ 41,787,600	Eligible	N/A	COD	COD
52756	R4 - North of Robson Ranch Road	Onsite	MMD	Roads	Principal	4-lane divided			$ 6,445,300	$ -	$ 6,445,300	Eligible	N/A	COD	COD
52777	R9 - South of Allred Road	Onsite	MMD	Roads	Minor	4-lane divided			$ 4,344,600	$ -	$ 4,344,600	Eligible	N/A	COD	COD
52824	R11 - East of R4	Onsite	MMD	Roads	Collector	4-lane divided			$ 12,058,900	$ -	$ 12,058,900	Eligible	N/A	COD	COD
52782	R19 - West of R9	Onsite	MMD	Roads	Collector	4-lane divided			$ 3,901,400	$ -	$ 3,901,400	Eligible	N/A	COD	COD
52782	R20 - West of R9	Onsite	MMD	Roads	Collector	4-lane divided			$ 2,926,000	$ -	$ 2,926,000	Eligible	N/A	COD	COD
52808	R8 - North of Loop 288	Onsite	MMD	Roads	Principal	4-lane divided			$ 5,546,100	$ -	$ 5,546,100	Eligible	N/A	COD	COD
52808	R8 - Underwood Dr - North of Cole Property	Offsite	COD	Roads	Principal	4-lane divided	57.89%	42.11%	$ 12,160,800	$ 12,160,800	$ -	N/A	$ 5,120,913	COD	COD
52897	R6 - North of Tom Cole Rd	Offsite	COD	Roads	Minor	4-lane divided	100.00%	0.00%	$ 11,398,100	$ 11,398,100	$ -	N/A	$ -	COD	COD
52807	R14 - Hunter NE Collector	Onsite	MMD	Roads	Collector	4-lane divided			$ 5,675,000	$ -	$ 5,675,000	Eligible	N/A	COD	COD
52788	R17 - Cole - West Collector	Onsite	MMD	Roads	Collector	4-lane divided			$ 2,926,000	$ -	$ 2,926,000	Eligible	N/A	COD	COD


LAKE RAY ROBERTS
LAKE LEWISVILLE
COPPERAS BRANCH LAKE
LAKE GRAPEVINE
1A
1B
2
1B
2
FM0455
INDIAN LN
E WILLOW ST
GANZER W RD
RADECKE RD
E 6TH ST
FM1173
JACKSON RD
380
N MASCH BRANCH RD
MASCH BRANCH
N WESTERN BLVD
W OAK ST
S WESTERN BLVD
FM1515
JIM CHRISTAL RD
FM2164
280
LONG RD
WINDSOR
77
COOPER CREEK RD
MINGO RD
LAKEVIEW BLVD
MILLS RD
SHADY OAKS
MORSE ST
E MCKINNEY ST
TRINITY DR
288
BRINKER
CORBIN
HOBSON LN
FM2449
FLORENCE RD
JOHN PAINE RD
VINTAGE BLVD
FORESTRIDGE
RYAN
SCHOOL
STATE
GARZA
SHADY SHORES
ROBINSON
CHURCH RD
CORINTH LOOP
DOBBS RD
LAKESHORE
MEADOW OAKS DR
LAKE SHARON
MONTECITO
QUAIL RUN DR
35E
FM2181
2181
PARKRIDGE DR
TURBEVILLE RD
LAKEVIEW
DENTON
MAIN
FM0156
FLORENCE
ED ROBSON
CRAWFORD RD
ALLRED
BONNIE BRAE
BRUSH CREEK RD
HICKORY CREEK RD
FM1830
HILLTOP
OLD ALTON RD
HICKORY HILL
STACEE LN
ORCHID HILL
COPPER CANYON
CHINN CHAPEL RD
HIGHLAND VILLAGE
HIGHLAND SHORES
BRAZOS BLVD
SELLMEYER
MCGEE
N SUMMIT DR
OLD JUSTIN
377
FM0407
35W
FRENCHTOWN
STONECREST RD
JETER
GIBBONS RD
JETER RD
LANTANA TRL
CLEVELAND GIBBS RD
MCMAKIN RD
RED ROCK
CHIN CHAPEL RD
RIPPY RD
KINGS
LUSK
BRIDLEWOOD
WAKETON
E KIRKPATRICK
N KIRKPATRICK
VALLEY PKWY
COLLEGE
AMBER OAK RD
OLD ORCHARD
FOX
OLD SETTLERS RD
FIREWHEEL DR
SHILOH RD
ROCKEY POINT RD
HIGH
WICHITA TRL
LAKE FOREST
MCKAMEY CREEK RD
SIMMONS RD
FM3040
DUNCAN LN
SPINKS
SPINKS RD
LEXINGTON AVE
LAKESIDE PKWY
FAIRWAY DR
FM2499
SAM LEE
DOC MITCHELL
VICTORY
DALE EARNHARDT
LABONTE
DOUBLE EAGLE BLVD
OLD BLUE MOUND RD
E LIZABE
CEMETERY
LITSEY RD
MARSHALL CREEK RD
PARKVIEW
BOBBY BLVD
TROPHY LAKE DR
TROPHY CLUB
INDIAN CREEK DR
HENRIETTA CREEK RD
WALNUT
N WHITE CHAPEL BLVD
CAPITAL PKWY
LEGEND
Background Data
Railroads
Roads
Lakes
Service Areas
1A
1B
2
CITY OF DENTON
CITY OF DENTON
WATER IMPACT FEE
SERVICE AREAS
1 IN = 5,000 FT
January 2025
Kimley»Horn
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EXHIBIT
1.3
538



LEGEND

Background Data	Service Areas
Railroads	Clear Creek
Roads	Hickory Creek
Lakes	Pecan Creek

CITY OF DENTON

CITY OF DENTON
WASTEWATER IMPACT FEE
SERVICE AREAS

1 IN = 5,000 FT

January 2025

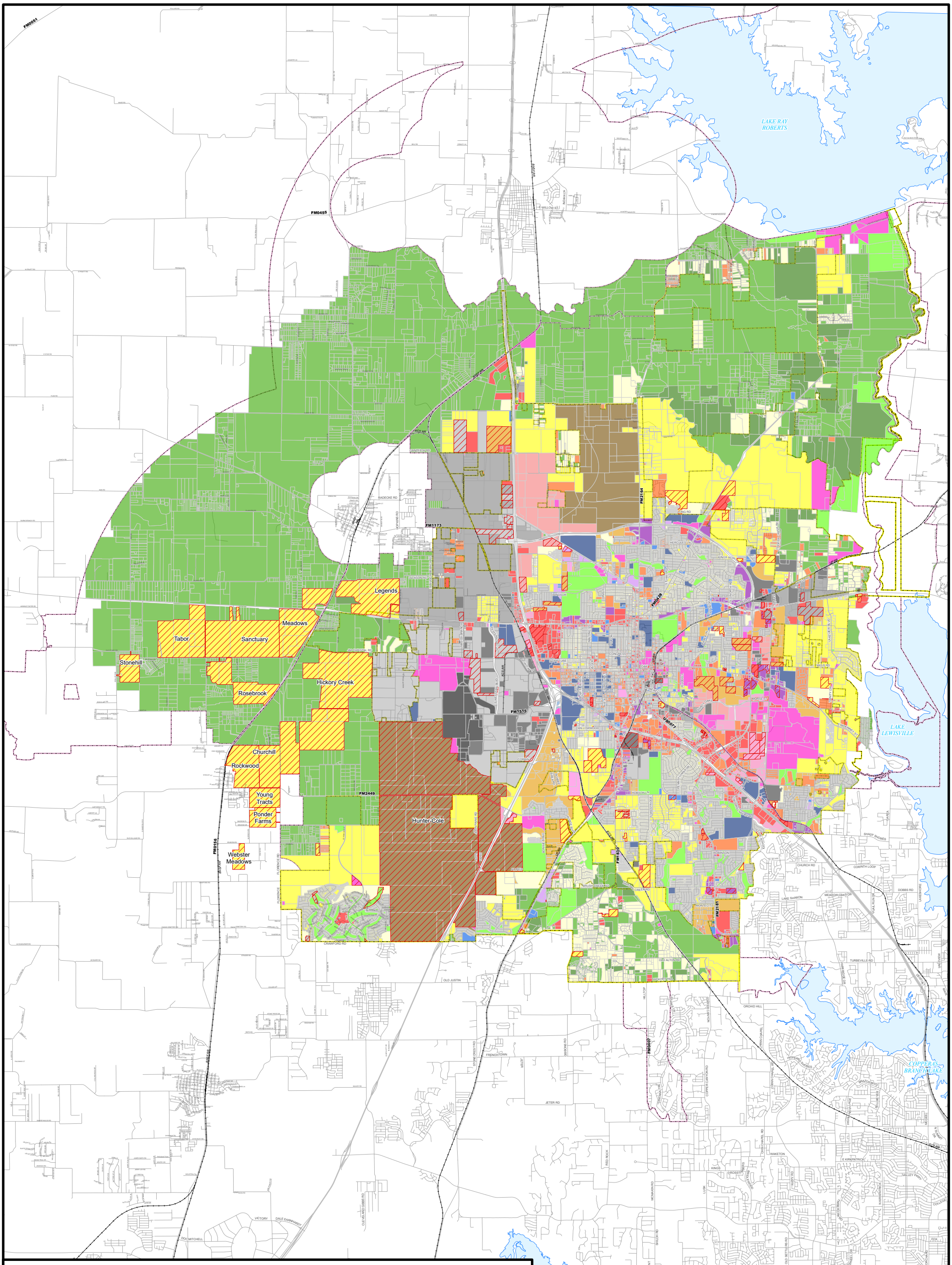
Kimley»Horn

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EXHIBIT

1.4

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LEGEND

Background Data
- Road
- Railroad
- Lake
- City Limit
- Denton ETJ
- Known Developments

Existing Land Use
- Agriculture
- Rural
- Parks and Open Space
- Residential - Single-Family
- Residential - Multi-Family
- Commercial
- Government
- Public
- Institutional
- Religious
- Airport
- Industrial

Future Land Use
- Community Mixed Use
- Regional Mixed Use
- Neighborhood Mixed Use
- Business Innovation
- Downtown Denton
- Master Plan Community
- Low Residential (4 units per acre)
- Moderate Residential (10 units per acre)
- Industrial Commerce
- Neighborhood / University Compatibility Area
- Light Industrial

CITY OF DENTON

CITY OF DENTON
FUTURE LAND USE

1 IN = 5,000 FT

January 2025

Kimley»Horn

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EXHIBIT 1.2

540

ORDINANCE NO. 19-008

AN ORDINANCE OF THE CITY OF DENTON, TEXAS UPDATING IMPACT FEES BY AMENDING CHAPTER 26, "UTILITIES," SECTION 26-210 THROUGH SECTION 26-232 OF THE CITY OF DENTON CODE OF ORDINANCES; ADOPTING REVISED LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLANS FOR WATER AND WASTEWATER IMPACT FEES; ESTABLISHING NEW SERVICE AREAS FOR WATER AND WASTEWATER IMPACT FEES; ESTABLISHING NEW MAXIMUM IMPACT FEES PER SERVICE UNIT AND IMPACT FEES TO BE COLLECTED; CREATING SCHEDULES FOR THE ASSESSMENT AND COLLECTION OF IMPACT FEES; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED $2,000 FOR EACH VIOLATION THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code, Chapter 395 authorizes a city to adopt and amend impact fees for the purpose of financing capital improvements required by new development; and

WHEREAS, the City Council of the City of Denton, Texas in accordance with State law, initially enacted water and wastewater impact fees in accordance with Ordinance No. 98-301, dated on the September 15, 1998; and

WHEREAS, the City Council, in accordance with State law, then enacted water and wastewater impact fees in accordance with Ordinance No. 2003-137 which was adopted by the City Council on May 13, 2003, and effective as of May 29, 2003; and then enacted Ordinance No. 2004-183, nunc pro tunc on July 20, 2004, and effective as of August 4, 2004 in order to properly recite several provisions that were inadvertently omitted or misstated from the above-referenced Ordinance No. 2003-137; and then enacted Ordinance No. 2008-156 which was adopted by the City Council on the July 15, 2008, and effective as of July 29, 2008 establishing new maximum fees and establishing a new service area for Water impact fees; and

WHEREAS, the City Council of the City of Denton, Texas in accordance with State law, then enacted water and wastewater impact fees in accordance with Ordinance No. 2013-326 on November 19, 2013; and

WHEREAS, five (5) years has passed since the Council considered impact fees, and it is now appropriate and lawfully required that the City once again address the issues of Land Use Assumptions and a Capital Improvements Plan, as well as the subject of Amended Water and Wastewater Impact Fees; and

WHEREAS, the City Council in accordance with law desires to update its impact fee program by amending land use assumptions, service areas, capital improvements plans and impact fees for water and wastewater facilities; and

WHEREAS, the City Council of the City of Denton, Texas has duly appointed a Capital Improvements Advisory Committee (the "Committee") by Ordinance No. 18-411 on March 20, 2018;

the Council has received written comments as required by law from such Committee, on November 29, 2018; and has adopted Land Use Assumptions and a Capital Improvements Plan for amended water and wastewater impact fees all in accordance with the requirements of Texas Local Government Code, Chapter 395; and

WHEREAS, the City Council of the City of Denton, Texas also received a recommendation of the Denton Public Utilities Board (the "Board"), an advisory Board, to consider the impact fees and the zones set forth below in this ordinance, which recommendation was obtained in an open meeting of the Board on October 8, 2018; and

WHEREAS, on December 18, 2018, after due notice being issued in accordance with State law, a public hearing of the City Council was convened during the regularly called City Council meeting regarding the subject of the land use assumptions, capital improvements plans, and amended impact fees; and

WHEREAS, the City Council of the City of Denton, Texas, having complied with all applicable substantive and procedural requirements of Texas Local Government Code, Chapter 395; considering the comments of the Capital Improvements Advisory Committee; considering the recommendation of the Public Utilities Board; and after due deliberation and consideration finds it necessary and appropriate and in the public interest to establish water and wastewater impact fees, and to establish amended water and amended wastewater impact fees to pay the costs of certain capital improvements for new development; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The facts, circumstances, and recitations contained in the preambles to this Ordinance are hereby found and declared to be true and correct.

SECTION 2. The Capital Improvements Plan for Water and Wastewater Impact Fees is hereby amended, as set forth in Exhibit "A," which is attached hereto and incorporated by reference herewith.

SECTION 3. The Land Use Assumptions for Water and Wastewater Impact Fees hereby are amended as set forth in Exhibit "A," which is attached hereto and incorporated by reference herewith.

SECTION 4. Chapter 26 of the Code of Ordinances of the City of Denton, Texas, entitled "Utilities," is hereby amended, which shall hereafter read as follows:

CHAPTER 26: UTILITIES

ARTICLE VI. IMPACT FEES

Sec. 26-210. Short Title.

This Article shall be known and cited as the "Denton Impact Fee Ordinance."

Sec. 26-211. Statement of Purpose.

This Article is intended to assure the provision of adequate public facilities to serve new development in the City by requiring each development to pay its proportional share of the costs of such improvements necessitated by and attributable to such new development as related to water and wastewater capital improvements.

Sec. 26-212. Authority.

This Article is adopted pursuant to Chapter 395 of the Texas Local Government Code and pursuant to the Denton Charter. The provisions of this Article shall not be construed to limit the powers of the City to utilize other methods authorized under state law, or pursuant to other City powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this Article. The effective date of this Article is September 15, 1998.

Sec. 26-213. Definitions.

The following words, terms and phrases, as used in this Article, shall have the meanings respectively ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) Area-related facility means a capital improvement or facility expansion which is designated in the Impact Fee Capital Improvements Plan and which is not a site-related facility. Area-related facility may include a capital improvement, which is located offsite, within, or on the perimeter of the development site.

(2) Assessment means the determination of the amount of the maximum impact fee per service unit that can be imposed on new development pursuant to this Article.

(3) Capital improvement means any water supply; or treatment, transmission, pumping and storage facilities; or wastewater treatment and conveyance facilities that have a life expectancy of three (3) or more years, and are owned and operated by or on behalf of the City.

(4) Director means the Director of Water or Wastewater Utilities, or General Manager of Utilities for the City of Denton, or his or her designee.

(5) Facility expansion means the expansion of the capacity of any existing facility for the purpose of serving new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to serve existing development.

(6) Impact fee capital improvements plan means the adopted plan for a service area, as may be amended from time to time, which identifies the water facilities or wastewater facilities and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of water or wastewater impact fees pursuant to this Chapter 26, Article VI.

(7) Land use assumptions means the projections of population and employment growth and associated changes in land uses, densities and intensities for a service area adopted by the City, as may be amended from time to time, upon which the impact fee capital improvements plan for the

service area is based.

(8) New development means an activity involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing water or wastewater demand, measured by an increase in the number of the service units utilizing the City's water or wastewater system that are attributable to such activity, and which requires either the approval and filing of a plat, or a re-plat pursuant to the City's subdivision regulations, or the issuance of a building permit, or a utility connection.

(9) Service area means a geographic area within the City or within the City's extraterritorial jurisdiction, within which impact fees for water or wastewater facilities may be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements identified in the type of capital improvements plan applicable to the service area.

(10) Service unit means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards, for a particular category of capital improvements or facility expansions. For water and wastewater facilities, the service unit shall constitute the basis for establishing equivalency within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 3/4-inch diameter simple water meter.

(11) Single-family equivalency ("SFE") means an equivalency factor, based on the demand associated with the smallest water meter used in the City of Denton, Texas utility system. SFE's are utilized to establish the number of service units to be allocated to various meter sizes used in the City of Denton, Texas Water and Wastewater utilities system.

(12) Site-related facility means an improvement or facility which is for the primary use or benefit of a new development and/or which is the for the primary purpose of safe and adequate provision of water and wastewater facilities to serve the new development and which is not included in the impact fee capital improvements plan and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

(13) Small residential housing unit means a single-family residence of less than 1,300 square feet on a lot of less than 6,000 square feet.

(14) Utility connection means connection of an individual meter to the City's water or wastewater system, or an increase in the size of an existing meter.

Sec. 26-214. Impact fee as condition of development approval.

No new development shall be connected to the City's water or wastewater system within the service

area without the assessment of an impact fee pursuant to this Article, and no building permit or request for service shall be issued until the applicant has paid the impact fee imposed herein, except for those entities that are expressly exempt from impact fees as set forth in Texas Local Government Code, Chapter 395.

Sec. 26-215. Land use assumptions.

(a) Said land use assumptions for the City shall be updated at least every five (5) years utilizing the amendment procedure set forth in Texas Local Government Code, Chapter 395.

(b) Amendment to the land use assumptions shall incorporate projections of changes in land uses, densities, intensities and population for the service area over at least a ten (10) year period.

Sec. 26-216. Water impact fee service area.

There are hereby established three (3) water impact fee service areas, to include all land within the City and its extraterritorial jurisdiction, the boundaries of which are depicted in Exhibit A, which Exhibit is attached hereto and incorporated by reference herein.

Sec. 26-217. Wastewater impact fee service areas.

There is hereby established one (1) wastewater impact fee service area, to include all land within the City and its extraterritorial jurisdiction, the boundaries of which are depicted in Exhibit A, which Exhibit is attached hereto and incorporated by reference herein.

Sec. 26-218. Determination of service units.

The number of service units for both water or wastewater impact fees shall be determined by using the land use, and the service unit equivalencies table which converts the demands for water or wastewater improvements generated by typical land uses to water meter size, and which table is included within Exhibit B and incorporated by reference herein.

Sec. 26-219. Impact fees per service unit.

(a) Maximum impact fees per service unit for each service area shall be established by category of capital improvements. The maximum impact fee per service unit for each service area for each category of capital improvement shall be computed in the following manner:

(1) For each category of capital improvements, calculate the total projected costs of capital improvements necessitated by and attributable to new development in the service area identified in the impact fee capital improvements plan;

(2) From such amount, subtract a credit in the amount of that portion of utility service revenues, if any, including the payment of debt, to be generated by new service units during the period the capital improvements plan is in effect, including the payment of debt, associated with the capital improvements in the plan;

(3) Divide the resultant amount by the total number of service units anticipated within the service area, based upon the land use assumptions for that service area.

(b) The maximum impact fee per service unit for water or wastewater facilities by service area shall be as set forth in Schedule 1, which is attached hereto and incorporated herein by reference. Schedule 1 shall be used to assess impact fees. Schedule 1 may be amended from time to time utilizing the amendment procedure set forth in Section 26-228.

(c) The impact fee per service unit which is to be paid by each new development within a service area shall be as set forth in Schedule 2, which is attached hereto and incorporated by reference, and shall be an amount less than or equal to the maximum impact fee per service unit established in Schedule 1. Schedule 2 may be amended from time to time utilizing the amendment procedure set forth in Section 26-228.

Sec. 26-220. Assessment of impact fees.

(a) Assessment of impact fees for any new development in all of the Denton Water and Wastewater Service Areas shall be made as follows:

(1) For land which is unplatted at the time of application for a building permit or utility connection, or for a new development which received final plat approval prior to the effective date of this Article, and for which no re-platting is necessary pursuant to the City's subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit or utility connection, whichever first occurs, and shall be the amount of the maximum impact fee per service unit in effect, as set forth in Schedule 1.

(2) For a new development which is submitted for approval pursuant to the City's subdivision regulations on or after the effective date of this Article, or for which re-platting results in an increase in the number of service units after such date, assessment of impact fees shall be at the time of final plat recordation, and shall be the amount of the maximum impact fee per service unit in effect as set forth in Schedule 1.

(b) Following assessment of impact fees pursuant to subsection (a), the amount of impact fee assessment per service unit for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval or other development application that results in approval of additional service units, in which case a new assessment shall occur at the Schedule 1 rate then in effect for such additional service units.

(c) Following the vacating of any plat or approval of any re-plat, a new assessment must be made in accordance with subsection (a)(2).

(d) An application for an amending plat made pursuant to Texas Local Government Code §212.016 and the City of Denton Subdivision Ordinance, and for which no new development is proposed, is not subject to reassessment for an impact fee.

Sec. 26-221. Computation of impact fees.

(a) Following the filing and acceptance of a written application for building permit or utility connection, the City shall compute the impact fee due in the following manner:

(1) The number of service units shall be determined by the size of the water meter purchased using the Land Use and Service Unit/SFE Equivalencies table incorporated as Exhibit B herein. The service units for multi-family apartment projects with eight (8) or more units shall be determined by multiplying the number of bedrooms in said apartment project by 0.26 SFE;

(2) Service units shall be summed for all meters, or for all bedrooms within a multi-family apartment project with eight (8) or more units purchased for the development;

(3) The total number of service units shall be multiplied by the impact fee per service unit for water and/or wastewater service facilities using Schedule 2 then in effect as established in Section 26-219;

(4) The amount of each impact fee shall be reduced by any allowable offsets or credits for that category of capital improvements, in the manner provided in Section 26-223.

(b) The amount of impact fee due for new development shall not exceed the amount computed by multiplying the assessed fee for water and/or wastewater service by the total number of service units generated by the development. The amount of impact fee due for redevelopment shall not exceed the amount computed by multiplying the assessed fee for water and/or wastewater service by the net increase in service units generated by the redevelopment.

(c) The developer may submit or the Director may require the submission of a study, prepared by a professional engineer, licensed in the State of Texas, clearly indicating the number of water and/or wastewater service units which will be consumed or generated by the new development. The Director will review the information for completeness and conformity with generally accepted engineering practices and will, when satisfied with the completeness and conformity of the study, multiply the number of service units determined by the study, times the impact fee per service unit contained in Section 26-219 above to determine the total impact fee to be collected for the development. The Director may also use recent historical water billing records for existing customers to determine water demands and single-family equivalents ("SFE") in accordance with data from the most recent Capital Improvements Plan.

(d) Whenever the property owner increases the number of service units for a development, the additional impact fees collected for such new service units shall be determined based on Schedule 2 and applicable offsets, credits, and discounts then in effect, and such additional fee shall be assessed and collected at the time the additional meters are purchased.

(e) In the event the property owner decreases the number of service units for a development, the property owner shall be entitled to a refund of the impact fee or impact fees actually paid, but only for the amounts represented by the decrease in service units based on the assessed fee and offsets,

credits, or discounts applicable at the time the fee was paid.

(f) If the building permit for the property on which an impact fee is paid has expired and a new application for a building permit is thereafter filed for the identical property and the identical number of service units, the impact fee previously paid satisfies the requirements of this Article, unless the earlier impact fee was refunded to the applicant at the expiration of the previously-issued building permit, or is otherwise refunded.

(g) The impact fee shall attach to the property for which the impact fee was paid and shall not be transferable to other properties or service units.

(h) No building permit or utility connection shall be issued if the applicant cannot verify payment to Staff of the appropriate impact fee and other applicable fees, or if existing facilities do not have actual capacity to provide service to the new connection(s), except for those entities that are exempted from impact fees as are specifically set forth in Texas Local Government Code, Chapter 395.

(i) All matters pertaining to the enforcement, assessment, computation, or collection of impact fees provided for herein shall be determined by the Director, or his or her designate.

Sec. 26-222. Collection of impact fees.

(a) Except as otherwise provided in this Section, the impact fee for the new development shall be collected at the time the City issues a building permit, or if a building permit is not required, at the time an application is filed for a new connection, to the City's water or wastewater system or for an increase in water meter size.

(b) Except as otherwise provided by contracts with political subdivisions, developer's contracts, or wholesale customers, no building permit shall be issued until all impact fees due and owing have been paid to the City.

(c) The City may enter into an agreement for capital improvements with a property owner pursuant to Section 26-229 that establishes a different time and manner of payment.

(d) In the event that a property owner agrees to construct or finance capital improvements in the capital improvements plan pursuant to Section 26-229, the costs of which are to be reimbursed to the owner from impact fees paid from other new developments that will use such facilities, the City may collect impact fees from such other new developments at the time final plats are recorded for such development.

(e) Schedule 1 sets the assessment rate and establishes maximum impact fees as set forth in subparagraphs (e)(1) through (e)(4) below:

(1) For a new development for which final plat recordation occurred on or after September 15, 1998, but before May 29, 2003, the maximum impact fee per service unit shall be $2,044 for the water service area, and $483 for the wastewater service area.

(2) For a new development for which final plat recordation occurred on or after May 29, 2003, but before July 29, 2008, the maximum impact fee per service unit shall be $3,155 for the water service area; and $1,703 for the Zone 1 wastewater service area.

(3) For a new development for which final plat recordation occurred on or after July 29, 2008, but before December 3, 2013 the maximum impact fee per service unit shall be as follows: $3,400 for the Zone 1 water service area and $4,000 for the Zone 2 water service area; and $1,700 for the Zone 1 wastewater service area and $1,760 for the Zone 2 wastewater service area.

(4) For a new development for which final plat recordation occurred on or after December 3, 2013, but before January 9, 2019, the maximum impact fee per service unit shall be as follows: $3,167 for the Zone 1A water service area, $5,250 for the Zone 1B water service area, and $5,753 for the Zone 2 water service area; and $2,851 for the wastewater service area.

(5) For a new development for which final plat recordation occurred on or after January 9, 2019, or for any plats filed prior to September 15, 1998, the maximum impact fee per service unit shall be as follows: $3,569 for the Zone 1A water service area, $5,352 for the Zone 1B water service area, and $7,638 for the Zone 2 water service area; and $4,716 for the wastewater service area.

(f) Schedule 2 sets the collection rate for impact fees as set forth in subparagraph (f)(1) through (f)(5) below:

(1) Except as provided in paragraph (2-5) below, impact fees shall be collected and paid as follows:

Water Service Area (Zone 1A)	$3,569 per service unit
Water Service Area (Zone 1B)	$5,352 per service unit
Water Service Area (Zone 2)	$7,638 per service unit
Wastewater Service Area	$4,716 per service unit

(2) For a new development for which final plat recordation occurred on or after September 15, 1998, but before May 29, 2003, and for which no new service units have been added, impact fees shall be collected as follows:

Water Service Area	$2,044 per service unit
Wastewater Service Area (Zone 1)	$483 per service unit

(3) For a new development for which final plat recordation occurred on or after May 29, 2003, but before July 29, 2008, and for which no new service units have been added, impact fees shall be collected as follows:

Water Service Area (Zone 1)	$3,155 per service unit
Wastewater Service Area (Zone 1)	$1,703 per service unit

(4) For a new development for which final plat recordation occurred on or after July 29, 2008, but before December 3, 2013, and for which no new service units have been added, impact fees shall be collected as follows:

Water Service Area (Zone 1)	$3,400 per service unit
Water Service Area (Zone 2)	$4,000 per service unit
Wastewater Service Area (Zone 1)	$1,700 per service unit
Wastewater Service Area (Zone 2)	$1,760 per service unit

(5) For a new development for which final plat recordation occurred on or after December 3, 2013, but before January 9, 2019 for which no new service units have been added, impact fees shall be collected as follows:

Water Service Area (Zone 1A)	$3,100 per service unit
Water Service Area (Zone 1B)	$3,900 per service unit
Water Service Area (Zone 2)	$4,500 per service unit
Wastewater Service Area (Zone 1)	$2,200 per service unit

Provided, however, if the service unit is a "small residential housing unit" as defined herein, which consists of a residence of less than 1,300 square feet, which is also located on a lot of less than 6,000 square feet, that service unit shall be assessed and charged a 0.5. SFE charge, no matter in which Zone it is located in, and no matter when the lot is platted.

Sec. 26-223. Offsets and credits.

(a) The City shall offset the reasonable value of any area-related facilities, identified in the impact fee capital improvements plan and constructed pursuant to an agreement with the City, except as otherwise provided therein, which are dedicated to and received by the City on or after the effective date of this ordinance, against the amount of the impact fee due for that category of capital improvement. No offsets or credits shall be provided for required over-sizing of water and wastewater lines or lift stations not identified in the capital improvements plan or for pro-rata payments to repay other developers for such over-sizing.

(b) The City shall credit any new development that occurs subsequent to the effective date of this Article, any amount of capital recovery fees which have been collected by the City pursuant to duly adopted ordinances and any impact fees collected by the City pursuant to this Article.

(c) All offsets and credits against impact fees shall be subject to the following limitations and shall be granted based on this Article and additional standards promulgated by the City, which may be adopted as administrative guidelines.

(1) No offset or credit shall be given for the dedication or construction of site-related facilities.

(2) No offset or credit shall exceed the impact fee to be collected from new

development as established in Section 26-219.

(3) The unit costs used to calculate the offsets shall not exceed those assumed for the capital improvements included in the impact fee capital improvements plan for the category of facility within the service area for which the impact fee is imposed.

(4) If an offset or credit applicable to a plat has not been exhausted within ten (10) years from the date of the acquisition of the first building permit issued or connection made after the effective date of this Article or within such period as may be otherwise designated by agreement for capital improvements pursuant to Section 26-229, such offset or credit shall lapse.

(5) In no event will the City reimburse the property owner or developer for an offset or credit when no impact fees for the new development can be collected pursuant to this Article or for any amount exceeding the total impact fees collected or due for the development for that category of capital improvement, unless otherwise agreed to by the City.

(6) No offset shall exceed an amount equal to the eligible costs of the improvement multiplied by a fraction, the numerator of which is the impact fee per service unit due for the new development as computed using Schedule 2 and the denominator of which is the maximum impact fee per service unit for the new development as computed using Schedule 1.

(7) Offsets or credits for area-related facilities dedicated to and accepted by the City for a development prior to the effective date of this Article shall be prorated among the total number of service units within such development and reduced by an amount equivalent to the number of existing service units within such development and shall be further reduced by the amount of any participation funds received from the City and by any payments received from other developments who utilize the system facility.

(8) The City may participate in the costs of an area-related improvement to be dedicated to the City, including costs that exceed the amount of the impact fees due for the development under Schedule 1 for that category of capital improvements, in accordance with policies and rules established under the City's subdivision regulations and when incorporated into an agreement for capital improvements pursuant to Section 26-229. The amount of any offset shall not include the amount of the City's participation.

(d) Unless an agreement for capital improvements is executed providing for a different manner of offsetting or crediting impact fees due pursuant to Section 26-229, an offset or credit associated with a plat shall be applied to reduce an impact fee at the time of application for the first building permit or at the time of application for the first utility connection for the property, in the case of land located within the City's extraterritorial jurisdiction, and, thereafter, to reduce impact fees subsequently to be collected, until the offset or credit is exhausted.

Sec. 26-224. Establishment of accounts.

(a) The City's Department of Finance shall establish separate interest-bearing accounts

clearly identifying the category of capital improvement (i.e., water facilities and wastewater facilities) within the service area for which the impact fee is collected.

(b) Interest earned by each account shall be credited to the account on which it is earned and shall be used solely for the purposes specified for impact fees as authorized herein.

(c) The City's Department of Finance shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in this Article. Disbursement of funds shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this Article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.

(d) The City's Department of Finance shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, the number of service units for which the monies are received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the impact fee capital improvements plan as area-related capital projects. The City's Department of Finance shall also maintain such records as are necessary to ensure that refunds are appropriately made in accordance with this Article. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The City may establish a fee for copying services

Sec. 26-225. Use of proceeds of impact fee accounts.

(a) The impact fee collected pursuant to this Article may be used to finance or to recoup capital construction costs for water and wastewater facilities identified in the impact fee capital improvements plan and for any purpose authorized in Texas Local Government Code, Chapter 395, as amended. Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such capital improvements or facilities expansions.

(b) Impact fees collected pursuant to this Article shall not be used to pay for any of the following expenses:

(1) Construction, acquisition, or expansion of capital improvements or assets other than those identified for the water and wastewater utility in the impact fee capital improvements plan;

(2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;

(3) Upgrading, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(4) Upgrading, expanding, or replacing existing capital improvements to serve

existing development; provided, however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or

(5) Administrative and operating costs of the City.

Sec. 26-226. Appeals.

(a) The property owner or applicant for new development may appeal the following Staff decisions and determinations to the Denton Public Utilities Board: (a) the applicability of an impact fee to the new development; (b) the method of calculating the amount of the impact fee due; (c) the availability or the amount of an offset, credit or rebate; (d) the application of an offset or credit against an impact fee due; or (e) the amount of a refund due, if any. The Property Owner or Applicant shall notify the City Secretary of the City of Denton, Texas in writing, of its desire to appeal any such decision and determination to the Public Utilities Board, no later than thirty (30) days following the date of Staff decision or determination. This notice shall be untimely if it is received by the City Secretary more than thirty (30) days following the date of Staff decision and determination.

(b) The Owner and/or Applicant must file a notice of appeal with the City Secretary within thirty (30) days following the determination of the amount of the impact fees to be paid by the development by city Staff. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal of the impact fee is pending.

(c) The written notice to the City Secretary requesting an appeal shall contain the following information:

(1) The name of the Owner and/or Applicant of the Appeal; and

(2) The business address and telephone number of the Owner and/or Applicant; and

(3) The specific decision or determination of Staff which Owner and/or Applicant are complaining of, and the date of issuance thereof; and

(4) State specifically the grounds regarding Owner's and/or Applicant's application for appeal; and

(5) State specifically what amount of money that you believe is owing the City, as well as your basis therefor; and

(6) The name and address of any legal counsel who will appear before the Public Utilities Board to argue on your behalf; and

(7) The signature of the Owner and/or Applicant regarding this Appeal.

(d) The burden of proof shall be on the property owner and/or applicant to demonstrate that the amount of the fee or the amount of the offset, credit or rebate was not calculated according to the provisions of this Article. Upon submission of the case and the hearing held before the Public Utilities Board (the "Board"), a decision shall be made by the Board, upon Public Hearing, which shall constitute a formal recommendation to the Denton City Council. The Board shall submit all of the materials that it receives as evidence from Staff and all of the materials that it receives as evidence from the Owner and/or Applicant to the City Council for its final consideration. All evidence as well as the record shall be closed by the Public Utilities Board. A record shall be made of the Public Utilities Board hearing and shall be forwarded to the City Council. The City Council shall then make its decision on the record produced by the Public Utilities Board and upon the oral arguments that are limited to not more than fifteen (15) minutes each for the Owner and/or Applicant, and the City. The City Council shall then determine the appeal and issue its written decision.

Sec. 26-227. Refunds.

(a) Any impact fee or portion thereof collected pursuant to this Article which has not been expended within ten (10) years from the date of payment, shall be refunded, upon application, to the record owner of the property at the time the refund is paid, or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Texas Local Government Code, Section 395.025(d) which states that Texas Finance Code, Section 302.002, or any successor statute applies.

(b) Upon the written request of an owner of the property on which an impact fee has been paid, the City shall refund such fees if:

(1) Existing service is available and service is denied; or

(2) Service was not available when the fee was collected and the City has failed to commence construction of facilities to provide service within two (2) years of fee payment; or

(3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event no later than five (5) years from the date of the payment.

(c) The City shall refund an appropriate proportion of impact fee payments in the event that a previously purchased but uninstalled water meter for which the impact fee has been paid is replaced with a smaller meter, based on the service unit differential of the two (2) meter sizes and the fee per service unit at the time of the original fee payment.

(d) A petition for refund under this section shall be submitted to the Director on a form provided by the City for such purpose. Within one (1) month of the date of receipt of a petition for refund, the Director must provide the petitioner, in writing, with a decision on the refund request,

including the reasons for the decision. If a refund is due to the petitioner, the Director shall notify the General Manager of Utilities and request that a refund payment be made to the petitioner.

Sec. 26-228. Update of plan and revision of fees.

(a) The City shall update its land use assumptions and capital improvements plans at least every five (5) years, commencing approximately from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in Texas Local Government Code, Chapter 395, or in any successor statute.

(b) The City may review its land use assumptions, impact fees, capital improvements plans and other factors such as market conditions more frequently than provided in subsection (a) to determine whether the land use assumptions and capital improvements plans should be updated and the impact fee recalculated accordingly, or whether Schedules 1 or 2 should be changed. Schedule 2 may be amended without revising land use assumptions and capital improvements plans at any time prior to the update provided for in subsection (a), provided that the impact fees to be collected under Schedule 2 do not exceed the impact fees assessed under Schedule 1.

(c) If, at the time an update is required pursuant to Subsection (a), the City Council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed, it may dispense with such update by following the procedures in Texas Local Government Code, Section 395.0575.

(d) The City may amend by resolution the Land Use and Service Unit/SFE Equivalency table (Exhibit B), at any time prior to the update provided for in Subsection (a), provided that the number of service units associated with a particular land use shall not be increased.

Sec. 26-229. Agreement for capital improvements.

An owner of a new development may construct or finance a capital improvement or facility expansion designated in the impact fee capital improvements plan, if required or authorized by the City, by entering into an agreement with the City prior to the issuance of any building permit for the development. The agreement shall be on a form approved by the City and shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the improvement or expansion, a requirement that the improvement be designed and completed to City standards and such other terms and conditions as deemed necessary by the City. The agreement shall provide for the method to be used to determine the amount of the offset to be given against the impact fees due for the development or any reimbursement to the owner for construction of the facility.

Sec. 26-230. Use of other financing mechanisms.

(a) In addition to the use of impact fees, the City may finance water and wastewater capital improvements or facilities expansions designated in the impact fee capital improvements plan through the issuance of bonds, through the formation of public improvements districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations

as may be provided by law.

(b) Except as otherwise provided herein, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

(c) The City may pay all or part of impact fees due for a new development taking into account available offsets and credits pursuant to duly adopted criteria.

Sec. 26-231. Conflicting ordinances.

All ordinances or parts of ordinances that are in force when the provisions of this ordinance become effective, which are inconsistent or in conflict with the terms or provisions contained in this ordinance, are hereby repealed to the extent of the conflict.

Sec. 26-232. Reserved.

SECTION 4. Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not to exceed $2,000. Each day that a provision of this Ordinance is violated shall constitute a separate and distinct offense.

SECTION 5. If any section, subsection, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions, despite any such invalidity.

SECTION 6. This Ordinance shall repeal any conflicting ordinances and resolutions to the contrary; it being the intention of the City Council to fully amend all provisions of Chapter 26 of the City of Denton, Texas Code of Ordinances dealing with Impact Fees.

SECTION 7. This Ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record Chronicle,* a daily newspaper published in the City of Denton, Denton County, Texas, within ten (10) days of the date of its passage.

The motion to approve this Ordinance was made by PAUL MELTZER and seconded by GERARD HUDSPETH; the Ordinance was passed and approved by the following vote [4 - 2]:

	Aye	Nay	Abstain	Absent
Chris Watts, Mayor:	✓			
Gerard Hudspeth, District 1:	✓			
Keely G. Briggs, District 2:		✓		
Don Duff, District 3:				✓
John Ryan, District 4:	✓			

Deb Armintor, At Large Place 5:	___	✓	___	___
Paul Meltzer, At Large Place 6:	✓	___	___	___

PASSED AND APPROVED this the 15th day of January, 2019.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: _____

EXHIBIT A



CITY OF DENTON

2018 Water and Wastewater Impact Fee Updates

Kimley»Horn

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Chapter 1:
Land Use Assumptions for the 2018 Water and Wastewater Impact Fee Update

Prepared for:

City of Denton, Texas

Prepared by:

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Firm Registration No. F-928

September 2018

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1.1 LAND USE ASSUMPTIONS

A. Purpose and Overview

In order to assess an impact fee, Land Use Assumptions must be developed to provide the basis for residential and employment growth projections within a political subdivision. As defined by Chapter 395 of the Texas Local Government Code, these assumptions include a description of changes in land uses, densities, and development in the service area. The land use assumptions are then used in determining the need and timing of water and wastewater improvements to serve future development.

Information from the following sources was compiled to complete the land use assumptions:

- Denton Plan 2030 (City of Denton Comprehensive Plan)
- Denton Water Master Plan
- Denton Wastewater Master Plan
- North Central Texas Council of Governments (NCTCOG)
- City of Denton staff

Development of the Land Use Assumptions include the following components:

- **Land Use Assumptions Methodology** – An overview of the general methodology used to generate the land use assumptions.
- **Impact Fee Service Areas** – Explanation of the division of Denton into service areas for Water and Wastewater facilities.
- **Population** – Data on population growth within the service area over the next ten years (2018 – 2028).
- **Land Use Assumptions Summary** – A synopsis of the land use assumptions.

B. Land Use Assumptions Methodology

The population growth projections formulated in this report were performed using reasonable and generally accepted planning principles. The following factors were considered in developing these projections:

- Character, type, density, and quantity of existing development;
- Current zoning plans;
- Future Land Use Plan (based on Denton Plan 2030);
- Growth trends;
- Location of vacant land;
- Physical restrictions (i.e. flood plains, railroads); and
- Physical development capacity of Denton.

Existing and future population estimates were obtained using projections provided in the on-going Water Master Plan study. These projections are organized into Traffic Analysis Zones (TAZs). The TAZ population projections were applied to the Water and Wastewater Impact Fee service areas to obtain the 10-year growth by service area.

In addition, the Water and Wastewater population projects were compared against the household and employment projections developed for the 2015 Roadway Impact Fee study, as well as estimates provided by City staff.

C. Water and Wastewater Impact Fee Service Areas

The geographic boundary of the proposed impact fee service areas for water facilities is shown in **Figure 1.1**. These three service areas cover the Certificate of Convenience and Necessity (CCN) area in the City of Denton and its Extra-Territorial Jurisdiction (ETJ) that are currently being served or are planned to be served in the future by City water facilities. Service area 1A represents the inner core of the City, while zone 1B represents the outer edge, and service area 2 represents a large portion of the southwest area of the City.

The geographic boundary of the proposed impact fee service area for wastewater facilities is shown in **Figure 1.2.** The wastewater service area covers the CCN area in the City of Denton and its ETJ that are currently being served or are planned to be served in the future by City wastewater facilities.

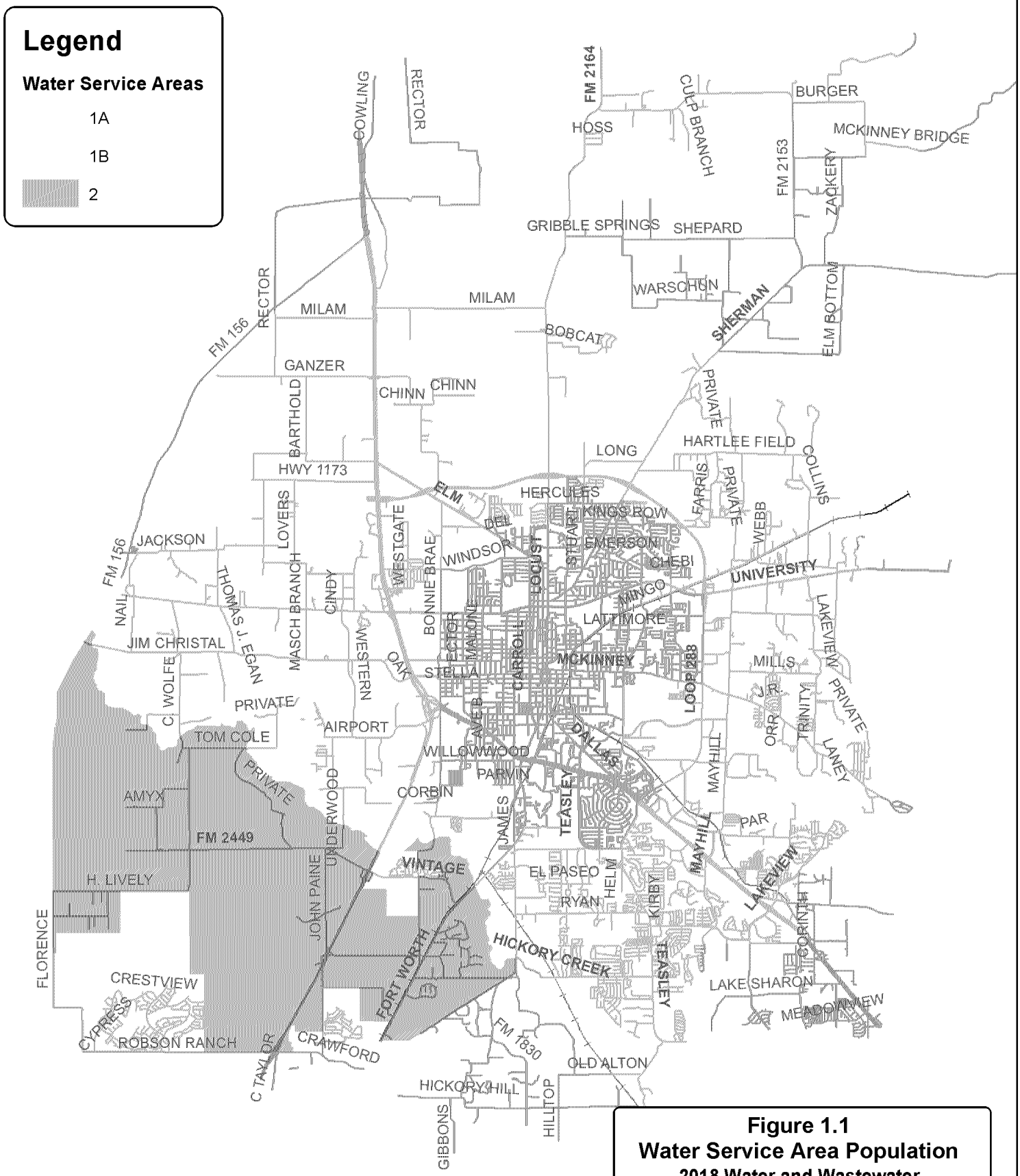


Figure 1.1
Water Service Area Population
2018 Water and Wastewater Impact Fee Update

0 0.5 1 2 Miles

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CITY OF DENTON

Water Impact Fee Service Area Population Growth

Year	1A	1B	2	Total
2018	63,736	61,190	5,213	130,139
2028	77,440	74,668	6,538	158,646
Growth	13,704	13,478	1,325	28,507

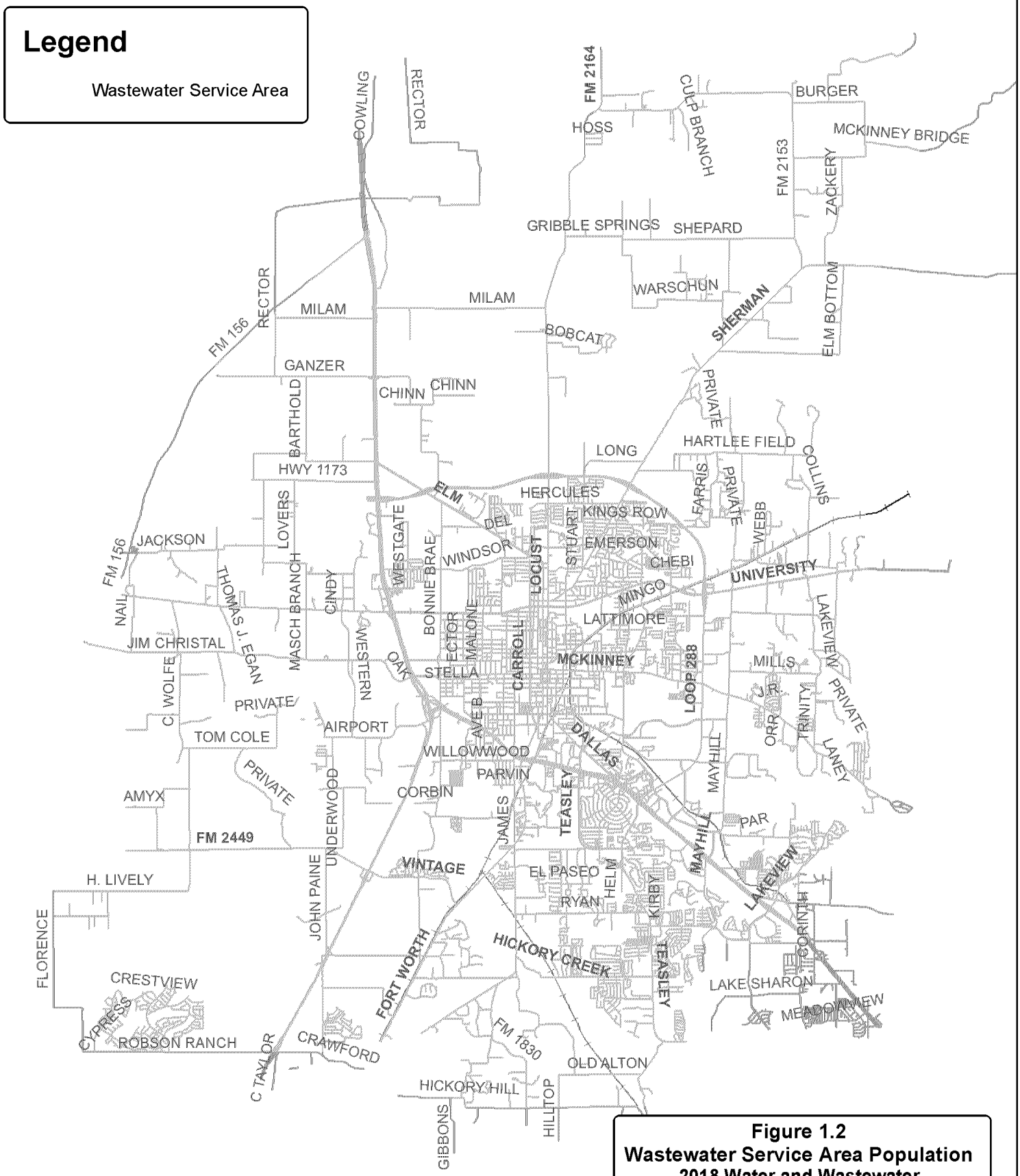


Figure 1.2
Wastewater Service Area Population
2018 Water and Wastewater Impact Fee Update

0 0.5 1 2 Miles

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Wastewater Impact Fee Service Area Growth

Year	Total
2018	130,170
2028	160,076
Growth	29,906

D. Population

Population estimates for the base year (2018) and ten-year window (2028) were performed based upon the Waster master plan, the Water and Wastewater service area boundaries, the 2015 Roadway Impact Fee Study, and input from City staff.

E. Land Use Assumptions Summary

Table 1.1 summarizes the Existing and 10-year growth projections for the Water service areas. **Table 1.2** summarizes the Existing and 10-year growth projections for the Wastewater service area. The projected growth over the next ten years is reasonable compared to 2015 Roadway Impact Fee Study and estimates provided by City staff.

Table 1.1. Population Projections by Water Service Area

Year	Water Service Area			Total
	1A	1B	2	
2018	63,736	61,190	5,213	130,139
2028	77,440	74,668	6,538	158,646
Growth	*13,704*	*13,478*	*1,325*	*28,507*

Table 1.2. Population Projections by Wastewater Service Area

Year	Wastewater Service Area
2018	130,170
2028	160,076
Growth	*29,906*

Chapter 2:
2018 Water Impact Fee Update

Prepared for:

City of Denton, Texas

Prepared by:

Kimley-Horn and Associates, Inc.
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Fort Worth, TX 76102
817.335.6511
Firm Registration No. F-928

9/25/2018

STATE OF TEXAS
JOSH KERCHO
113002
LICENSED
PROFESSIONAL ENGINEER

September 2018

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2.1 EXECUTIVE SUMMARY

This study was performed for the 5-year update of the City of Denton's Water System Impact Fees. Water system analysis and the Water System Master Plan are important tools for facilitating orderly growth of the water system and for providing adequate facilities that promote economic development in the City of Denton.

Elements of the water system, including storage facilities, pumping facilities, and the distribution network itself, were evaluated against industry standards as outlined in the Design Criteria section of this report. Water system improvements necessary to serve 10-year (2028) and ultimate system needs were evaluated as well. Typically, infrastructure improvements are sized beyond the 10-year requirements; however, the state's impact fee law (Chapter 395) only allows recovery of costs to serve the 10-year planning period. The remainder can be assessed as the planning window extends beyond 2028 and as the impact fees are updated in the future. Information related to the growth of the City has been provided in Chapter 1 – Land Use Assumptions.

Based on the City's 10-year growth projections and the resulting water demand projections, water service will be required for an additional **15,773** single family equivalents. The calculation is as follows:

- A single family equivalent (SFE), which is a unit of development that consumes approximately **317** gallons per day (GPD), is a typical residential connection that uses a 5/8x3/4-inch meter.

Table 2.1. 10-year Additional Single-Family Equivalent Calculation

Year	Average Day Flow (MGD)[1]	SFE Demand (GPD)	Projected SFEs
2018	22.0	317	69,401
2028	27.0	317	85,174
10-year Additional SFEs			**15,773**

(1) Data Sources:
- City of Denton Water Master Plan, prepared by Freese and Nichols, Inc.

The City of Denton defines a single-family equivalent, as a unit of development that consumes the amount of water requiring a standard 5/8x3/4-inch meter. Based on the additional SFEs and the recoverable capital improvements plan the City may assess a maximum of **$3,569** per single-family equivalent in Zone 1A, **$5,352** per single-family equivalent in Zone 1B, and **$7,638** per single-family equivalent in Zone 2. For a development that requires a different size meter, a single-family equivalent is established at a multiplier based on meter capacity with respect to the 5/8-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 2.2**).

Table 2.2. Maximum Assessable Water Impact Fee by Zone and Meter Size

Meter Size	Single Family Equivalent[1]	Zone 1A Maximum Assessible Impact Fee	Zone 1B Maximum Assessible Impact Fee	Zone 2 Maximum Assessible Impact Fee
5/8x3/4"	1	$3,569	$5,352	$7,638
1"	2.5	$8,923	$13,380	$19,095
1-1/2"	5	$17,845	$26,760	$38,190
2"	8	$28,552	$42,816	$61,104
3"	22.5	$80,303	$120,420	$171,855
4"	50	$178,450	$267,600	$381,900
6"	100	$356,900	$535,200	$763,800
8"	200	$713,800	$1,070,400	$1,527,600
10"	325	$1,159,925	$1,739,400	$2,482,350

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

2.2 INTRODUCTION

The City of Denton retained the services of Kimley-Horn and Associates, Inc., for the purpose of the 5-year update of the impact fees for water system improvements required to serve new development. These fees were originally developed in 1998, and updated in the years 2003, 2008 and 2013 in accordance with Chapter 395 of the Local Government Code (impact fees).

The purpose of this report is to satisfy the requirements of the law and provide the City with an updated impact fee capital improvements plan and associated impact fees.

For convenience and reference, the following is excerpted from Chapter 395 of the code:

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including but not limited to residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service unit during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total project cost of implementing the capital improvements plan.

The study process was comprised of four tasks:

A. Land Use Assumptions

The development of land use assumptions included the following:

- Establishing impact fee service areas (SA) for water and wastewater;
- Collection/determination of population and employment data by SA; and
- Projection of the ten-year population and employment by SA.

A detailed discussion is outlined in the Land Use Assumptions Chapter of this report.

B. Evaluation of the Water System Master Plan

This task involved coordination with City Staff to determine compatibility between the growth projections of the City's Water System Master Plan as prepared by Freese and Nichols, Inc., and Land Use Assumptions. The water demand projections were then used to determine the additional single-family equivalents (SFEs).

C. Impact Fee Capital Improvements Plan

This task involved coordination with City staff to identify proposed water capital improvements outlined in the master plan that will be built in the 10-year planning window and meet the design criteria included in **Section 2.3** below.

D. Impact Fee Analysis

This task included calculating the additional single-family equivalent units, and credit reduction. These values were then used to determine the impact fee per SFE and the maximum assessable impact fee by meter size.

2.3 DESIGN CRITERIA

A. Water Transmission Lines (12-inch and Larger)

Water transmission lines shall be sized to maintain a minimum of 50 pounds per square inch (psi) throughout the system during peak hour demands conditions. In addition to this, the transmission lines shall be designed for a maximum pipeline velocity of 7.0 feet per second with a maximum friction loss of 5 feet per 1,000 feet of pipeline length for 16-inch and 12-inch waterlines. For waterlines 20-inch and larger, a maximum friction loss of 3 feet per 1,000 feet of pipeline length shall be used.

B. Elevated Storage Tanks

The design criteria used to size elevated storage tank capacity is the capacity to provide adequate storage for peak hour demands plus emergency storage for fire protection. The required capacity for the peak hour demands is calculated as the storage volume to allow a minimum of a three (3) hour drain time using 2/3rds of the tank volume during a summer peak hour operating condition. The required capacity for emergency fire protection storage is calculated as the volume of water needed to meet a 3,000 gallon per minute (gpm) fire for a three (3) hour time period, which typically is met through the remaining 1/3rd tank volume.

In addition to these criteria, the City must also meet the TCEQ elevated storage capacity requirements of 100 gallons per connection. The above recommended design criteria (to provide storage for peak hour demands plus fire protection) is this most restrictive criteria and therefore recommended for use in sizing future elevated storage facilities.

C. Ground Storage Tanks

The design criteria recommended to size ground storage tank capacity within each pressure plane is to provide adequate storage volume to meet 12 hours of maximum day summer demand utilizing 2/3rds of the available ground storage tank capacity.

In addition to these criteria, the City must also meet TCEQ ground storage capacity requirements of 200 gallons per connection (this is for ground storage plus elevated storage). The above recommended criterion (for 12 hours of storage capacity) is the most restrictive criteria and will be used here to size recommended storage capacity.

D. Pump Stations

The design criteria recommended for pump station capacity is providing a firm pumping capacity to meet 125% of the summer maximum day demands. The firm pumping capacity is defined as the available total pumping capacity with the largest pump out of service.

2.4 IMPACT FEE CAPITAL IMPROVEMENTS PLAN

The City Council commissioned Freese and Nichols, Inc. to update the Water System Master Plan. The purpose of the plan is to provide the City with a logical strategy for upgrading and expanding its water distribution system to accommodate future growth and for addressing existing system deficiencies. Freese and Nichols, Inc. completed the *Water System Master Plan* and recommended system improvements to accommodate growth through the year 2043.

Seventeen (17) previously constructed projects as well as fifteen (15) proposed projects identified in the *Water System Master Plan* are determined eligible for recoverable cost through impact fee over the next 10 years. The total projected cost of these projects is **$393,730,167**, and has been broken up into Zone 1A, Zone 1B and Zone 2 below. These impact fee capital improvements are shown in **Table 2.3.**

ZONE 1A

The projected total recoverable cost in the next 10 years through impact fees in Zone 1A is **$25,711,201**. After financing costs are added and the credit reduction calculation is complete, **$27,521,502** is recoverable through impact fees serving the 10-year system needs.

ZONE 1B

The projected total recoverable cost in the next 10 years through impact fees in Zone 1B is **$36,084,557**. After financing costs are added and the credit reduction calculation is complete, **$39,703,198** is recoverable through impact fees serving the 10-year system needs.

ZONE 2

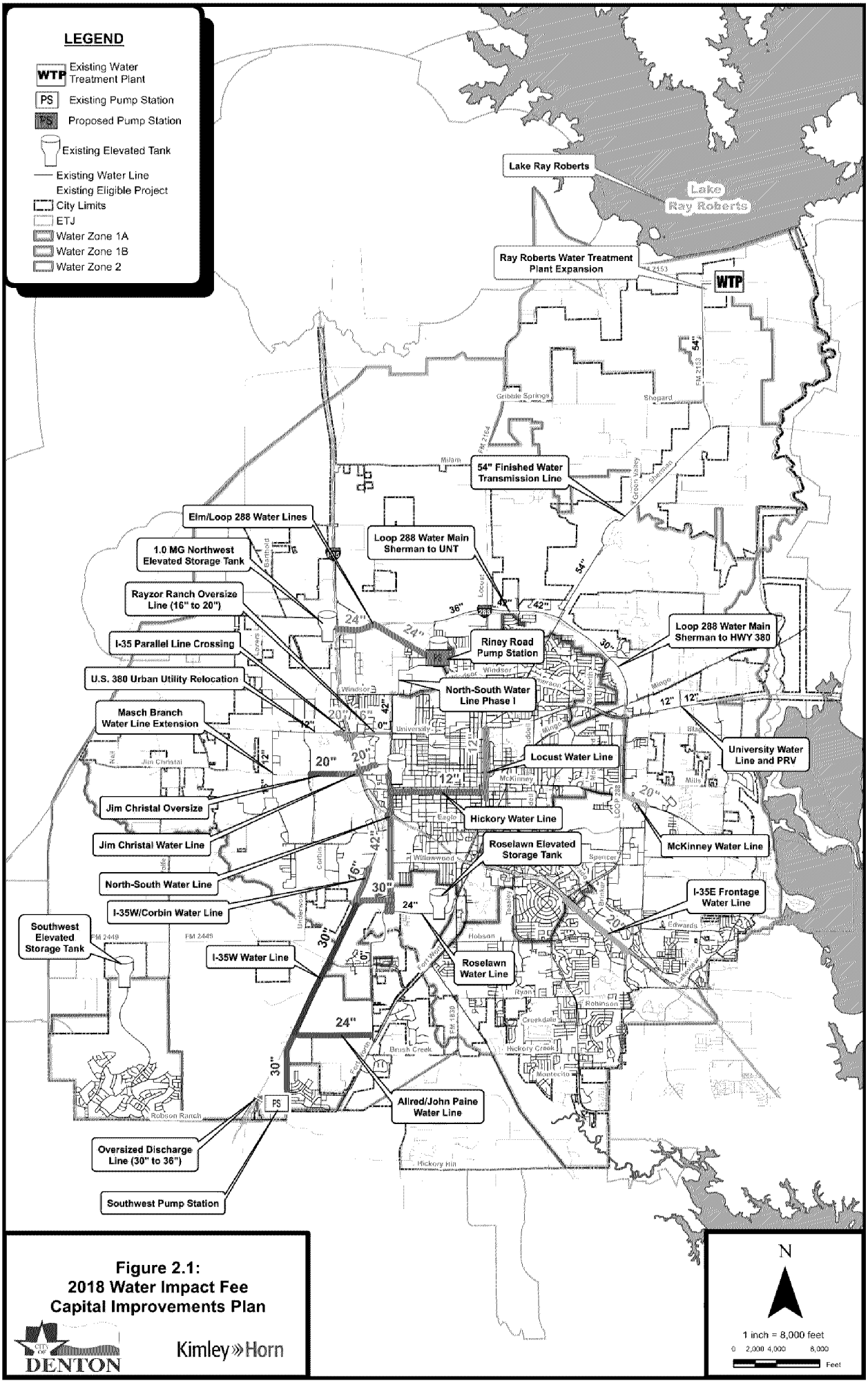
The projected total recoverable cost in the next 10 years through impact fees in Zone 2 is **$4,254,101**. After financing costs are added and the credit reduction calculation is complete, **$4,903,866** is recoverable through impact fees serving the 10-year system needs.

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Table 2.3. Water Impact Fee Capital Improvements
Project Cost and 10-Year Recoverable Cost

Proj. #	Description	2018 Required Capacity (Percent Utilization)	2028 Required Capacity (Percent Utilization)	2018-2028 Required Capacity (Percent Utilization)	2028 Projected Recoverable Cost	Total Project Cost	Zone 1A Utilization	Zone 1A Recoverable Cost	Zone 1B Utilization	Zone 1B Recoverable Cost	Zone 2 Utilization	Zone 2 Recoverable Cost
					EXISTING							
1	Lake Ray Roberts	90.0%	100.0%	10%	$ 15,330,617	$ 153,306,163	48%	$ 7,358,696	47%	$ 7,205,390	5%	$ 766,531
2	Lake Ray Roberts Water Treatment Plant	60%	100%	40%	$ 22,578,094	$ 56,445,235	48%	$ 10,837,485	47%	$ 10,611,704	5%	$ 1,128,905
3	54" Finished Water Transmission Line	35%	60%	25%	$ 2,397,575	$ 9,590,299	48%	$ 1,150,836	47%	$ 1,126,860	5%	$ 119,879
4	Loop 288 Water Main - Sherman to UNT	35%	65%	30%	$ 1,308,555	$ 4,361,849	48%	$ 628,106	47%	$ 615,021	5%	$ 65,428
5	Loop 288 Water Main - Sherman to Hwy 380	40%	65%	25%	$ 879,588	$ 3,518,352	48%	$ 422,202	47%	$ 413,406	5%	$ 43,979
6	Northwest Elevated Storage Tank	55%	75%	20%	$ 467,998	$ 2,339,988	0%	$ -	100%	$ 467,998	0%	$ -
7	Southwest Pump Station	50%	75%	25%	$ 1,478,001	$ 5,912,002	0%	$ -	90%	$ 1,330,201	10%	$ 147,800
8	Southwest PS Oversize Discharge Line (30" to 36"	15%	20%	5%	$ 14,224	$ 284,477	0%	$ -	90%	$ 12,802	10%	$ 1,422
9	Vintage Oversize Line (12" to 20")	50%	70%	20%	$ 50,854	$ 254,269	0%	$ -	80%	$ 40,683	20%	$ 10,171
10	North-South Water Line Phase I	25%	50%	25%	$ 1,509,651	$ 6,038,601	48%	$ 724,632	47%	$ 709,536	5%	$ 75,483
11	Roselawn Elevated Storage Tank	60%	85%	25%	$ 1,574,860	$ 6,299,440	48%	$ 755,933	47%	$ 740,184	5%	$ 78,743
12	Roselawn Water Line	35%	55%	20%	$ 359,473	$ 1,797,363	48%	$ 172,547	47%	$ 168,952	5%	$ 17,974
13	Masch Branch Road Water Line Extension	15%	20%	5%	$ 32,290	$ 645,781	0%	$ -	100%	$ 32,290	0%	$ -
14	US 380 Urban Utility Relocation	25%	30%	5%	$ 68,105	$ 1,362,086	0%	$ -	100%	$ 68,105	0%	$ -
15	Rayzor Ranch Oversize Line (16" to 20")	20%	25%	5%	$ 6,662	$ 133,226	0%	$ -	100%	$ 6,662	0%	$ -
16	Southwest Elevated Storage Tank	55%	65%	10%	$ 541,028	$ 5,410,280	0%	$ -	90%	$ 486,925	10%	$ 54,103
17	University Water Line and PRV	25%	55%	30%	$ 247,941	$ 826,468	0%	$ -	100%	$ 247,941	0%	$ -
					PROPOSED							
1	North-South Water Line	0%	30%	30%	$ 3,261,090	$ 10,870,300	10%	$ 326,109	70%	$ 2,282,763	20%	$ 652,218
2	I-35 Parallel Line Crossing	15%	30%	15%	$ 150,600	$ 1,004,000	0%	$ -	100%	$ 150,600	0%	$ -
3	Riney Road Booster Pump Station	15%	25%	10%	$ 786,600	$ 7,866,000	0%	$ -	100%	$ 786,600	0%	$ -
4	Elm/Loop 288 Water Lines	0%	35%	35%	$ 1,938,055	$ 5,537,300	0%	$ -	100%	$ 1,938,055	0%	$ -
5	Allred Road / John Paine Road Water Lines	0%	30%	30%	$ 1,779,000	$ 5,930,000	0%	$ -	80%	$ 1,423,200	20%	$ 355,800
6	Ray Roberts WTP Expansion	0%	4%	4%	$ 3,571,200	$ 89,280,000	48%	$ 1,714,176	47%	$ 1,678,464	5%	$ 178,560
7	McKinney Water Line	0%	35%	35%	$ 420,210	$ 1,200,600	0%	$ -	100%	$ 420,210	0%	$ -
8	I-35E Frontage Road Water Line Betterment	0%	65%	65%	$ 663,332	$ 1,020,510	0%	$ -	100%	$ 663,332	0%	$ -
9	Locust Water Line Upsize	0%	90%	90%	$ 1,153,598	$ 1,281,776	100%	$ 1,153,598	0%	$ -	0%	$ -
10	I-35W Water Line	0%	30%	30%	$ 1,955,190	$ 6,517,300	0%	$ -	80%	$ 1,564,152	20%	$ 391,038
11	I-35W/Corbin Water Line	0%	30%	30%	$ 816,630	$ 2,722,100	0%	$ -	80%	$ 653,304	20%	$ 163,326
12	Hickory Water Line Upsize	0%	90%	90%	$ 448,600	$ 498,444	100%	$ 448,600	0%	$ -	0%	$ -
13	Jim Christal Oversize Line (16" to 20")	0%	15%	15%	$ 19,164	$ 127,758	0%	$ -	100%	$ 19,164	0%	$ -
14	Jim Christal Water Line / I-35 Crossing	0%	15%	15%	$ 195,375	$ 1,302,500	0%	$ -	100%	$ 195,375	0%	$ -
15	Water Impact Fee Report Preparation	0%	100%	100%	$ 45,700	$ 45,700	40%	$ 18,280	54%	$ 24,678	6%	$ 2,742
	Total				**$ 66,049,859**	**$ 393,730,167**		**$ 25,711,201**		**$ 36,084,557**		**$ 4,254,101**


LEGEND
Existing Water Treatment Plant
Existing Pump Station
Proposed Pump Station
Existing Elevated Tank
Existing Water Line
Existing Eligible Project
City Limits
ETJ
Water Zone 1A
Water Zone 1B
Water Zone 2
Lake Ray Roberts
Ray Roberts Water Treatment Plant Expansion
54" Finished Water Transmission Line
Elm/Loop 288 Water Lines
1.0 MG Northwest Elevated Storage Tank
Loop 288 Water Main Sherman to UNT
Rayzor Ranch Oversize Line (16" to 20")
I-35 Parallel Line Crossing
U.S. 380 Urban Utility Relocation
Masch Branch Water Line Extension
Riney Road Pump Station
North-South Water Line Phase I
Loop 288 Water Main Sherman to HWY 380
University Water Line and PRV
Locust Water Line
Jim Christal Oversize
Jim Christal Water Line
Hickory Water Line
Roselawn Elevated Storage Tank
McKinney Water Line
North-South Water Line
I-35W/Corbin Water Line
I-35E Frontage Water Line
Southwest Elevated Storage Tank
I-35W Water Line
Roselawn Water Line
Allred/John Paine Water Line
Oversized Discharge Line (30" to 36")
Southwest Pump Station
Gribble Springs
Shepard
Miram
Windsor
University
McKinney
Eagle
Willowood
Hobson
Ryan
Robinson
Creekdale
Hickory Creek
Montecito
British Creek
Robson Ranch
Hickory Hill
Edwards
FM 2449
FM 1830
FM 2153
FM 2164
Locust
Corbin
Underwood
Bonnie Brae
Loop 288
Old North
Mills
Jim Christal
Hall
Sherman
Green Valley
Stemmons
Bonnie
Bridges
Dallas
Cordell
Bell
Bliss
Wilson
Spencer
Bonnie Brae
Figure 2.1:
2018 Water Impact Fee
Capital Improvements Plan
CITY OF DENTON
Kimley»Horn
N
1 inch = 8,000 feet
0 2,000 4,000 8,000
Feet

2.5 WATER IMPACT FEE CALCULATION

The City's water system provides retail water distribution and treatment to customers within the CCN area, as well as some wholesale treated and raw water to the Upper Trinity Regional Water District. The impact fees calculated in this report exclude costs to serve the City's wholesale customers.

Chapter 395 of the Local Government Code defines a service unit as follows; "Service Unit means a standardized measure of consumption attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years."

The service unit for Denton's water and wastewater impact fees is the "single family equivalent" (SFE), which is based on the size of the water meter. An SFE is the water or wastewater demand or flow associated with the smallest water meter used in the system (5/8"x3/4"), which is the meter typically used by a single-family residence. The ratio of each larger meter's capacity to the capacity of the base meter determines the SFE multiplier applied to each larger meter size. The current SFE equivalency factors are shown in **Table 2.4**.

Table 2.4. Meter Capacity Ratios

Meter Size	SFEs/ Meter[1]
5/8"x3/4"	1
1"	2.5
1-1/2"	5
2"	8
3"	22.5
4"	50
6"	100
8"	200
10"	325

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

Multiplying the number of existing connections for each meter size by the SFEs per meter yields the total SFEs for that meter size. Summing for all meter sizes yields the total number of water service units connected to the City's water system as shown in **Table 2.5**. The current population in the water service area is divided by the total number of SFEs yielding a Persons per SFE number.

Table 2.5. Capita per Single-Family Equivalent (SFE)

Meter Size	Existing Connections[1]	SFEs/ Meter	Single Family Equivalents
5/8"x3/4"	32,001	1	32,001
1"	1,441	2.5	3,603
1-1/2"	847	5	4,235
2"	1,314	8	10,512
3"	151	22.5	3,398
4"	63	50	3,150
6"	17	100	1,700
8"	17	200	3,400
10"	2	325	650
Total Existing Connections:	35,853	Total SFEs:	62,649
		Total Served Population:	130,139
		Persons per SFE:	**2.08**

(1) Data Sources:
- City of Denton

The City of Denton defines a single-family equivalent (SFE) based on historical water demand over the past 10 years as compared to the estimated residential units. The residential unit is the development type that predominately uses a 5/8x3/4-inch meter. The measure of consumption per SFE is based on a 5/8x3/4-inch meter and the data shown in **Table 2.6**.

Table 2.6. SFE Consumption Calculation

Year	Population[1]	Residential Units (2.08 capita/SFE)	Water Average Day Demand (MGD)[1]	Demand per SFE (GPD)
2008	108,775	52,296	17.9	342
2009	110,828	53,283	16.5	310
2010	112,324	54,002	17.5	324
2011	113,627	54,628	19.8	362
2012	114,907	55,244	19.0	344
2013	117,061	56,279	18.2	323
2014	120001	57,693	16.8	291
2015	122,428	58,860	17.9	304
2016	125,256	60,219	17.0	282
2017	128,813	61,929	17.5	283
Average Historical Flow per SFE				**317**

(1) Data Sources:
- City of Denton Water Master Plan, prepared by Freese and Nichols, Inc.

Based on the City's 10-year growth projections and the resulting water flow projections, water service will be required for an additional **15,773** single family equivalents. The calculation is as follows:

- A single family equivalent (SFE), which is a unit of development that consumes approximately **317** gallons per day (GPD), is a typical residential connection that uses a 5/8x3/4-inch meter.

Table 2.7. 10-year Additional Single-Family Equivalent Calculation

Year	Average Day Flow (MGD)[1]	SFE Demand (GPD)	Projected SFEs
2018	22.0	317	69,401
2028	27.0	317	85,174
10-year Additional SFEs			**15,773**

(1) Data Sources:
- City of Denton Water Master Plan, prepared by Freese and Nichols, Inc.

The City's existing water service area is divided into three zones (Zone 1A, Zone 1B and Zone 2 as indicated in the Land Use Assumptions chapter). The calculated 10-year additional SFEs have been distributed across the three zones based on current and projected population distribution as shown in **Table 2.7**.

Table 2.8. 10-year Additional SFE Water Zone Distribution

Year		Zone 1A	Zone 1B	Zone 2	Total
2018	Population	63,736	61,190	5,213	130,139
	Distribution	48.98%	47.02%	4.01%	100.00%
2028	Population	77,440	74,668	6,538	158,646
	Distribution	48.81%	47.07%	4.12%	100.00%
Average Distribution		48.89%	47.04%	4.06%	100.00%
10-year Additional SFEs		**7,712**	**7,419**	**642**	**15,773**

Impact fee law allows for a credit calculation to credit back the utility revenues or ad valorem taxes that are allocated for paying a portion of future capital improvements. The intent of this credit is to prevent the City from double charging development for future capital improvements via impact fees and utility rates. If the City chooses not the do a financial analysis to determine the credit value they are required by law to reduce the recoverable cost by 50 percent. The City chose to perform a financial analysis. Newgen Strategies and Solutions, LLC. has detailed the credit calculation in the Water Appendix.

A breakdown of the 10-year recoverable costs and the associated impact fee per SFE for Zone 1A, Zone 1B, and Zone 2 is as follows:

Table 2.9. Zone 1A – 10-year Recoverable Cost Breakdown[1]

Recoverable Impact Fee CIP Costs	$25,711,201
Financing Costs	$ 8,980,911
Existing Fund Balance	$ (2,593,606)
Interest Earnings	$ (3,644,999)
Pre Credit Recoverable Cost for Impact Fee	$ 28,453,507
Credit for Utility Revenues	$ (932,006)
Maximum Zone 1A Recoverable Cost for Impact Fee	**$ 27,521,502**

(1) Per Newgen Strategies and Solutions, LLC financial analysis, see Water Appendix – Summary of Water Impact Fee Determination

$$\text{Zone 1A – Impact fee SFE} = \frac{\text{Zone 1A – 10-year recoverable costs}}{\text{Zone 1A – 10-year additional SFEs}}$$

$$\text{Zone 1A – 10-year recoverable costs} = \$27,521,502$$

$$\text{Zone 1A – Impact fee per SFE} = \frac{\$27,521,502}{7,712}$$

$$\text{Zone 1A – Impact fee per SFE} = \$3,569$$

Therefore, the maximum assessable impact fee for Zone 1A per SFE is **$3,569**.

Table 2.10. Zone 1B – 10-year Recoverable Cost Breakdown[1]

Recoverable Impact Fee CIP Costs	$36,084,557
Financing Costs	$ 14,607,078
Existing Fund Balance	$ (3,657,649)
Interest Earnings	$ (6,112,187)
Pre Credit Recoverable Cost for Impact Fee	$ 40,921,799
Credit for Utility Revenues	$ (1,218,601)
Maximum Zone 1B Recoverable Cost for Impact Fee	**$ 39,703,198**

(1) Per Newgen Strategies and Solutions, LLC financial analysis, see Water Appendix – Summary of Water Impact Fee Determination

$$\text{Zone 1B – Impact fee per SFE} = \frac{\text{Zone 1B – 10-year recoverable costs}}{\text{Zone 1B – 10-year additional SFEs}}$$

$$\text{Zone 1B – 10-year recoverable costs} = \$39{,}703{,}198$$

$$\text{Zone 1B – Impact fee per SFE} = \frac{\$39{,}703{,}198}{7{,}419}$$

$$\text{Zone 1B – Impact fee per SFE} = \$5{,}352$$

Therefore, the maximum assessable impact fee for Zone 1B per SFE is **$5,352.**

Table 2.11. Zone 2 – 10-year Recoverable Cost Breakdown[1]

Recoverable Impact Fee CIP Costs	$4,254,101
Financing Costs	$ 1,841,055
Existing Fund Balance	$ (399,016)
Interest Earnings	$ (779,037)
Pre Credit Recoverable Cost for Impact Fee	$ 4,917,103
Credit for Utility Revenues	$ (13,237)
Maximum Zone 2 Recoverable Cost for Impact Fee	**$ 4,903,866**

(1) Per Newgen Strategies and Solutions, LLC financial analysis, see Water Appendix – Summary of Water Impact Fee Determination

$$\text{Zone 2 – Impact fee per SFE} = \frac{\text{Zone 2 – 10-year recoverable costs}}{\text{Zone 2 – 10-year additional SFEs}}$$

$$\text{Zone 2 – 10-year recoverable costs} = \$4{,}903{,}866$$

$$\text{Zone 2 – Impact fee per SFE} = \frac{\$4{,}903{,}866}{642}$$

$$\text{Zone 2 – Impact fee per SFE} = \$7{,}638$$

Therefore, the maximum assessable impact fee for Zone 2 per SFE is **$7,638.**

For a development that requires a different size meter, a service unit equivalent is established at a multiplier based on its capacity with respect to the 5/8-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 2.12**).

Table 2.12. Maximum Assessable Water Impact Fee by Zone and Meter Size

Meter Size	Single Family Equivalent[1]	Zone 1A Maximum Assessible Impact Fee	Zone 1B Maximum Assessible Impact Fee	Zone 2 Maximum Assessible Impact Fee
5/8x3/4"	1	$3,569	$5,352	$7,638
1"	2.5	$8,923	$13,380	$19,095
1-1/2"	5	$17,845	$26,760	$38,190
2"	8	$28,552	$42,816	$61,104
3"	22.5	$80,303	$120,420	$171,855
4"	50	$178,450	$267,600	$381,900
6"	100	$356,900	$535,200	$763,800
8"	200	$713,800	$1,070,400	$1,527,600
10"	325	$1,159,925	$1,739,400	$2,482,350

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

WATER APPENDICES

City of Denton - 2018 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1A

0	Existing Fund Balance	$ 2,593,606
1	Existing Number of Service Units	69,401
2	Total Number of Services Units for Planning Period	77,113
3	Additional Service Units Added During Planning Period (Line 2 - Line 1)	7,712
4	Total Cost of the Water Impact Fee CIP	$ 161,591,439
5	Recoverable Cost for Impact Fee Planning Period	$ 25,711,201
6	Percent Recoverable for Water Impact Fee Planning Period (Line 5 / Line 4)	15.91%
7	Financing Costs (From Financial Analysis)	$ 8,980,911
8	Interest Earnings (From Financial Analysis)	$ (3,644,999)
9	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 28,453,507
10	Pre-Credit Maximum Fee (Line 9 / Line 3)	$ 3,690
11	Credit for Utility Revenues (From Financial Analysis)	$ (932,006)
12	Recoverable Cost of Water Impact Fee and Financing (Line 9 + Line 11)	$ 27,521,502
13	Maximum Assessable Fee (Line 12 / Line 3)	$ 3,569

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 1A

Recoverable Impact Fee CIP Costs	$	25,711,201	Table 2.3
Financing Cost		8,980,911	See Detail Below
Existing Fund Balance		(2,593,606)	Water Appendices - page 1
Interest Earnings		(3,644,999)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	28,453,507	Sum of Above
Credit for Utility Revenues		(932,006)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**27,521,502**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	5,890,699	Water Appendices - page 2
Existing Annual Debt Service		28,783,133	Water Appendices - page 2
Principal Component (New and Existing Debt)		(25,692,921)	Water Appendices - page 1
Financing Costs	$	8,980,911	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1A

I. General Assumptions

Annual Interest Rate on Deposits[1]	1.89%
Annual Service Unit Growth[2]	771
Existing Fund Balance[3]	$ 2,593,606

Portion of Projects Funded by Existing Debt[4]	$ 22,050,438
Non-debt Funded Project Cost[5]	18,280
New Project Cost Funded Through New Debt[6]	3,642,483
Total Recoverable Project Cost[7]	$ 25,711,201

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 364,248	4.65%	20
2	364,248	5.00%	20
3	364,248	5.00%	20
4	364,248	5.00%	20
5	364,248	5.00%	20
6	364,248	5.25%	20
7	364,248	5.25%	20
8	364,248	5.25%	20
9	364,248	5.25%	20
10	364,248	5.25%	20
Total	$ 3,642,483		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 183,952
2	366,076
3	366,076
4	366,076
5	366,076
6	366,076
7	366,076
8	366,076
9	366,076
10	548,200
Total	$ 3,660,763

(1) Investment Portfolio Yield as of 08/05/2018
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Balance from 09/30/2017 provided by City Staff distributed proportionally to recoverable cost
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt from City's Financial Advisor April 26, 2018
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 1A

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 28,367	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 28,367
2	28,367	29,228	-	-	-	-	-	-	-	-	57,595
3	28,367	29,228	29,228	-	-	-	-	-	-	-	86,824
4	28,367	29,228	29,228	29,228	-	-	-	-	-	-	116,052
5	28,367	29,228	29,228	29,228	29,228	-	-	-	-	-	145,280
6	28,367	29,228	29,228	29,228	29,228	29,851	-	-	-	-	175,131
7	28,367	29,228	29,228	29,228	29,228	29,851	29,851	-	-	-	204,982
8	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	-	-	234,833
9	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	-	264,684
10	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
11	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
12	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
13	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
14	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
15	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
16	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
17	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
18	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
19	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
20	28,367	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	294,535
21	-	29,228	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	266,168
22	-	-	29,228	29,228	29,228	29,851	29,851	29,851	29,851	29,851	236,940
23	-	-	-	29,228	29,228	29,851	29,851	29,851	29,851	29,851	207,711
24	-	-	-	-	29,228	29,851	29,851	29,851	29,851	29,851	178,483
25	-	-	-	-	-	29,851	29,851	29,851	29,851	29,851	149,255
26	-	-	-	-	-	-	29,851	29,851	29,851	29,851	119,404
27	-	-	-	-	-	-	-	29,851	29,851	29,851	89,553
28	-	-	-	-	-	-	-	-	29,851	29,851	59,702
29	-	-	-	-	-	-	-	-	-	29,851	29,851
	$ 567,343	$ 584,565	$ 584,565	$ 584,565	$ 584,565	$ 597,020	$ 597,020	$ 597,020	$ 597,020	$ 597,020	$ 5,890,699

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 28,367	$ 183,952	$ (364,248)	$ 1,439,157	$ (16,128)	$ 1,271,099
2	57,595	366,076	(364,248)	1,439,157	(32,541)	1,466,039
3	86,824	366,076	(364,248)	1,439,157	(49,230)	1,478,578
4	116,052	366,076	(364,248)	1,439,157	(66,185)	1,490,851
5	145,280	366,076	(364,248)	1,439,157	(83,399)	1,502,865
6	175,131	366,076	(364,248)	1,439,157	(100,903)	1,515,213
7	204,982	366,076	(364,248)	1,439,157	(118,660)	1,527,306
8	234,833	366,076	(364,248)	1,439,157	(136,665)	1,539,153
9	264,684	366,076	(364,248)	1,439,157	(154,909)	1,550,760
10	294,535	548,200	(364,248)	1,439,157	(173,385)	1,744,259
11	294,535	-	-	1,439,157	-	1,733,692
12	294,535	-	-	1,439,157	-	1,733,692
13	294,535	-	-	1,439,157	-	1,733,692
14	294,535	-	-	1,439,157	-	1,733,692
15	294,535	-	-	1,439,157	-	1,733,692
16	294,535	-	-	1,439,157	-	1,733,692
17	294,535	-	-	1,439,157	-	1,733,692
18	294,535	-	-	1,439,157	-	1,733,692
19	294,535	-	-	1,439,157	-	1,733,692
20	294,535	-	-	1,439,157	-	1,733,692
21	266,168	-	-	-	-	266,168
22	236,940	-	-	-	-	236,940
23	207,711	-	-	-	-	207,711
24	178,483	-	-	-	-	178,483
25	149,255	-	-	-	-	149,255
26	119,404	-	-	-	-	119,404
27	89,553	-	-	-	-	89,553
28	59,702	-	-	-	-	59,702
29	29,851	-	-	-	-	29,851
	$ 5,890,699	$ 3,660,763	$ (3,642,483)	$ 28,783,133	$ (932,006)	$ 33,760,106

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 1A

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ 2,593,606
1	$ 3,569	771	$ 2,752,150	$ 1,271,099	$ 1,481,051	$ 62,992	4,137,648
2	3,569	771	2,752,150	1,466,039	1,286,111	90,322	5,514,081
3	3,569	771	2,752,150	1,478,578	1,273,572	116,208	6,903,862
4	3,569	771	2,752,150	1,490,851	1,261,299	142,350	8,307,510
5	3,569	771	2,752,150	1,502,865	1,249,285	168,755	9,725,550
6	3,569	771	2,752,150	1,515,213	1,236,937	195,430	11,157,917
7	3,569	771	2,752,150	1,527,306	1,224,844	222,377	12,605,138
8	3,569	771	2,752,150	1,539,153	1,212,997	249,607	14,067,742
9	3,569	771	2,752,150	1,550,760	1,201,390	277,131	15,546,264
10	3,569	771	2,752,150	1,744,259	1,007,891	303,237	16,857,392
11	-	-	-	1,733,692	(1,733,692)	302,109	15,425,809
12	-	-	-	1,733,692	(1,733,692)	275,062	13,967,180
13	-	-	-	1,733,692	(1,733,692)	247,505	12,480,993
14	-	-	-	1,733,692	(1,733,692)	219,426	10,966,728
15	-	-	-	1,733,692	(1,733,692)	190,817	9,423,853
16	-	-	-	1,733,692	(1,733,692)	161,668	7,851,829
17	-	-	-	1,733,692	(1,733,692)	131,967	6,250,105
18	-	-	-	1,733,692	(1,733,692)	101,706	4,618,119
19	-	-	-	1,733,692	(1,733,692)	70,873	2,955,300
20	-	-	-	1,733,692	(1,733,692)	39,457	1,261,066
21	-	-	-	266,168	(266,168)	21,311	1,016,209
22	-	-	-	236,940	(236,940)	16,961	796,230
23	-	-	-	207,711	(207,711)	13,081	601,600
24	-	-	-	178,483	(178,483)	9,680	432,797
25	-	-	-	149,255	(149,255)	6,767	290,309
26	-	-	-	119,404	(119,404)	4,357	175,262
27	-	-	-	89,553	(89,553)	2,465	88,174
28	-	-	-	59,702	(59,702)	1,102	29,574
29	-	-	-	29,851	(29,851)	277	-
			27,521,502	33,760,106		3,644,999	

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 1A

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	1.7048	1.0000	771	1,315	$ 1,271,099	$ 2,167,021
2	28	1.6732	1.0000	771	1,290	1,466,039	2,453,016
3	27	1.6422	1.0000	771	1,266	1,478,578	2,428,123
4	26	1.6118	1.0000	771	1,243	1,490,851	2,402,880
5	25	1.5819	1.0000	771	1,220	1,502,865	2,377,329
6	24	1.5525	1.0000	771	1,197	1,515,213	2,352,417
7	23	1.5237	1.0000	771	1,175	1,527,306	2,327,224
8	22	1.4955	1.0000	771	1,153	1,539,153	2,301,787
9	21	1.4678	1.0000	771	1,132	1,550,760	2,276,142
10	20	1.4405	1.0000	771	1,111	1,744,259	2,512,680
11	19	1.4138	1.0000	-	-	1,733,692	2,451,148
12	18	1.3876	1.0000	-	-	1,733,692	2,405,697
13	17	1.3619	1.0000	-	-	1,733,692	2,361,089
14	16	1.3366	1.0000	-	-	1,733,692	2,317,308
15	15	1.3118	1.0000	-	-	1,733,692	2,274,339
16	14	1.2875	1.0000	-	-	1,733,692	2,232,167
17	13	1.2636	1.0000	-	-	1,733,692	2,190,777
18	12	1.2402	1.0000	-	-	1,733,692	2,150,154
19	11	1.2172	1.0000	-	-	1,733,692	2,110,284
20	10	1.1946	1.0000	-	-	1,733,692	2,071,154
21	9	1.1725	1.0000	-	-	266,168	312,081
22	8	1.1508	1.0000	-	-	236,940	272,660
23	7	1.1294	1.0000	-	-	207,711	234,593
24	6	1.1085	1.0000	-	-	178,483	197,844
25	5	1.0879	1.0000	-	-	149,255	162,378
26	4	1.0677	1.0000	-	-	119,404	127,493
27	3	1.0479	1.0000	-	-	89,553	93,847
28	2	1.0285	1.0000	-	-	59,702	61,405
29	1	1.0094	1.0000	-	-	29,851	30,133
					12,103		$ 47,655,170

Annual Interest Rate:		1.89%
Present Value of Initial Impact Fee Fund Balance	$	2,593,606
Total Escalated Expense for Entire Period	$	47,655,170
Less Future Value of Initial Impact Fee Fund Balance		4,463,060
Sub-Total	$	43,192,110
Total Escalated Service Units		12,103
Impact Fee for Water Service Area	**$**	**3,569**

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 1A

Impact Fee Project Name[1]	Cost In Service Area [1]	Note	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 73,586,959	A	$ 7,358,696	$ 7,358,696	$ -	$ -	$ 7,358,696
Lake Ray Roberts Water Treatment Plant	27,093,713	A	10,837,485	10,837,485	-	-	10,837,485
54" Transmission Line	4,603,344	A	1,150,836	1,150,836	-	-	1,150,836
Loop 288 Water Main - Sherman to UNT	2,093,688	A	628,106	628,106	-	-	628,106
Loop 288 Water Main - Sherman to Hwy 380	1,688,809	A	422,202	422,202	-	-	422,202
North-South Water Line Phase I	2,898,529	A	724,632	724,632	-	-	724,632
Roselawn Elevated Storage Tank	3,023,732	A	755,933	755,933	-	-	755,933
Roselawn Water Line	862,735	A	172,547	172,547	-	-	172,547
North-South Water Line	1,087,030	C	326,109	-	326,109	-	326,109
Ray Roberts WTP Expansion	42,854,400	C	1,714,176	-	1,714,176	-	1,714,176
Locust Water Line Upsize	1,281,776	C	1,153,598	-	1,153,598	-	1,153,598
Hickory Water Line Upsize	498,444	C	448,600	-	448,600	-	448,600
Water Impact Fee Report Preparation	18,280	C	18,280	-	-	18,280	18,280
Total	$ 161,591,439		$ 25,711,201	$ 22,050,438	$ 3,642,483	$ 18,280	$ 25,711,201

(1) Derived from Table 3.2 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 1A

(2) Per discussions with City staff and City files

Project Note A: Project costs from 2013 study

Project Note B: Costs of projects completed since 2013 per City Staff

Project Note C: Proposed projects in 2018 dollars

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 1A

2018 Service Units[1]	69,401	
Ten Year Growth in Service Units[2]	7,712	
	10	years
Annual Growth in Service Units	771	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$1,467,524	$1,496,752	$1,525,980	$1,555,208	$1,584,437	$1,614,288	$1,644,139	$1,673,990	$1,703,841	$1,733,692	$ 15,999,849
Net Impact Fee Eligible Debt Service Funded by Other Sources	$1,467,524	$1,496,752	$1,525,980	$1,555,208	$1,584,437	$1,614,288	$1,644,139	$1,673,990	$1,703,841	$1,733,692	$ 15,999,849
Current Service Units	70,172	70,943	71,715	72,486	73,257	74,028	74,799	75,571	76,342	77,113	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 20.91	$ 21.10	$ 21.28	$ 21.46	$ 21.63	$ 21.81	$ 21.98	$ 22.15	$ 22.32	$ 22.48	
Annual Growth in Service Units (Cumulative)	771	1,542	2,314	3,085	3,856	4,627	5,398	6,170	6,941	7,712	
Annual Water Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 16,128	$ 32,541	$ 49,230	$ 66,185	$ 83,399	$ 100,903	$ 118,660	$ 136,665	$ 154,909	$ 173,385	$ 932,006

Credit Amount **$ 932,006**

(1) Derived from Table 2.1 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

City of Denton - 2018 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1B

0	Existing Fund Balance	$ 3,657,649
1	Existing Number of Service Units	69,401
2	Total Number of Services Units for Planning Period	76,820
3	Additional Service Units Added During Planning Period (Line 2 - Line 1)	7,419
4	Total Cost of the Water Impact Fee CIP	$ 209,184,655
5	Recoverable Cost for Impact Fee Planning Period	$ 36,084,557
6	Percent Recoverable for Water Impact Fee Planning Period (Line 5 / Line 4)	17.25%
7	Financing Costs (From Financial Analysis)	$ 14,607,078
8	Interest Earnings (From Financial Analysis)	$ (6,112,187)
9	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 40,921,799
10	Pre-Credit Maximum Fee (Line 9 / Line 3)	$ 5,516
11	Credit for Utility Revenues (From Financial Analysis)	$ (1,218,601)
12	Recoverable Cost of Water Impact Fee and Financing (Line 9 + Line 11)	$ 39,703,198
13	Maximum Assessable Fee (Line 12 / Line 3)	$ 5,352

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 1B

Recoverable Impact Fee CIP Costs	$	36,084,557	Table 2.3
Financing Cost		14,607,078	See Detail Below
Existing Fund Balance		(3,657,649)	Water Appendices - page 1
Interest Earnings		(6,112,187)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	40,921,799	Sum of Above
Credit for Utility Revenues		(1,218,601)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**39,703,198**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	19,043,128	Water Appendices - page 2
Existing Annual Debt Service		31,375,888	Water Appendices - page 2
Principal Component (New and Existing Debt)		(35,811,938)	Water Appendices - page 1
Financing Costs	$	14,607,078	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 1B

I. General Assumptions

Annual Interest Rate on Deposits[1]	1.89%
Annual Service Unit Growth[2]	742
Existing Fund Balance[3]	$ 3,657,649

Portion of Projects Funded by Existing Debt[4]	$ 24,036,719
Non-debt Funded Project Cost[5]	272,619
New Project Cost Funded Through New Debt[6]	11,775,219
Total Recoverable Project Cost[7]	$ 36,084,557

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 1,177,522	4.65%	20
2	1,177,522	5.00%	20
3	1,177,522	5.00%	20
4	1,177,522	5.00%	20
5	1,177,522	5.00%	20
6	1,177,522	5.25%	20
7	1,177,522	5.25%	20
8	1,177,522	5.25%	20
9	1,177,522	5.25%	20
10	1,177,522	5.25%	20
Total	$ 11,775,219		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 616,023
2	1,204,784
3	1,204,784
4	1,204,784
5	1,204,784
6	1,204,784
7	1,204,784
8	1,204,784
9	1,204,784
10	1,793,545
Total	$ 12,047,838

(1) Investment Portfolio Yield as of 08/05/2018
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Balance from 09/30/2017 provided by City Staff distributed proportionally to recoverable cost
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt from City's Financial Advisor April 26, 2018
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 1B

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 91,704	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 91,704
2	91,704	94,487	-	-	-	-	-	-	-	-	186,191
3	91,704	94,487	94,487	-	-	-	-	-	-	-	280,679
4	91,704	94,487	94,487	94,487	-	-	-	-	-	-	375,166
5	91,704	94,487	94,487	94,487	94,487	-	-	-	-	-	469,653
6	91,704	94,487	94,487	94,487	94,487	96,501	-	-	-	-	566,154
7	91,704	94,487	94,487	94,487	94,487	96,501	96,501	-	-	-	662,655
8	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	-	-	759,155
9	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	-	855,656
10	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
11	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
12	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
13	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
14	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
15	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
16	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
17	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
18	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
19	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
20	91,704	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	952,156
21	-	94,487	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	860,453
22	-	-	94,487	94,487	94,487	96,501	96,501	96,501	96,501	96,501	765,965
23	-	-	-	94,487	94,487	96,501	96,501	96,501	96,501	96,501	671,478
24	-	-	-	-	94,487	96,501	96,501	96,501	96,501	96,501	576,990
25	-	-	-	-	-	96,501	96,501	96,501	96,501	96,501	482,503
26	-	-	-	-	-	-	96,501	96,501	96,501	96,501	386,002
27	-	-	-	-	-	-	-	96,501	96,501	96,501	289,502
28	-	-	-	-	-	-	-	-	96,501	96,501	193,001
29	-	-	-	-	-	-	-	-	-	96,501	96,501
	$ 1,834,075	$ 1,889,748	$ 1,889,748	$ 1,889,748	$ 1,889,748	$ 1,930,012	$ 1,930,012	$ 1,930,012	$ 1,930,012	$ 1,930,012	$ 19,043,128

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 91,704	$ 616,023	$ (1,177,522)	$ 1,568,794	$ (17,563)	$ 1,081,436
2	186,191	1,204,784	(1,177,522)	1,568,794	(36,736)	1,745,511
3	280,679	1,204,784	(1,177,522)	1,568,794	(57,470)	1,819,265
4	375,166	1,204,784	(1,177,522)	1,568,794	(79,715)	1,891,507
5	469,653	1,204,784	(1,177,522)	1,568,794	(103,427)	1,962,282
6	566,154	1,204,784	(1,177,522)	1,568,794	(128,682)	2,033,528
7	662,655	1,204,784	(1,177,522)	1,568,794	(155,355)	2,103,356
8	759,155	1,204,784	(1,177,522)	1,568,794	(183,402)	2,171,809
9	855,656	1,204,784	(1,177,522)	1,568,794	(212,785)	2,238,927
10	952,156	1,793,545	(1,177,522)	1,568,794	(243,464)	2,893,509
11	952,156	-	-	1,568,794	-	2,520,951
12	952,156	-	-	1,568,794	-	2,520,951
13	952,156	-	-	1,568,794	-	2,520,951
14	952,156	-	-	1,568,794	-	2,520,951
15	952,156	-	-	1,568,794	-	2,520,951
16	952,156	-	-	1,568,794	-	2,520,951
17	952,156	-	-	1,568,794	-	2,520,951
18	952,156	-	-	1,568,794	-	2,520,951
19	952,156	-	-	1,568,794	-	2,520,951
20	952,156	-	-	1,568,794	-	2,520,951
21	860,453	-	-	-	-	860,453
22	765,965	-	-	-	-	765,965
23	671,478	-	-	-	-	671,478
24	576,990	-	-	-	-	576,990
25	482,503	-	-	-	-	482,503
26	386,002	-	-	-	-	386,002
27	289,502	-	-	-	-	289,502
28	193,001	-	-	-	-	193,001
29	96,501	-	-	-	-	96,501
	$ 19,043,128	$ 12,047,838	$ (11,775,219)	$ 31,375,888	$ (1,218,601)	$ 49,473,034

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 1B

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ 3,657,649
1	$ 5,352	742	$ 3,970,320	$ 1,081,436	$ 2,888,884	$ 96,394	6,642,927
2	5,352	742	3,970,320	1,745,511	2,224,809	146,521	9,014,257
3	5,352	742	3,970,320	1,819,265	2,151,055	190,626	11,355,938
4	5,352	742	3,970,320	1,891,507	2,078,813	234,185	13,668,936
5	5,352	742	3,970,320	1,962,282	2,008,037	277,216	15,954,189
6	5,352	742	3,970,320	2,033,528	1,936,792	319,718	18,210,700
7	5,352	742	3,970,320	2,103,356	1,866,964	361,691	20,439,354
8	5,352	742	3,970,320	2,171,809	1,798,511	403,150	22,641,016
9	5,352	742	3,970,320	2,238,927	1,731,393	444,112	24,816,521
10	5,352	742	3,970,320	2,893,509	1,076,810	479,031	26,372,362
11	-	-	-	2,520,951	(2,520,951)	474,439	24,325,850
12	-	-	-	2,520,951	(2,520,951)	435,774	22,240,673
13	-	-	-	2,520,951	(2,520,951)	396,379	20,116,101
14	-	-	-	2,520,951	(2,520,951)	356,239	17,951,390
15	-	-	-	2,520,951	(2,520,951)	315,341	15,745,780
16	-	-	-	2,520,951	(2,520,951)	273,671	13,498,501
17	-	-	-	2,520,951	(2,520,951)	231,213	11,208,763
18	-	-	-	2,520,951	(2,520,951)	187,953	8,875,765
19	-	-	-	2,520,951	(2,520,951)	143,876	6,498,690
20	-	-	-	2,520,951	(2,520,951)	98,966	4,076,705
21	-	-	-	860,453	(860,453)	68,893	3,285,145
22	-	-	-	765,965	(765,965)	54,831	2,574,010
23	-	-	-	671,478	(671,478)	42,288	1,944,820
24	-	-	-	576,990	(576,990)	31,293	1,399,122
25	-	-	-	482,503	(482,503)	21,876	938,495
26	-	-	-	386,002	(386,002)	14,085	566,577
27	-	-	-	289,502	(289,502)	7,970	285,045
28	-	-	-	193,001	(193,001)	3,562	95,606
29	-	-	-	96,501	(96,501)	895	-
			39,703,198	49,473,034		6,112,187	

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 1B

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	1.7048	1.0000	742	1,265	$ 1,081,436	$ 1,843,675
2	28	1.6732	1.0000	742	1,241	1,745,511	2,920,637
3	27	1.6422	1.0000	742	1,218	1,819,265	2,987,599
4	26	1.6118	1.0000	742	1,196	1,891,507	3,048,637
5	25	1.5819	1.0000	742	1,174	1,962,282	3,104,064
6	24	1.5525	1.0000	742	1,152	2,033,528	3,157,117
7	23	1.5237	1.0000	742	1,130	2,103,356	3,204,976
8	22	1.4955	1.0000	742	1,110	2,171,809	3,247,918
9	21	1.4678	1.0000	742	1,089	2,238,927	3,286,206
10	20	1.4405	1.0000	742	1,069	2,893,509	4,168,225
11	19	1.4138	1.0000	-	-	2,520,951	3,564,200
12	18	1.3876	1.0000	-	-	2,520,951	3,498,110
13	17	1.3619	1.0000	-	-	2,520,951	3,433,246
14	16	1.3366	1.0000	-	-	2,520,951	3,369,585
15	15	1.3118	1.0000	-	-	2,520,951	3,307,103
16	14	1.2875	1.0000	-	-	2,520,951	3,245,781
17	13	1.2636	1.0000	-	-	2,520,951	3,185,595
18	12	1.2402	1.0000	-	-	2,520,951	3,126,526
19	11	1.2172	1.0000	-	-	2,520,951	3,068,552
20	10	1.1946	1.0000	-	-	2,520,951	3,011,653
21	9	1.1725	1.0000	-	-	860,453	1,008,879
22	8	1.1508	1.0000	-	-	765,965	881,439
23	7	1.1294	1.0000	-	-	671,478	758,379
24	6	1.1085	1.0000	-	-	576,990	639,580
25	5	1.0879	1.0000	-	-	482,503	524,926
26	4	1.0677	1.0000	-	-	386,002	412,154
27	3	1.0479	1.0000	-	-	289,502	303,383
28	2	1.0285	1.0000	-	-	193,001	198,505
29	1	1.0094	1.0000	-	-	96,501	97,412
					11,643		$ 68,604,064

Annual Interest Rate:		1.89%
Present Value of Initial Impact Fee Fund Balance	$	3,657,649
Total Escalated Expense for Entire Period	$	68,604,064
Less Future Value of Initial Impact Fee Fund Balance		6,294,059
Sub-Total	$	62,310,005
Total Escalated Service Units		11,643
Impact Fee for Water Service Area	**$**	**5,352**

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 1B

Impact Fee Project Name[1]	Cost In Service Area [1]	Note	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 72,053,897	A	$ 7,205,390	$ 7,205,390	$ -	$ -	$ 7,205,390
Lake Ray Roberts Water Treatment Plant	26,529,260	A	10,611,704	10,611,704	-	-	10,611,704
54" Transmission Line	4,507,441	A	1,126,860	1,126,860	-	-	1,126,860
Loop 288 Water Main - Sherman to UNT	2,050,069	A	615,021	615,021	-	-	615,021
Loop 288 Water Main - Sherman to Hwy 380	1,653,625	A	413,406	413,406	-	-	413,406
Northwest Elevated Storage Tank	2,339,988	A	467,998	467,998	-	-	467,998
Southwest Pump Station	5,320,802	A	1,330,201	1,330,201	-	-	1,330,201
Southwest PS Oversize Discharge Line (30" to 36")	256,029	A	12,802	12,802	-	-	12,802
Vintage Oversize Line (12" to 20")	203,415	A	40,683	40,683	-	-	40,683
North-South Water Line Phase I	2,838,142	A	709,536	709,536	-	-	709,536
Roselawn Elevated Storage Tank	2,960,737	A	740,184	740,184	-	-	740,184
Roselawn Water Line	844,761	A	168,952	168,952	-	-	168,952
Masch Branch Road Water Line Extension	645,781	A	32,290	32,290	-	-	32,290
US 380 Urban Utility Relocation	1,362,086	A	68,105	68,105	-	-	68,105
Rayzor Ranch Oversize Line (16" to 20")	133,226	A	6,662	6,662	-	-	6,662
Southwest Elevated Storage Tank	4,869,252	B	486,925	486,925	-	-	486,925
University Water Line and PRV	826,468	B	247,941	-	-	247,941	247,941
North-South Water Line	7,609,210	C	2,282,763	-	2,282,763	-	2,282,763
I-35 Parallel Line Crossing	1,004,000	C	150,600	-	150,600	-	150,600
Riney Road Booster Pump Station	7,866,000	C	786,600	-	786,600	-	786,600
Elm/Loop 288 Water Lines	5,537,300	C	1,938,055	-	1,938,055	-	1,938,055
Allred Road / John Paine Road Water Lines	4,744,000	C	1,423,200	-	1,423,200	-	1,423,200
Ray Roberts WTP Expansion	41,961,600	C	1,678,464	-	1,678,464	-	1,678,464
McKinney Water Line	1,200,600	C	420,210	-	420,210	-	420,210
I-35E Frontage Road Water Line Betterment	1,020,510	C	663,332	-	663,332	-	663,332
I-35W Water Line	5,213,840	C	1,564,152	-	1,564,152	-	1,564,152
I-35W/Corbin Water Line	2,177,680	C	653,304	-	653,304	-	653,304
Jim Christal Oversize Line (16" to 20")	127,758	C	19,164	-	19,164	-	19,164
Jim Christal Water Line / I-35 Crossing	1,302,500	C	195,375	-	195,375	-	195,375
Water Impact Fee Report Preparation	24,678	C	24,678	-	-	24,678	24,678
Total	$ 209,184,655		$ 36,084,557	$ 24,036,719	$ 11,775,219	$ 272,619	$ 36,084,557

(1) Derived from Table 3.2 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 1B

(2) Per discussions with City staff and City files

Project Note A: Project costs from 2013 study

Project Note B: Costs of projects completed since 2013 per City Staff

Project Note C: Proposed projects in 2018 dollars

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 1B

2018 Service Units[1]	69,401	
Ten Year Growth in Service Units[2]	7,419	
	10	years
Annual Growth in Service Units	742	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$1,660,498	$1,754,986	$1,849,473	$1,943,960	$2,038,448	$2,134,948	$2,231,449	$2,327,950	$2,424,450	$2,520,951	$ 20,887,113
Net Impact Fee Eligible Debt Service Funded by Other Sources	$1,660,498	$1,754,986	$1,849,473	$1,943,960	$2,038,448	$2,134,948	$2,231,449	$2,327,950	$2,424,450	$2,520,951	$ 20,887,113
Current Service Units	70,143	70,885	71,627	72,369	73,111	73,852	74,594	75,336	76,078	76,820	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 23.67	$ 24.76	$ 25.82	$ 26.86	$ 27.88	$ 28.91	$ 29.91	$ 30.90	$ 31.87	$ 32.82	
Annual Growth in Service Units (Cumulative)	742	1,484	2,226	2,968	3,710	4,451	5,193	5,935	6,677	7,419	
Annual Water Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 17,563	$ 36,736	$ 57,470	$ 79,715	$ 103,427	$ 128,682	$ 155,355	$ 183,402	$ 212,785	$ 243,464	$ 1,218,601

Credit Amount	$	1,218,601

(1) Derived from Table 2.1 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

City of Denton - 2018 Water Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Water Service Area Zone 2

0	Existing Fund Balance	$ 399,016
1	Existing Number of Service Units	69,401
2	Total Number of Services Units for Planning Period	70,043
3	Additional Service Units Added During Planning Period (Line 2 - Line 1)	642
4	Total Cost of the Water Impact Fee CIP	$ 22,954,077
5	Recoverable Cost for Impact Fee Planning Period	$ 4,254,101
6	Percent Recoverable for Water Impact Fee Planning Period (Line 5 / Line 4)	18.53%
7	Financing Costs (From Financial Analysis)	$ 1,841,055
8	Interest Earnings (From Financial Analysis)	$ (779,037)
9	Recoverable Cost of Water Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 4,917,103
10	Pre-Credit Maximum Fee (Line 9 / Line 3)	$ 7,659
11	Credit for Utility Revenues (From Financial Analysis)	$ (13,237)
12	Recoverable Cost of Water Impact Fee and Financing (Line 9 + Line 11)	$ 4,903,866
13	Maximum Assessable Fee (Line 12 / Line 3)	$ 7,638

SUMMARY OF WATER IMPACT FEE DETERMINATION

Water Service Area Zone 2

Recoverable Impact Fee CIP Costs	$	4,254,101	Table 2.3
Financing Cost		1,841,055	See Detail Below
Existing Fund Balance		(399,016)	Water Appendices - page 1
Interest Earnings		(779,037)	Water Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	4,917,103	Sum of Above
Credit for Utility Revenues		(13,237)	Water Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**4,903,866**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	2,815,487	Water Appendices - page 2
Existing Annual Debt Service		3,276,926	Water Appendices - page 2
Principal Component (New and Existing Debt)		(4,251,359)	Water Appendices - page 1
Financing Costs	$	1,841,055	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Water Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Water Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Water Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation Assumptions

Water Service Area Zone 2

I. General Assumptions

Annual Interest Rate on Deposits[1]	1.89%
Annual Service Unit Growth[2]	64
Existing Fund Balance[3]	$ 399,016

Portion of Projects Funded by Existing Debt[4]	$ 2,510,417
Non-debt Funded Project Cost[5]	2,742
New Project Cost Funded Through New Debt[6]	1,740,942
Total Recoverable Project Cost[7]	$ 4,254,101

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 174,094	4.65%	20
2	174,094	5.00%	20
3	174,094	5.00%	20
4	174,094	5.00%	20
5	174,094	5.00%	20
6	174,094	5.25%	20
7	174,094	5.25%	20
8	174,094	5.25%	20
9	174,094	5.25%	20
10	174,094	5.25%	20
Total	$ 1,740,942		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 87,321
2	174,368
3	174,368
4	174,368
5	174,368
6	174,368
7	174,368
8	174,368
9	174,368
10	261,416
Total	$ 1,743,684

(1) Investment Portfolio Yield as of 08/05/2018
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Balance from 09/30/2017 provided by City Staff distributed proportionally to recoverable cost
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 2.3 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt from City's Financial Advisor April 26, 2018
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Water Service Area Zone 2

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 13,558	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 13,558
2	13,558	13,970	-	-	-	-	-	-	-	-	27,528
3	13,558	13,970	13,970	-	-	-	-	-	-	-	41,498
4	13,558	13,970	13,970	13,970	-	-	-	-	-	-	55,468
5	13,558	13,970	13,970	13,970	13,970	-	-	-	-	-	69,437
6	13,558	13,970	13,970	13,970	13,970	14,267	-	-	-	-	83,705
7	13,558	13,970	13,970	13,970	13,970	14,267	14,267	-	-	-	97,972
8	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	-	-	112,240
9	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	-	126,507
10	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
11	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
12	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
13	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
14	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
15	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
16	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
17	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
18	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
19	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
20	13,558	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	140,774
21	-	13,970	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	127,216
22	-	-	13,970	13,970	13,970	14,267	14,267	14,267	14,267	14,267	113,246
23	-	-	-	13,970	13,970	14,267	14,267	14,267	14,267	14,267	99,277
24	-	-	-	-	13,970	14,267	14,267	14,267	14,267	14,267	85,307
25	-	-	-	-	-	14,267	14,267	14,267	14,267	14,267	71,337
26	-	-	-	-	-	-	14,267	14,267	14,267	14,267	57,070
27	-	-	-	-	-	-	-	14,267	14,267	14,267	42,802
28	-	-	-	-	-	-	-	-	14,267	14,267	28,535
29	-	-	-	-	-	-	-	-	-	14,267	14,267
	$ 271,164	$ 279,395	$ 279,395	$ 279,395	$ 279,395	$ 285,348	$ 285,348	$ 285,348	$ 285,348	$ 285,348	$ 2,815,487

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 13,558	$ 87,321	$ (174,094)	$ 163,846	$ (164)	$ 90,468
2	27,528	174,368	(174,094)	163,846	(353)	191,295
3	41,498	174,368	(174,094)	163,846	(568)	205,050
4	55,468	174,368	(174,094)	163,846	(809)	218,779
5	69,437	174,368	(174,094)	163,846	(1,074)	232,484
6	83,705	174,368	(174,094)	163,846	(1,366)	246,459
7	97,972	174,368	(174,094)	163,846	(1,684)	260,408
8	112,240	174,368	(174,094)	163,846	(2,028)	274,332
9	126,507	174,368	(174,094)	163,846	(2,397)	288,230
10	140,774	261,416	(174,094)	163,846	(2,792)	389,150
11	140,774	-	-	163,846	-	304,621
12	140,774	-	-	163,846	-	304,621
13	140,774	-	-	163,846	-	304,621
14	140,774	-	-	163,846	-	304,621
15	140,774	-	-	163,846	-	304,621
16	140,774	-	-	163,846	-	304,621
17	140,774	-	-	163,846	-	304,621
18	140,774	-	-	163,846	-	304,621
19	140,774	-	-	163,846	-	304,621
20	140,774	-	-	163,846	-	304,621
21	127,216	-	-	-	-	127,216
22	113,246	-	-	-	-	113,246
23	99,277	-	-	-	-	99,277
24	85,307	-	-	-	-	85,307
25	71,337	-	-	-	-	71,337
26	57,070	-	-	-	-	57,070
27	42,802	-	-	-	-	42,802
28	28,535	-	-	-	-	28,535
29	14,267	-	-	-	-	14,267
	$ 2,815,487	$ 1,743,684	$ (1,740,942)	$ 3,276,926	$ (13,237)	$ 6,081,919

(1) Water Appendices - page 2 Section I
(2) Water Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Water Appendices - page 6

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Water Service Area Zone 2

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ 399,016
1	$ 7,638	64	$ 490,387	$ 90,468	$ 399,919	$ 11,316	810,252
2	7,638	64	490,387	191,295	299,092	18,133	1,127,477
3	7,638	64	490,387	205,050	285,337	23,997	1,436,810
4	7,638	64	490,387	218,779	271,607	29,711	1,738,129
5	7,638	64	490,387	232,484	257,903	35,275	2,031,306
6	7,638	64	490,387	246,459	243,928	40,682	2,315,916
7	7,638	64	490,387	260,408	229,978	45,927	2,591,821
8	7,638	64	490,387	274,332	216,055	51,008	2,858,884
9	7,638	64	490,387	288,230	202,157	55,923	3,116,963
10	7,638	64	490,387	389,150	101,237	59,845	3,278,045
11	-	-	-	304,621	(304,621)	59,055	3,032,479
12	-	-	-	304,621	(304,621)	54,415	2,782,273
13	-	-	-	304,621	(304,621)	49,688	2,527,340
14	-	-	-	304,621	(304,621)	44,871	2,267,591
15	-	-	-	304,621	(304,621)	39,964	2,002,934
16	-	-	-	304,621	(304,621)	34,964	1,733,278
17	-	-	-	304,621	(304,621)	29,869	1,458,526
18	-	-	-	304,621	(304,621)	24,678	1,178,584
19	-	-	-	304,621	(304,621)	19,389	893,353
20	-	-	-	304,621	(304,621)	14,001	602,732
21	-	-	-	127,216	(127,216)	10,186	485,702
22	-	-	-	113,246	(113,246)	8,107	380,562
23	-	-	-	99,277	(99,277)	6,252	287,538
24	-	-	-	85,307	(85,307)	4,627	206,857
25	-	-	-	71,337	(71,337)	3,234	138,755
26	-	-	-	57,070	(57,070)	2,082	83,767
27	-	-	-	42,802	(42,802)	1,178	42,143
28	-	-	-	28,535	(28,535)	527	14,135
29	-	-	-	14,267	(14,267)	132	-
			4,903,866	6,081,919		779,037	

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Water Service Area Zone 2

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	1.7048	1.0000	64	109	$ 90,468	$ 154,233
2	28	1.6732	1.0000	64	107	191,295	320,080
3	27	1.6422	1.0000	64	105	205,050	336,733
4	26	1.6118	1.0000	64	103	218,779	352,618
5	25	1.5819	1.0000	64	102	232,484	367,758
6	24	1.5525	1.0000	64	100	246,459	382,635
7	23	1.5237	1.0000	64	98	260,408	396,795
8	22	1.4955	1.0000	64	96	274,332	410,261
9	21	1.4678	1.0000	64	94	288,230	423,052
10	20	1.4405	1.0000	64	92	389,150	560,587
11	19	1.4138	1.0000	-	-	304,621	430,682
12	18	1.3876	1.0000	-	-	304,621	422,696
13	17	1.3619	1.0000	-	-	304,621	414,858
14	16	1.3366	1.0000	-	-	304,621	407,166
15	15	1.3118	1.0000	-	-	304,621	399,616
16	14	1.2875	1.0000	-	-	304,621	392,206
17	13	1.2636	1.0000	-	-	304,621	384,933
18	12	1.2402	1.0000	-	-	304,621	377,796
19	11	1.2172	1.0000	-	-	304,621	370,790
20	10	1.1946	1.0000	-	-	304,621	363,915
21	9	1.1725	1.0000	-	-	127,216	149,161
22	8	1.1508	1.0000	-	-	113,246	130,319
23	7	1.1294	1.0000	-	-	99,277	112,125
24	6	1.1085	1.0000	-	-	85,307	94,561
25	5	1.0879	1.0000	-	-	71,337	77,609
26	4	1.0677	1.0000	-	-	57,070	60,936
27	3	1.0479	1.0000	-	-	42,802	44,855
28	2	1.0285	1.0000	-	-	28,535	29,349
29	1	1.0094	1.0000	-	-	14,267	14,402
					1,008		$ 8,382,728

Annual Interest Rate:		1.89%
Present Value of Initial Impact Fee Fund Balance	$	399,016
Total Escalated Expense for Entire Period	$	8,382,728
Less Future Value of Initial Impact Fee Fund Balance		686,625
Sub-Total	$	7,696,103
Total Escalated Service Units		1,008
Impact Fee for Water Service Area	**$**	**7,638**

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Water Service Area Zone 2

Impact Fee Project Name[1]	Cost In Service Area [1]	Note	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
Lake Ray Roberts	$ 7,665,308	A	$ 766,531	$ 766,531	$ -	$ -	$ 766,531
Lake Ray Roberts Water Treatment Plant	2,822,262	A	1,128,905	1,128,905	-	-	1,128,905
54" Transmission Line	479,515	A	119,879	119,879	-	-	119,879
Loop 288 Water Main - Sherman to UNT	218,092	A	65,428	65,428	-	-	65,428
Loop 288 Water Main - Sherman to Hwy 380	175,918	A	43,980	43,980	-	-	43,980
Southwest Pump Station	591,200	A	147,800	147,800	-	-	147,800
Southwest PS Oversize Discharge Line (30" to 36")	28,448	A	1,422	1,422	-	-	1,422
Vintage Oversize Line (12" to 20")	50,854	A	10,171	10,171	-	-	10,171
North-South Water Line Phase I	301,930	A	75,483	75,483	-	-	75,483
Roselawn Elevated Storage Tank	314,972	A	78,743	78,743	-	-	78,743
Roselawn Water Line	89,868	A	17,974	17,974	-	-	17,974
Southwest Elevated Storage Tank	541,028	B	54,103	54,103	-	-	54,103
North-South Water Line	2,174,060	C	652,218	-	652,218	-	652,218
Allred Road / John Paine Road Water Lines	1,186,000	C	355,800	-	355,800	-	355,800
Ray Roberts WTP Expansion	4,464,000	C	178,560	-	178,560	-	178,560
I-35W Water Line	1,303,460	C	391,038	-	391,038	-	391,038
I-35W/Corbin Water Line	544,420	C	163,326	-	163,326	-	163,326
Water Impact Fee Report Preparation	2,742	C	2,742	-	-	2,742	2,742
Total	$ 22,954,077		$ 4,254,101	$ 2,510,417	$ 1,740,942	$ 2,742	$ 4,254,101

(1) Derived from Table 3.2 Water Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost for Zone 2

(2) Per discussions with City staff and City files

Project Note A: Project costs from 2013 study

Project Note B: Costs of projects completed since 2013 per City Staff

Project Note C: Proposed projects in 2018 dollars

City of Denton - 2018 Water Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Water Service Area Zone 2

2018 Service Units[1]	69,401	
Ten Year Growth in Service Units[2]	642	
	10	years
Annual Growth in Service Units	64	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[3]	$ 177,405	$ 191,374	$ 205,344	$ 219,314	$ 233,284	$ 247,551	$ 261,818	$ 276,086	$ 290,353	$ 304,621	$ 2,407,149
Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 177,405	$ 191,374	$ 205,344	$ 219,314	$ 233,284	$ 247,551	$ 261,818	$ 276,086	$ 290,353	$ 304,621	$ 2,407,149
Current Service Units	69,465	69,529	69,594	69,658	69,722	69,786	69,850	69,915	69,979	70,043	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 2.55	$ 2.75	$ 2.95	$ 3.15	$ 3.35	$ 3.55	$ 3.75	$ 3.95	$ 4.15	$ 4.35	
Annual Growth in Service Units (Cumulative)	64	128	193	257	321	385	449	514	578	642	
Annual Water Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 164	$ 353	$ 568	$ 809	$ 1,074	$ 1,366	$ 1,684	$ 2,028	$ 2,397	$ 2,792	$ 13,237

Credit Amount **$ 13,237**

(1) Derived from Table 2.1 10-year Additional Single-Family Equivalent Calculation
(2) Derived from Table 2.8 10-year Additional SFE Water Zone Distribution
(3) Water Appendices - page 2 Section II

TECHNICAL MEMORANDUM

FREESE AND NICHOLS

Innovative approaches
Practical results
Outstanding service

TO:	Tim Fisher, P.E., City of Denton
FROM:	Stephanie Neises, P.E., Freese and Nichols, Inc. Scott Cole, P.E., Freese and Nichols, Inc.
SUBJECT:	Water Impact Fee Utilization Calculations
DATE:	September 26, 2018
PROJECT:	Water Distribution System Master Plan

STATE OF TEXAS
STEPHANIE NEISES
106195
LICENSED PROFESSIONAL ENGINEER
9/26/18
STEPHANIE NEISES

FREESE AND NICHOLS, INC.
TEXAS REGISTERED
ENGINEERING FIRM
F-2144

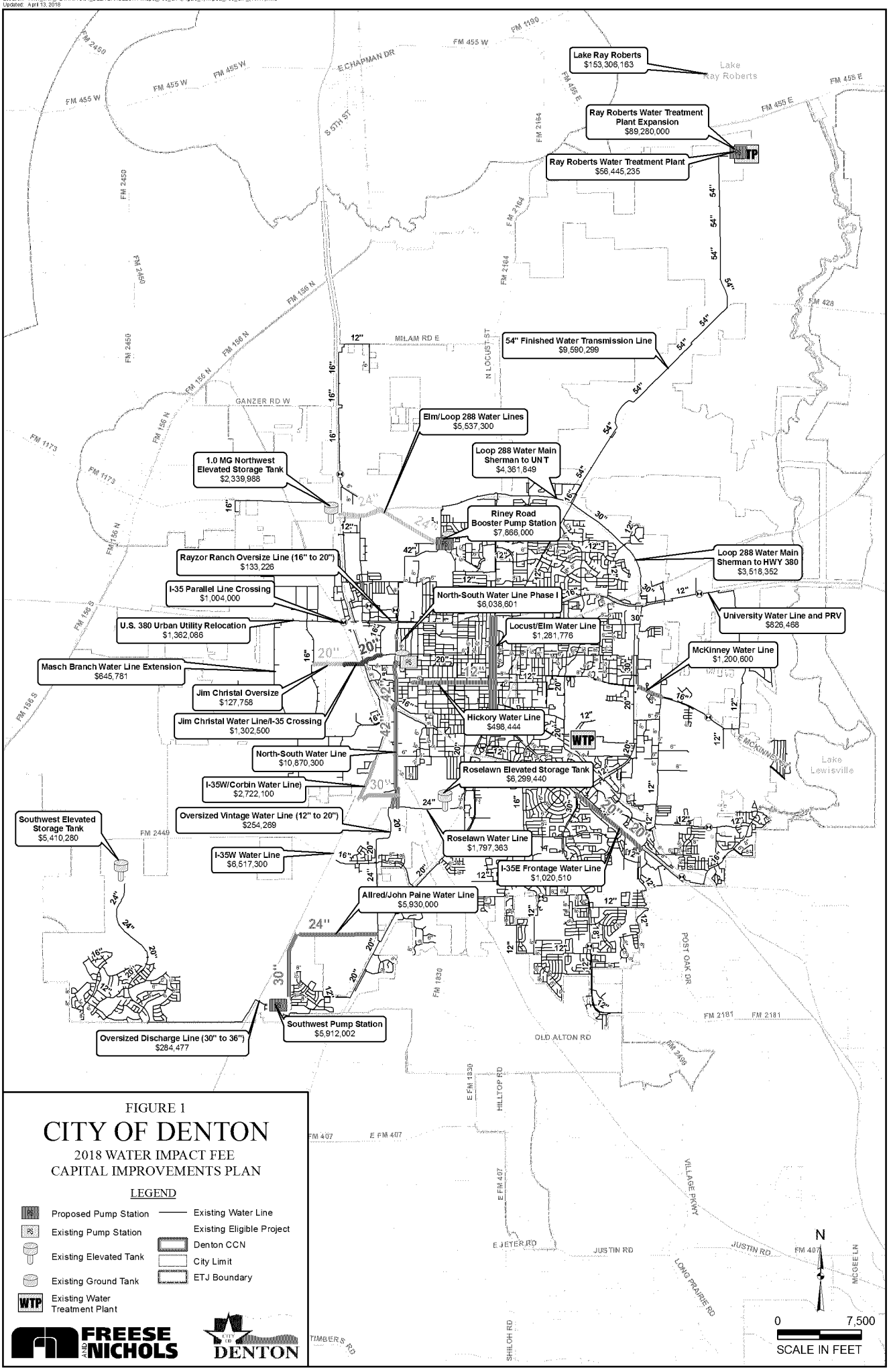
1.0 INTRODUCTION

Freese and Nichols, Inc. developed a capital improvements plan as part of the ongoing Water Distribution System Master Plan. Projects identified in the 10-year CIP, along with recently constructed projects, are eligible for cost recovery through impact fees. The Impact Fee Capital Improvements Plan is shown on **Figure 1**. The portion of each project associated with growth that will be utilized within the 10-year timeframe is impact fee eligible. Utilization percentages were calculated by evaluating the existing capacity and future capacity of each project. The following sections document this analysis.

2.0 DEVELOPMENT OF UTILIZATION PERCENTAGES

The hydraulic model was used as a tool to determine the utilization of the pipeline improvements. For the recently constructed projects, the 2018 percent utilized was calculated by dividing the flow observed in the existing system model runs by the ultimate capacity of the pipe. The ultimate capacity of a pipe was assumed to be the capacity calculated in the 2043 system analysis performed as part of the ongoing Water Distribution System Master Plan. The 2018 utilization for proposed projects indicates the portion of the project that will be used to address deficiencies in the existing system or improvements that serve existing customers. The 2028 utilization percentages were calculated by taking the flow observed in the 10-year model runs and dividing it by the ultimate capacity of the pipe.

Created by: Freese and Nichols, Inc.
Job No.: [DTN17240]
Location: H:\W_WW_PLANNING\01_DELIVERABLES\11-Impact_Fee_CIP\Figure_1\Impact_Fee_CIP_(11x17).mxd
Updated: April 13, 2018



Utilization percentages for water system facilities (i.e. water treatment plants, pump stations, storage tanks) were calculated based on the recommended capacities developed as part of the ongoing Water Distribution System Master Plan for the existing and projected demands. The 2018 percentages account for existing system deficiencies or projects designed to serve existing customers while the 2028 percentages indicate the portion of the capacity that will be utilized within the 10-year timeframe.

The following provides example calculations for each type of project:

- *Pipe (42-inch Loop 288 Sherman to UNT)*

  Existing Flow = 14.5 mgd

  10-year Flow = 27.4 mgd

  Ultimate Flow = 42.0 mgd

  2018 % Utilization = $\frac{14.5 \text{ mgd}}{42.0 \text{ mgd}} = 0.345 \approx 35\%$

  2028 % Utilization = $\frac{27.4 \text{ mgd}}{42.0 \text{ mgd}} = 0.652 \approx 65\%$

  Eligible % = 65% - 35% = 30%

- *Water Treatment Plant (Ray Roberts Water Treatment Plant)*

  Existing Total WTP Capacity (LLWTP + RRWTP) = 50.0 mgd

  Proposed RRWTP Expansion = 30.0 mgd

  Existing Treatment Requirement = 42.1 mgd

  10-year Treatment Requirement = 51.3 mgd

  2018 % Utilization = 42.1 mgd < 50.0 mgd → 0.0%

  2028 % Utilization = $\frac{51.3 \text{ mgd} - 50.0 \text{ mgd}}{30.0 \text{ mgd}} = 0.04 \rightarrow 4\%$

  Eligible % = 4% - 0% = 4%

- *Pump Station (Southwest Booster Pump Station)*

  Existing Firm Capacity = 6.05 mgd

  Existing Pumping Requirement = 3.17 mgd

  10-year Pumping Requirement = 4.42 mgd

  2018 % Utilization = $\frac{3.17 \text{ mgd}}{6.05 \text{ mgd}}$ = 0.524 ≈ 50%

  2028 % Utilization = $\frac{4.42 \text{ mgd}}{6.05 \text{ mgd}}$ = 0.730 ≈ 75%

  Eligible % = 75% - 50% = 25%

- *Storage Tank (Roselawn EST)*

  Existing Storage Capacity (Central Pressure Plane) = 3.0 MG

  New Storage Capacity = 3.0 MG

  Existing Storage Requirement = 4.70 MG

  10-year Storage Requirement = 5.63 MG

  2018 % Utilization = $\frac{4.70 \text{ MG} - 3.0 \text{ MG}}{3.0 \text{ MG}}$ = 0.567 = 60%

  2028 % Utilization = $\frac{5.63 \text{ MG} - 3.0 \text{ MG}}{3.0 \text{ MG}}$ = 0.876 = 85%

  Eligible % = 85% - 60% = 25%

3.0 ZONE PERCENTAGES

The City divided the water service area into three zones:

- Infill Zone (1A) – the area bounded to the west by Bonnie Brae Street, to the north by Windsor Drive, to the east by Old North Road, Mockingbird Lane, and Woodrow Lane, and to the south by I-35E and Willowwood Street
- Zone 1B – the area north of Hickory Creek and the Robson Ranch, Country Lakes, Meadows at Hickory Creek, and The Vintage developments
- Zone 2 – the area south of Hickory Creek, with the exception of the exacted developments that are included in Zone 1B

After the utilization percentages were calculated, each project was evaluated to determine the zone percentages. Percentages for projects that improve the entire system equally (such as water treatment plants) were calculated based on growth in population over the next 10 years. Approximately 48% of the

10-year growth occurs in Zone 1A while 47% occurs in Zone 1B and 5% in Zone 2. **Table 1** shows the population for each zone. The model was utilized as a tool to assign various percentages to the remaining improvements based on the hydraulic relevance to each zone. For example, the new Riney Road Booster Pump Station provides no benefit to the customers in Zone 2 and therefore is 100% attributable to Zone 1B. Similarly, projects that offer more hydraulic benefit to Zone 2 customers were given percentages higher than 5% for Zone 2. **Table 2** presents the utilization percentages, as well as the zone percentages for each project.

Table 1: Water Service Population by Zone

Zone	2018 Population	2028 Population	% of Total Growth
Zone 1A	63,736	77,440	48%
Zone 1B	61,190	74,668	47%
Zone 2	5,213	6,538	5%
Total	130,139	158,646	100%

4.0 COST ESTIMATES

Cost estimates were developed for the proposed future projects as part of the ongoing Water Distribution System Master Plan. The costs are in 2018 dollars and include an allowance for engineering, surveying, and contingencies, with the exception of several projects that are already in the process of design. For these projects, cost estimates were provided by the City based on information from the current design projects. For existing eligible projects, costs from the 2013 Impact Fee Report were utilized. It should be noted that for projects consisting of oversize participation and upsize replacement, only the costs associated with the increase in capacity were included in the impact fee calculations.

Table 2: Cost Allocation for Impact Fees

No.	Description of Project	2018* Utilization	2028 Utilization	2018-2028 Utilization	Capital Cost	10-Year Cost	Zone 1B Utilization	Zone 1 Cost	Zone 2 Utilization	Zone 2 Cost	Zone 1A Utilization	Infill Cost
EXISTING ELIGIBLE												
A	Lake Ray Roberts	90%	100%	10%	$153,306,163	$15,330,616	47%	$7,205,390	5%	$766,531	48%	$7,358,695
B	Lake Ray Roberts Water Treatment Plant	60%	100%	40%	$56,445,235	$22,578,094	47%	$10,611,704	5%	$1,128,905	48%	$10,837,485
C	54" Finished Water Transmission Line	35%	60%	25%	$9,590,299	$2,397,575	47%	$1,126,860	5%	$119,879	48%	$1,150,836
D	Loop 288 Water Main - Sherman to UNT	35%	65%	30%	$4,361,849	$1,308,555	47%	$615,021	5%	$65,428	48%	$628,106
E	Loop 288 Water Main - Sherman to Hwy 380	40%	65%	25%	$3,518,352	$879,588	47%	$413,406	5%	$43,979	48%	$422,203
F	Northwest Elevated Storage Tank	55%	75%	20%	$2,339,988	$467,998	100%	$467,998	0%	$0	0%	$0
G	Southwest Pump Station	50%	75%	25%	$5,912,002	$1,478,001	90%	$1,330,201	10%	$147,800	0%	$0
H	Southwest PS Oversize Discharge Line (30" to 36")**	15%	20%	5%	$284,477	$14,224	90%	$12,802	10%	$1,422	0%	$0
I	Vintage Oversize Line (12" to 20")**	50%	70%	20%	$254,269	$50,854	80%	$40,683	20%	$10,171	0%	$0
J	North-South Water Line Phase I	25%	50%	25%	$6,038,601	$1,509,650	47%	$709,536	5%	$75,483	48%	$724,631
K	Roselawn Elevated Storage Tank	60%	85%	25%	$6,299,440	$1,574,860	47%	$740,184	5%	$78,743	48%	$755,933
L	Roselawn Water Line	35%	55%	20%	$1,797,363	$359,473	47%	$168,952	5%	$17,974	48%	$172,547
M	Masch Branch Road Water Line Extension	15%	20%	5%	$645,781	$32,289	100%	$32,289	0%	$0	0%	$0
N	U.S 380 Urban Utility Relocation	25%	30%	5%	$1,362,086	$68,104	100%	$68,104	0%	$0	0%	$0
O	Rayzor Ranch Oversize Line (16" to 20")**	20%	25%	5%	$133,226	$6,661	100%	$6,661	0%	$0	0%	$0
P	Southwest Elevated Storage Tank	55%	65%	10%	$5,410,280	$541,028	90%	$486,925	10%	$54,103	0%	$0
Q	University Water Line and PRV	25%	55%	30%	$826,468	$247,940	100%	$247,940	0%	$0	0%	$0
PROPOSED ELIGIBLE												
1	North-South Water Line	0%	30%	30%	$10,870,300	$3,261,090	70%	$2,282,763	20%	$652,218	10%	$326,109
2	I-35 Parallel Line Crossing	15%	30%	15%	$1,004,000	$150,600	100%	$150,600	0%	$0	0%	$0
3	Riney Road Booster Pump Station	15%	25%	10%	$7,866,000	$786,600	100%	$786,600	0%	$0	0%	$0
4	Elm/Loop 288 Water Lines	0%	35%	35%	$5,537,300	$1,938,055	100%	$1,938,055	0%	$0	0%	$0
5	Allred Road /John Paine Road Water Lines	0%	30%	30%	$5,930,000	$1,779,000	80%	$1,423,200	20%	$355,800	0%	$0
6	Ray Roberts WTP Expansion	0%	4%	4%	$89,280,000	$3,571,200	47%	$1,678,464	5%	$178,560	48%	$1,714,176
7	McKinney Water Line	0%	35%	35%	$1,200,600	$420,210	100%	$420,210	0%	$0	0%	$0
8	I-35E Frontage Road Water Line Betterment**	0%	65%	65%	$1,020,510	$663,332	100%	$663,332	0%	$0	0%	$0
9	Locust/Elm Water Line Upsize**	0%	90%	90%	$1,281,776	$1,153,599	0%	$0	0%	$0	100%	$1,153,599
10	I-35W Water Line	0%	30%	30%	$6,517,300	$1,955,190	80%	$1,564,152	20%	$391,038	0%	$0
11	I-35W/Corbin Water Line	0%	30%	30%	$2,722,100	$816,630	80%	$653,304	20%	$163,326	0%	$0
12	Hickory Water Line Upsize**	0%	90%	90%	$498,444	$448,599	0%	$0	0%	$0	100%	$448,599
13	Jim Christal Oversize Line (16" to 20")**	0%	15%	15%	$127,758	$19,164	100%	$19,164	0%	$0	0%	$0
14	Jim Christal Water Line/I-35 Crossing	0%	15%	15%	$1,302,500	$195,375	100%	$195,375	0%	$0	0%	$0
Total Capital Improvements Cost					**$393,684,467**	**$66,004,154**		**$36,059,875**		**$4,251,360**		**$25,692,919**

* Utilization in 2018 on Proposed Projects indicates a portion of the project that will be used to address deficiencies within the existing system, and therefore are not eligible for impact fee cost recovery for future growth.

** Project costs for oversize and upsize improvements only include costs associated with the increased capacity.

Chapter 3:
2018 Wastewater Impact Fee Update

Prepared for:

City of Denton, Texas

Prepared by:

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9/25/2018

STATE OF TEXAS
JOSH KERCHO
113002
LICENSED
PROFESSIONAL ENGINEER

September 2018

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061024024

3.1 EXECUTIVE SUMMARY

This study was performed for the 5-year update of the City of Denton's Wastewater System Impact Fees. Wastewater system analysis and the Wastewater System Master Plan are important tools for facilitating orderly growth of the wastewater system and for providing adequate facilities that promote economic development in the City of Denton.

Elements of the wastewater system, including water reclamation plant improvements, peak wet weather facilities, gravity pipes, force mains and lift station facilities, were evaluated against industry standards as outlined in the Design Criteria section of this report. Wastewater system improvements necessary to serve 10-year (2028) and ultimate system needs were evaluated as well. Typically, infrastructure improvements are sized beyond the 10-year requirements; however, the state's impact fee law (Chapter 395) only allows recovery of costs to serve the 10-year planning period. The remainder can be assessed as the planning window extends beyond 2028 and as the impact fees are updated in the future. Information related to the growth of the City has been provided in Chapter 1 – Land Use Assumptions.

Based on the City's 10-year growth projections and the resulting wastewater flow projections, wastewater service will be required for an additional **12,041** single family equivalents. The calculation is as follows:

- A single family equivalent (SFE), which is a unit of development that discharges approximately **299** gallons per day (GPD), is a typical residential connection that uses a 5/8x3/4-inch meter.

Table 3.1. 10-year Additional Single-Family Equivalent Calculation

Year	Average Day Flow (MGD)[1]	SFE Demand (GPD)	Projected SFEs
2018	15.6	299	52,174
2028	19.2	299	64,215
10-year Additional SFEs			**12,041**

(1) Data Sources:
- City of Denton

The City of Denton defines a single-family equivalent, as a unit of development that consumes the amount of water requiring a standard 5/8x3/4-inch meter. Based on the additional SFEs and the recoverable capital improvements plan the City may assess a maximum of **$4,716** per single-family equivalent. For a development that requires a different size meter, a single-family equivalent is established at a multiplier based on its capacity with respect to the 5/8-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 3.2**).

Table 3.2. Maximum Assessable Wastewater Impact Fee by Meter Size

Meter Size	Single Family Equivalent[1]	Maximum Assessible Impact Fee
5/8x3/4"	1	$4,716
1"	2.5	$11,790
1-1/2"	5	$23,580
2"	8	$37,728
3"	22.5	$106,110
4"	50	$235,800
6"	100	$471,600
8"	200	$943,200
10"	325	$1,532,700

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

3.2 INTRODUCTION

The City of Denton retained the services of Kimley-Horn and Associates, Inc., for the purpose of 5-year update of the impact fees for wastewater system improvements required to serve new development. These fees were originally developed in 1998, and updated in the years 2003, 2008 and 2013 in accordance with Chapter 395 of the Local Government Code (impact fees).

The purpose of this report is to satisfy the requirements of the law and provide the City with an updated impact fee capital improvements plan and associated impact fees.

For convenience and reference, the following is excerpted from Chapter 395 of the code:

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform such professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including but not limited to residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service unit during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total project cost of implementing the capital improvements plan.

The study process was comprised of four tasks:

A. Land Use Assumptions

The development of land use assumptions included the following:

- Establishing impact fee service areas (SA) for water and wastewater;
- Collection/determination of population by SA; and
- Projection of the ten-year population by SA.

A detailed discussion is outlined in the Land Use Assumptions chapter of this report.

B. Evaluation of the Wastewater System Master Plan

This task involved coordination with City Staff to determine compatibility between the growth projections of the City's Wastewater System Master Plan and the Land Use Assumptions. The wastewater flow projections were then used to determine the additional single-family equivalents (SFEs).

C. Impact Fee Capital Improvements Plan

This task involved coordination with City staff to identify proposed wastewater capital improvements outlined in the master plan that will be built in the 10-year planning window and meet the design criteria included in **Section 3.3** below.

D. Impact Fee Analysis

This task included calculating the additional single-family equivalent units, and credit reduction. These values were then used to determine the impact fee per SFE and the maximum assessable impact fee by meter size.

3.3 DESIGN CRITERIA

A. Sewer Trunk Lines (Interceptors)

Proposed sewers lines shall be designed with slopes sufficient to give a velocity of not less than 2 feet per second with a Manning's "n" value of 0.013. Minimum and maximum slopes shall be in accordance with the City of Denton Water and Wastewater Criteria Manual.

B. Lift Stations Pumping Capacity

The design criteria for lift station pumping shall be to provide firm pumping capacity to be 100% of the projected peak flows. The firm pumping capacity is defined as the available total pumping capacity with the largest pump out of service.

C. Lift Station Wet Well Capacity

Wet well volume shall be calculated by the following method:

$t = V/(D-Q) + V/Q$ where,

t = Total time between successive pump starts in minutes (operating cycle)

D = Rated pump capacity in GPM

V = Storage volume between lead pump on and pump off elevations in gallons

Q = Inflow to wet well in GPM

The operation cycle 't' shall not be less than 10 minutes for Average Flow and not more than 60 minutes for Minimum Flow conditions.

D. Force Mains

Force main capacity shall be sized to meet the capacity of the entire basin. The minimum recommended velocity is 3 feet per second, and the velocity shall not be less than 2 feet per second when only the smallest pump is in operation.

3.4 IMPACT FEE CAPITAL IMPROVEMENTS PLAN

The City of Denton staff has developed a Wastewater System Master Plan. The purpose of the plan is to provide the City with a logical strategy for upgrading and expanding its wastewater collection system to accommodate future growth and for addressing existing system deficiencies. City staff completed the *Wastewater System Master Plan* and recommended system improvements to accommodate growth through the year 2040.

Twenty-one (21) previously constructed projects as well as nineteen (19) proposed projects identified in the *Wastewater System Master Plan* are determined eligible for recoverable cost through impact fee over the next 10 years. The total projected cost of these projects is **$156,586,808**. The projected total recoverable cost in the next 10 years through impact fees is **$49,714,840**. After financing costs are added and the credit reduction calculation is complete, **$56,786,844** is recoverable through impact fees serving the 10-year system needs. These impact fee capital improvements are shown in **Table 3.3.**

Table 3.3. Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Proj. #	Description	2018 Required Capacity (Percent Utilization)	2028 Required Capacity (Percent Utilization)	2018-2028 Required Capacity (Percent Utilization)	2028 Projected Recoverable Cost	Total Project Cost
	EXISTING					
1	South Wet Weather Lift Station & Detention Pond	48.4%	62.4%	14.0%	$ 217,406	$ 1,552,898
2	Cooper Creek Interceptor III	47.6%	49.5%	1.9%	$ 24,282	$ 1,277,970
3	Cooper Creek Outfall (Loop 288)	64.7%	72.3%	7.6%	$ 296,310	$ 3,898,807
4	Eagle Drive Sewer	18.1%	19.4%	1.3%	$ 11,731	$ 902,329
5	Krum Sewer Line	10.0%	51.3%	41.3%	$ 164,560	$ 398,450
6	Graveyard Branch Interceptor	6.6%	18.1%	11.5%	$ 575,570	$ 5,004,952
7	Hickory Creek Outfall	34.4%	38.5%	4.1%	$ 45,572	$ 1,111,495
8	Leatherwood Interceptor	32.0%	33.5%	1.5%	$ 2,349	$ 156,592
9	Parvin Sewer Line	59.0%	71.9%	12.9%	$ 42,116	$ 326,474
10	Pecan Creek Interceptor (Ph 1 & 2)	96.0%	100.0%	4.0%	$ 134,528	$ 3,363,189
11	Pecan Creek Interceptor I	53.4%	66.9%	13.5%	$ 266,716	$ 1,975,672
12	Pecan Creek Interceptor II	40.6%	46.0%	5.4%	$ 100,558	$ 1,862,175
13	Pecan Creek Interceptor III	36.1%	41.0%	4.9%	$ 150,879	$ 3,079,149
14	Pecan Creek Interceptor IV	26.9%	32.5%	5.6%	$ 54,784	$ 978,285
15	Pecan WRP (15MGD)	85.0%	100.0%	15.0%	$ 5,929,227	$ 39,528,174
16	Pecan WRP Expansion (6MGD)	0.0%	70.0%	70.0%	$ 21,003,588	$ 30,005,125
17	Roark Branch Interceptor	0.0%	60.6%	60.6%	$ 517,994	$ 854,774
18	State School Interceptor I	82.4%	91.6%	9.2%	$ 152,800	$ 1,660,869
19	State School Interceptor II	35.3%	46.2%	10.9%	$ 362,579	$ 3,326,406
20	US 380 Utility Relocations	26.5%	30.6%	4.1%	$ 115,747	$ 2,823,082
21	Woodhaven Interceptor	41.8%	44.5%	2.7%	$ 26,075	$ 965,735
	PROPOSED					
1	Audra Interceptor	75.9%	82.0%	6.1%	$ 16,990	$ 278,530
2	Ave G Interceptor	92.2%	99.3%	7.1%	$ 30,749	$ 433,078
3	Bonnie Brae Connector	0.0%	79.4%	79.4%	$ 152,247	$ 191,746
4	Bonnie Brae Relocation	30.9%	89.3%	58.4%	$ 1,101,486	$ 1,886,106
5	Carroll Ave Interceptor	70.4%	73.6%	3.2%	$ 14,036	$ 438,623
6	Clear Creek Interceptor	0.0%	16.0%	16.0%	$ 2,400,000	$ 15,000,000
7	Cooper Creek Interceptor I	74.2%	83.0%	8.8%	$ 231,616	$ 2,632,000
8	Cooper Creek Interceptor II	54.6%	58.3%	3.7%	$ 41,736	$ 1,128,000
9	Dry Fork Hickory Creek Tributary 1 Interceptor	80.5%	84.1%	3.6%	$ 41,190	$ 1,144,159
10	Elm Street Sewer Replacements	48.7%	52.5%	3.8%	$ 25,752	$ 677,674
11	Hickory Creek Interceptor I	50.2%	72.6%	22.4%	$ 324,240	$ 1,447,500
12	Hickory Creek Interceptor II	46.7%	87.2%	40.5%	$ 3,281,513	$ 8,102,500
13	Hickory Creek Interceptor III	29.1%	70.3%	41.2%	$ 1,184,678	$ 2,875,433
14	Hickory Creek Interceptor IV	29.8%	39.1%	9.3%	$ 117,892	$ 1,267,658
15	Hickory Creek Lift Station Detention Facility	0.0%	96.3%	96.3%	$ 9,533,700	$ 9,900,000
16	Mulberry Interceptor	44.4%	50.7%	6.3%	$ 7,927	$ 125,820
17	Ranch View Interceptor (Oversize)	0.0%	56.5%	56.5%	$ 90,219	$ 159,680
18	West Peak Flow Detention Lift Station and Pond	0.0%	23.1%	23.1%	$ 877,800	$ 3,800,000
19	Wastewater Impact Fee Report Preparation	0.0%	100.0%	100.0%	$ 45,700	$ 45,700
	Total				**$ 49,714,840**	**$ 156,586,808**

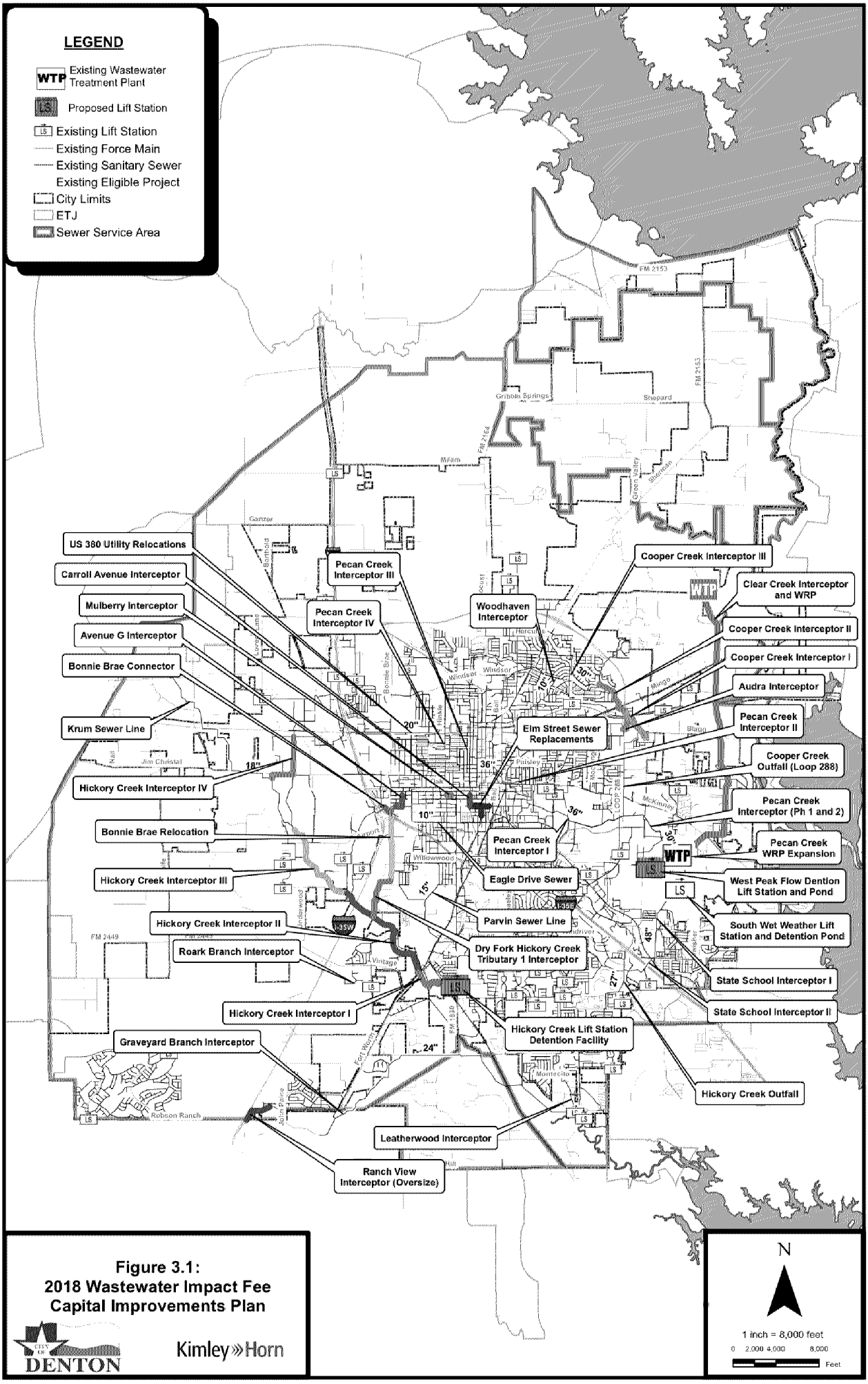


Figure 3.1:
2018 Wastewater Impact Fee Capital Improvements Plan

CITY OF DENTON

Kimley»Horn

3.5 WASTEWATER IMPACT FEE CALCULATION

The City's wastewater system provides retail wastewater collection and treatment to customers within the defined service area, as well as wastewater treatment to four wholesale customers – Corinth, Krum, Argyle and the Lake City Municipal Utility District. The impact fees calculated in this report exclude costs to serve the City's wholesale customers.

Chapter 395 of the Local Government Code defines a service unit as follows; "Service Unit means a standardized measure of consumption attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years."

The service unit for Denton's water and wastewater impact fees is the "single family equivalent" (SFE), which is based on the size of the water meter. An SFE is the water or wastewater demand or flow associated with the smallest water meter used in the system (5/8"x3/4"), which is the meter typically used by a single-family residence. The ratio of each larger meter's capacity to the capacity of the base meter determines the SFE multiplier applied to each larger meter size. The current SFE equivalency factors are shown in **Table 3.4**.

Table 3.4. Meter Capacity Ratios

Meter Size	SFEs/ Meter[1]
5/8"x3/4"	1
1"	2.5
1-1/2"	5
2"	8
3"	22.5
4"	50
6"	100
8"	200
10"	325

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

Multiplying the number of existing connections for each meter size by the SFEs per meter yields the total SFEs for that meter size. Summing for all meter sizes yields the total number of wastewater SFEs connected to the City's wastewater system as shown in **Table 3.5**. The current population in the wastewater service area is divided by the total number of SFEs yielding a Persons per SFE number.

Table 3.5. Capita per Single Family Equivalent (SFE)

Meter Size	Existing Connections[1]	SFEs/ Meter	Single Family Equivalents
5/8"x3/4"	30,143	1	30,143
1"	995	2.5	2,488
1-1/2"	633	5	3,165
2"	868	8	6,944
3"	106	22.5	2,385
4"	51	50	2,550
6"	17	100	1,700
8"	15	200	3,000
10"	2	325	650
Total Existing Connections:	32,830	Total SFEs:	53,025
		Total Served Population:	130,170
		Persons per SFE:	**2.46**

(1) Data Sources:
- City of Denton

The City of Denton defines a single family equivalent (SFE) based on historical wastewater discharge over the past 10 years as compared to the estimated residential units. The residential unit is the development type that predominately uses a 5/8x3/4-inch meter. The measure of consumption per SFE is based on a 5/8x3/4-inch meter and the data shown in **Table 3.6.**

Table 3.6. Single-Family Equivalent Consumption Calculation

Year	Population[1]	Residential Units (2.46 capita/SFE)	Wastewater Average Day Flow (MGD)[1]	Flow per SFE (GPD)
2008	112,487	45,726	15.3	335
2009	114,610	46,589	13.6	292
2010	116,218	47,243	16.1	341
2011	117,383	47,717	13.5	283
2012	118,705	48,254	13.8	286
2013	120,868	49,133	13.7	279
2014	123841	50,342	13.6	270
2015	126,280	51,333	16.1	314
2016	129,130	52,492	16.8	320
2017	131,364	53,400	14.2	266
Average Historical Flow per SFE				**299**

(1) Data Sources:
- City of Denton

Based on the City's 10-year growth projections and the resulting wastewater flow projections, wastewater service will be required for an additional **12,041** single family equivalents. The calculation is as follows:

- A single family equivalent (SFE), which is a unit of development that discharges approximately **299** gallons per day (GPD), is a typical residential connection that uses a 5/8x3/4-inch meter.

Table 3.7. 10-year Additional Single-Family Equivalent Calculation

Year	Average Day Flow (MGD)[1]	SFE Demand (GPD)	Projected SFEs
2018	15.6	299	52,174
2028	19.2	299	64,215
10-year Additional SFEs			**12,041**

(1) Data Sources:
- City of Denton

Impact fee law allows for a credit calculation to credit back the utility revenues or ad valorem taxes that are allocated for paying a portion of future capital improvements. The intent of this credit is to prevent the City from double charging development for future capital improvements via impact fees and utility rates. If the City chooses not the do a financial analysis to determine the credit value they are required by law to reduce the recoverable cost by 50 percent. The City chose to perform a financial analysis. Newgen Strategies and Solutions, LLC. has detailed the credit calculation in the Wastewater Appendix.

A breakdown of the 10-year recoverable costs and the associated impact fee per SFE is as follows:

Table 3.8. 10-year Recoverable Cost Breakdown[1]

Recoverable Impact Fee CIP Costs	$49,714,840
Financing Costs	$ 21,231,253
Existing Fund Balance	$ (2,194,686)
Interest Earnings	$ (8,627,092)
Pre Credit Recoverable Cost for Impact Fee	$ 60,124,315
Credit for Utility Revenues	$ (3,337,470)
Maximum Recoverable Cost for Impact Fee	**$ 56,786,844**

(1) Per Newgen Strategies and Solutions, LLC financial analysis, see Wastewater Appendix – Summary of Wastewater Impact Fee Determination

$$\text{Impact fee per SFE} = \frac{\text{10-year recoverable costs}}{\text{10-year additional SFEs}}$$

$$\text{10-year recoverable costs} = \$56{,}786{,}844$$

$$\text{Impact fee per SFE} = \frac{\$56{,}786{,}844}{12{,}041}$$

$$\text{Impact fee per SFE} = \$4{,}716$$

Therefore, the maximum assessable impact fee per SFE is **$4,716.**

For a development that requires a different size meter, a single-family equivalent is established at a multiplier based on its capacity with respect to the 5/8-inch meter. The maximum impact fee that could be assessed for other meter sizes is based on the Equivalency Table (**Table 3.9**).

Table 3.9. Maximum Assessable Wastewater Impact Fee by Meter Size

Meter Size	Single Family Equivalent[1]	Maximum Assessible Impact Fee
5/8x3/4"	1	$4,716
1"	2.5	$11,790
1-1/2"	5	$23,580
2"	8	$37,728
3"	22.5	$106,110
4"	50	$235,800
6"	100	$471,600
8"	200	$943,200
10"	325	$1,532,700

(1) Data Sources:
- City of Denton Code of Ordinances, Chapter 26, Article VI, Exhibit F

WASTEWATER APPENDICES

City of Denton - 2018 Wastewater Impact Fee Update
Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area

0	Existing Fund Balance	$ 2,194,686
1	Existing Number of Service Units	52,174
2	Total Number of Services Units for Planning Period	64,215
3	Additional Service Units Added During Planning Period (Line 2 - Line 1)	12,041
4	Total Cost of the Wastewater Impact Fee CIP	$ 156,586,808
5	Recoverable Cost for Impact Fee Planning Period	$ 49,714,840
6	Percent Recoverable for Wastewater Impact Fee Planning Period (Line 5 / Line 4)	31.75%
7	Financing Costs (From Financial Analysis)	$ 21,231,253
8	Interest Earnings (From Financial Analysis)	$ (8,627,092)
9	Recoverable Cost of Wastewater Impact Fee and Financing Costs Less Balance (Line 5 + Line 7 + Line 8 - Line 0)	$ 60,124,315
10	Pre-Credit Maximum Fee (Line 9 / Line 3)	$ 4,993
11	Credit for Utility Revenues (From Financial Analysis)	$ (3,337,470)
12	Recoverable Cost of Wastewater Impact Fee and Financing (Line 9 + Line 11)	$ 56,786,844
13	Maximum Assessable Fee (Line 12 / Line 3)	$ 4,716

SUMMARY OF WASTEWATER IMPACT FEE DETERMINATION

Wastewater Service Area

Recoverable Impact Fee CIP Costs	$	49,714,840	Table 3.3
Financing Cost		21,231,253	See Detail Below
Existing Fund Balance		(2,194,686)	Wastewater Appendices - page 1
Interest Earnings		(8,627,092)	Wastewater Appendices - page 3
Pre Credit Recoverable Cost for Impact Fee	$	60,124,315	Sum of Above
Credit for Utility Revenues		(3,337,470)	Wastewater Appendices - page 6
Maximum Recoverable Cost for Impact Fee	**$**	**56,786,844**	

Recoverable Impact Fee CIP Costs:

Represents the portion of capital improvement costs that are eligible for funding through impact fees.
Reference is Table 3.3 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

Financing Costs:

Represents the interest costs associated with debt financing the new impact fee project costs. Interest costs are derived from existing debt issues and forecasted debt issues.

New Annual Debt Service	$	31,493,383	Wastewater Appendices - page 2
Existing Annual Debt Service		39,380,935	Wastewater Appendices - page 2
Principal Component (New and Existing Debt)		(49,643,065)	Wastewater Appendices - page 1
Financing Costs	$	21,231,253	

Existing Fund Balance:

Represents impact fee revenue collected but not yet expended. Some projects that are included in the 2018 Impact Fee Update were also included in prior Impact Fee Updates.
To avoid charging twice for the same project, the impact fee revenues collected but yet to be expended (i.e. fund balance) are credited against the recoverable costs. Reference is page 1 of Wastewater Appendices.

Interest Earnings

Represents the interest earned on cash flows and assumes a 1.89% annual interest rate.
The Impact Fee Statute states that interest earnings are funds of the impact fee account and are held to the same restrictions as impact fee revenues. Therefore in order to recognize that interest earnings are used to fund capital improvements, interest earnings are credited against the recoverable costs.
Reference is the sum of Accumulated Interest on page 3 of Wastewater Appendices.

Pre Credit Recoverable Cost for Impact Fee

Represents Recoverable Impact Fee CIP Costs plus Financing Costs less Existing Fund Balance and Interest Earnings.

Credit for Utility Revenues

In 2001, the Impact Fee Statute was amended to include a credit for ad valorem and utility revenues generated by new service units during the ten-year timeframe that are used to fund impact fee eligible projects for which the new service units were charged an impact fee. The intent of this amendment is to avoid double-charging the new service units for impact fee capital improvements. The credit recognizes utility revenues used to fund the debt service of debt financed impact fee eligible projects. Reference is page 6 of Wastewater Appendices.

Maximum Recoverable Cost for Impact Fee:

Represents Pre Credit Recoverable Cost for Impact Fee less Credit for Utility Revenues.
This is the maximum cost that can be recovered through impact fees.

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Impact Fee Calculation Assumptions
Wastewater Service Area

I. General Assumptions

Annual Interest Rate on Deposits[1]	1.89%
Annual Service Unit Growth[2]	1,204
Existing Fund Balance[3]	$ 2,194,686

Portion of Projects Funded by Existing Debt[4]	$ 30,169,296
Non-debt Funded Project Cost[5]	71,775
New Project Cost Funded Through New Debt[6]	19,473,769
Total Recoverable Project Cost[7]	$ 49,714,840

II. New Debt Issues Assumptions

Year	Principal[8]	Interest[9]	Term
1	$ 1,947,377	4.65%	20
2	1,947,377	5.00%	20
3	1,947,377	5.00%	20
4	1,947,377	5.00%	20
5	1,947,377	5.00%	20
6	1,947,377	5.25%	20
7	1,947,377	5.25%	20
8	1,947,377	5.25%	20
9	1,947,377	5.25%	20
10	1,947,377	5.25%	20
Total	$ 19,473,769		

III. Capital Expenditure Assumptions

Year	Annual Capital Expenditures[10]
1	$ 980,866
2	1,954,554
3	1,954,554
4	1,954,554
5	1,954,554
6	1,954,554
7	1,954,554
8	1,954,554
9	1,954,554
10	2,928,243
Total	$ 19,545,544

(1) Investment Portfolio Yield as of 08/05/2018
(2) Derived from Table 3.1 10-year Additional Single-Family Equivalent Calculation
(3) Balance from 09/30/2017 provided by City Staff
(4) Per discussions with City Staff and City files
(5) From allocation per City Staff; assumes 0% of new project costs funded through sources other than debt
(6) This assumes 100% of new project costs funded through new debt issues
(7) Table 3.3 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost
(8) Assumes new debt issued in equal annual amounts
(9) Estimated interest on future debt from City's Financial Advisor April 26, 2018
(10) Assumes new debt proceeds expended over a 2-year timeframe.
Non-debt funded capital expenditures allocated in equal annual amounts

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Debt Service and Expense Summary
Wastewater Service Area

I. New Debt Service Detail

Year	Series 1	Series 2	Series 3	Series 4	Series 5	Series 6	Series 7	Series 8	Series 9	Series 10	Total Annual New Debt Service
1	$ 151,659	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 151,659
2	151,659	156,263	-	-	-	-	-	-	-	-	307,922
3	151,659	156,263	156,263	-	-	-	-	-	-	-	464,184
4	151,659	156,263	156,263	156,263	-	-	-	-	-	-	620,447
5	151,659	156,263	156,263	156,263	156,263	-	-	-	-	-	776,709
6	151,659	156,263	156,263	156,263	156,263	159,592	-	-	-	-	936,301
7	151,659	156,263	156,263	156,263	156,263	159,592	159,592	-	-	-	1,095,893
8	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	-	-	1,255,485
9	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	-	1,415,077
10	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
11	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
12	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
13	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
14	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
15	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
16	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
17	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
18	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
19	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
20	151,659	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,574,669
21	-	156,263	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,423,010
22	-	-	156,263	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,266,748
23	-	-	-	156,263	156,263	159,592	159,592	159,592	159,592	159,592	1,110,485
24	-	-	-	-	156,263	159,592	159,592	159,592	159,592	159,592	954,222
25	-	-	-	-	-	159,592	159,592	159,592	159,592	159,592	797,960
26	-	-	-	-	-	-	159,592	159,592	159,592	159,592	638,368
27	-	-	-	-	-	-	-	159,592	159,592	159,592	478,776
28	-	-	-	-	-	-	-	-	159,592	159,592	319,184
29	-	-	-	-	-	-	-	-	-	159,592	159,592
	$ 3,033,179	$ 3,125,251	$ 3,125,251	$ 3,125,251	$ 3,125,251	$ 3,191,840	$ 3,191,840	$ 3,191,840	$ 3,191,840	$ 3,191,840	$ 31,493,383

II. Summary of Annual Expenses

Year	New Annual Debt Service[1]	Annual Capital Expenditures[2]	Annual Bond Proceeds[2]	Existing Annual Debt Service[3]	Annual Credit[4]	Total Expense
1	$ 151,659	$ 980,866	$ (1,947,377)	$ 1,969,047	$ (47,839)	$ 1,106,356
2	307,922	1,954,554	(1,947,377)	1,969,047	(100,461)	2,183,685
3	464,184	1,954,554	(1,947,377)	1,969,047	(157,558)	2,282,851
4	620,447	1,954,554	(1,947,377)	1,969,047	(218,845)	2,377,826
5	776,709	1,954,554	(1,947,377)	1,969,047	(284,062)	2,468,872
6	936,301	1,954,554	(1,947,377)	1,969,047	(353,375)	2,559,151
7	1,095,893	1,954,554	(1,947,377)	1,969,047	(426,276)	2,645,842
8	1,255,485	1,954,554	(1,947,377)	1,969,047	(502,554)	2,729,155
9	1,415,077	1,954,554	(1,947,377)	1,969,047	(582,017)	2,809,284
10	1,574,669	2,928,243	(1,947,377)	1,969,047	(664,485)	3,860,097
11	1,574,669	-	-	1,969,047	-	3,543,716
12	1,574,669	-	-	1,969,047	-	3,543,716
13	1,574,669	-	-	1,969,047	-	3,543,716
14	1,574,669	-	-	1,969,047	-	3,543,716
15	1,574,669	-	-	1,969,047	-	3,543,716
16	1,574,669	-	-	1,969,047	-	3,543,716
17	1,574,669	-	-	1,969,047	-	3,543,716
18	1,574,669	-	-	1,969,047	-	3,543,716
19	1,574,669	-	-	1,969,047	-	3,543,716
20	1,574,669	-	-	1,969,047	-	3,543,716
21	1,423,010	-	-	-	-	1,423,010
22	1,266,748	-	-	-	-	1,266,748
23	1,110,485	-	-	-	-	1,110,485
24	954,222	-	-	-	-	954,222
25	797,960	-	-	-	-	797,960
26	638,368	-	-	-	-	638,368
27	478,776	-	-	-	-	478,776
28	319,184	-	-	-	-	319,184
29	159,592	-	-	-	-	159,592
	$ 31,493,383	$ 19,545,544	$ (19,473,769)	$ 39,380,935	$ (3,337,470)	$ 67,608,623

(1) Wastewater Appendices - page 2 Section I
(2) Wastewater Appendices - page 1
(3) Actual timing of payment varies. Calculated P&I above assumes City's estimated average cost of outstanding system debt and constant annual debt service payments.
(4) Wastewater Appendices - page 6

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Revenue Test

Wastewater Service Area

Year	Impact Fee	Service Units	Impact Fee Revenue	Annual Expenses	Sub-Total	Accumulated Interest	Estimated Fund Balance
Initial							$ 2,194,686
1	$ 4,716	1,204	$ 5,678,684	$ 1,106,356	$ 4,572,328	$ 84,657	6,851,671
2	4,716	1,204	5,678,684	2,183,685	3,495,000	162,464	10,509,135
3	4,716	1,204	5,678,684	2,282,851	3,395,834	230,628	14,135,597
4	4,716	1,204	5,678,684	2,377,826	3,300,858	298,245	17,734,700
5	4,716	1,204	5,678,684	2,468,872	3,209,813	365,383	21,309,896
6	4,716	1,204	5,678,684	2,559,151	3,119,534	432,077	24,861,507
7	4,716	1,204	5,678,684	2,645,842	3,032,843	498,358	28,392,708
8	4,716	1,204	5,678,684	2,729,155	2,949,529	564,286	31,906,523
9	4,716	1,204	5,678,684	2,809,284	2,869,400	629,916	35,405,839
10	4,716	1,204	5,678,684	3,860,097	1,818,587	686,102	37,910,528
11	-	-	-	3,543,716	(3,543,716)	682,768	35,049,580
12	-	-	-	3,543,716	(3,543,716)	628,716	32,134,580
13	-	-	-	3,543,716	(3,543,716)	573,643	29,164,507
14	-	-	-	3,543,716	(3,543,716)	517,529	26,138,320
15	-	-	-	3,543,716	(3,543,716)	460,356	23,054,960
16	-	-	-	3,543,716	(3,543,716)	402,102	19,913,346
17	-	-	-	3,543,716	(3,543,716)	342,747	16,712,377
18	-	-	-	3,543,716	(3,543,716)	282,271	13,450,933
19	-	-	-	3,543,716	(3,543,716)	220,653	10,127,869
20	-	-	-	3,543,716	(3,543,716)	157,870	6,742,024
21	-	-	-	1,423,010	(1,423,010)	113,935	5,432,948
22	-	-	-	1,266,748	(1,266,748)	90,678	4,256,879
23	-	-	-	1,110,485	(1,110,485)	69,935	3,216,329
24	-	-	-	954,222	(954,222)	51,752	2,313,858
25	-	-	-	797,960	(797,960)	36,178	1,552,076
26	-	-	-	638,368	(638,368)	23,293	937,001
27	-	-	-	478,776	(478,776)	13,180	471,405
28	-	-	-	319,184	(319,184)	5,891	158,112
29	-	-	-	159,592	(159,592)	1,480	-
			56,786,845	67,608,623		8,627,092	

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Calculation

Wastewater Service Area

Year	Number of Years to End of Period	Future Value Escalation: Interest Rate Factor	Future Value Escalation: Recovery Fee Factor	Annual Service Units: Actual	Annual Service Units: Escalated	Annual Expense: Actual	Annual Expense: Escalated
1	29	1.7048	1.0000	1,204	2,053	$ 1,106,356	$ 1,886,159
2	28	1.6732	1.0000	1,204	2,015	2,183,685	3,653,800
3	27	1.6422	1.0000	1,204	1,977	2,282,851	3,748,900
4	26	1.6118	1.0000	1,204	1,941	2,377,826	3,832,462
5	25	1.5819	1.0000	1,204	1,905	2,468,872	3,905,420
6	24	1.5525	1.0000	1,204	1,869	2,559,151	3,973,164
7	23	1.5237	1.0000	1,204	1,835	2,645,842	4,031,586
8	22	1.4955	1.0000	1,204	1,801	2,729,155	4,081,424
9	21	1.4678	1.0000	1,204	1,767	2,809,284	4,123,354
10	20	1.4405	1.0000	1,204	1,735	3,860,097	5,560,637
11	19	1.4138	1.0000	-	-	3,543,716	5,010,218
12	18	1.3876	1.0000	-	-	3,543,716	4,917,315
13	17	1.3619	1.0000	-	-	3,543,716	4,826,135
14	16	1.3366	1.0000	-	-	3,543,716	4,736,645
15	15	1.3118	1.0000	-	-	3,543,716	4,648,815
16	14	1.2875	1.0000	-	-	3,543,716	4,562,614
17	13	1.2636	1.0000	-	-	3,543,716	4,478,011
18	12	1.2402	1.0000	-	-	3,543,716	4,394,977
19	11	1.2172	1.0000	-	-	3,543,716	4,313,482
20	10	1.1946	1.0000	-	-	3,543,716	4,233,498
21	9	1.1725	1.0000	-	-	1,423,010	1,668,476
22	8	1.1508	1.0000	-	-	1,266,748	1,457,718
23	7	1.1294	1.0000	-	-	1,110,485	1,254,202
24	6	1.1085	1.0000	-	-	954,222	1,057,733
25	5	1.0879	1.0000	-	-	797,960	868,118
26	4	1.0677	1.0000	-	-	638,368	681,617
27	3	1.0479	1.0000	-	-	478,776	501,733
28	2	1.0285	1.0000	-	-	319,184	328,286
29	1	1.0094	1.0000	-	-	159,592	161,100
					18,897		$ 92,897,599

Annual Interest Rate:		1.89%
Present Value of Initial Impact Fee Fund Balance	$	2,194,686
Total Escalated Expense for Entire Period	$	92,897,599
Less Future Value of Initial Impact Fee Fund Balance		3,776,602
Sub-Total	$	89,120,997
Total Escalated Service Units		18,897
Impact Fee for Wastewater Service Area	**$**	**4,716**

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees

Impact Fee Project Funding

Wastewater Service Area

Impact Fee Project Name[1]	Cost In Service Area [1]	Note	Impact Fee Recoverable Cost[1]	Debt Funded[2] Existing	Debt Funded[2] Proposed	Non-Debt Funded[2]	Impact Fee Recoverable Cost
South Wet Weather Lift Station & Detention Pond	$ 1,552,898	A	$ 217,406	$ 217,406	$ -	$ -	$ 217,406
Cooper Creek Interceptor III	1,277,970	B	24,282	24,282	-	-	24,282
Cooper Creek Outfall (Loop 288)	3,898,807	A	296,310	296,310	-	-	296,310
Eagle Drive Sewer	902,329	B	11,731	11,731	-	-	11,731
Krum Sewer Line	398,450	A	164,560	164,560	-	-	164,560
Graveyard Branch Interceptor	5,004,952	A	575,570	575,570	-	-	575,570
Hickory Creek Outfall	1,111,495	B	45,572	45,572	-	-	45,572
Leatherwood Interceptor	156,592	B	2,349	2,349	-	-	2,349
Parvin Sewer Line	326,474	B	42,116	42,116	-	-	42,116
Pecan Creek Interceptor (Ph 1 & 2)	3,363,189	A	134,528	134,528	-	-	134,528
Pecan Creek Interceptor I	1,975,672	A	266,716	266,716	-	-	266,716
Pecan Creek Interceptor II	1,862,175	B	100,558	100,558	-	-	100,558
Pecan Creek Interceptor III	3,079,149	B	150,879	150,879	-	-	150,879
Pecan Creek Interceptor IV	978,285	B	54,784	54,784	-	-	54,784
Pecan WRP (15MGD)	39,528,174	A	5,929,227	5,929,227	-	-	5,929,227
Pecan WRP Expansion (6MGD)	30,005,125	A	21,003,588	21,003,588	-	-	21,003,588
Roark Branch Interceptor	854,774	A	517,994	517,994	-	-	517,994
State School Interceptor I	1,660,869	A	152,800	152,800	-	-	152,800
State School Interceptor II	3,326,406	B	362,579	362,579	-	-	362,579
US 380 Utility Relocations	2,823,082	B	115,747	115,747	-	-	115,747
Woodhaven Interceptor	965,735	B	26,075	-	-	26,075	26,075
Audra Interceptor	278,530	C	16,990	-	16,990	-	16,990
Ave G Interceptor	433,078	C	30,749	-	30,749	-	30,749
Bonnie Brae Connector	191,746	C	152,247	-	152,247	-	152,247
Bonnie Brae Relocation	1,886,106	C	1,101,486	-	1,101,486	-	1,101,486
Carroll Ave Interceptor	438,623	C	14,036	-	14,036	-	14,036
Clear Creek Interceptor	15,000,000	C	2,400,000	-	2,400,000	-	2,400,000
Cooper Creek Interceptor I	2,632,000	C	231,616	-	231,616	-	231,616
Cooper Creek Interceptor II	1,128,000	C	41,736	-	41,736	-	41,736
Dry Fork Hickory Creek Tributary 1 Interceptor	1,144,159	C	41,190	-	41,190	-	41,190
Elm Street Sewer Replacements	677,674	C	25,752	-	25,752	-	25,752
Hickory Creek Interceptor I	1,447,500	C	324,240	-	324,240	-	324,240
Hickory Creek Interceptor II	8,102,500	C	3,281,513	-	3,281,513	-	3,281,513
Hickory Creek Interceptor III	2,875,433	C	1,184,678	-	1,184,678	-	1,184,678
Hickory Creek Interceptor IV	1,267,658	C	117,892	-	117,892	-	117,892
Hickory Creek Lift Station Detention Facility	9,900,000	C	9,533,700	-	9,533,700	-	9,533,700
Mulberry Interceptor	125,820	C	7,927	-	7,927	-	7,927
Ranch View Interceptor (Oversize)	159,680	C	90,219	-	90,219	-	90,219
West Peak Flow Detention Lift Station and Pond	3,800,000	C	877,800	-	877,800	-	877,800
Wastewater Impact Fee Report Preparation	45,700	C	45,700	-	-	45,700	45,700
Total	$ 156,586,808		$ 49,714,840	$ 30,169,296	$ 19,473,769	$ 71,775	$ 49,714,840

(1) Table 3.3 Wastewater Impact Fee Capital Improvements Project Cost and 10-Year Recoverable Cost

(2) Per discussions with City staff and City files

Project Note A: Project costs from 2013 study

Project Note B: Costs of projects completed since 2013 per City Staff

Project Note C: Proposed projects in 2018 dollars

City of Denton - 2018 Wastewater Impact Fee Update

Capital Improvement Plan for Impact Fees
Credit Determination
Wastewater Service Area

2018 Service Units[1]	52,174	
Ten Year Growth in Service Units[1]	12,041	
	10	years
Annual Growth in Service Units	1,204	

	1	2	3	4	5	6	7	8	9	10	Total
Debt Service for Debt Funded Projects Eligible for Impact Fees[2]	$2,120,706	$2,276,968	$2,433,231	$2,589,493	$2,745,756	$2,905,348	$3,064,940	$3,224,532	$3,384,124	$3,543,716	$ 28,288,814
Net Impact Fee Eligible Debt Service Funded by Other Sources	$2,120,706	$2,276,968	$2,433,231	$2,589,493	$2,745,756	$2,905,348	$3,064,940	$3,224,532	$3,384,124	$3,543,716	$ 28,288,814
Current Service Units	53,378	54,582	55,786	56,990	58,195	59,399	60,603	61,807	63,011	64,215	
Total Net Impact Fee Eligible Debt Service Funded by Other Sources per Service Unit	$ 39.73	$ 41.72	$ 43.62	$ 45.44	$ 47.18	$ 48.91	$ 50.57	$ 52.17	$ 53.71	$ 55.19	
Annual Growth in Service Units (Cumulative)	1,204	2,408	3,612	4,816	6,021	7,225	8,429	9,633	10,837	12,041	
Annual Wastewater Rate Revenue Generated by Service Unit for Net Impact Fee Eligible Debt Service Funded by Other Sources	$ 47,839	$ 100,461	$ 157,558	$ 218,845	$ 284,062	$ 353,375	$ 426,276	$ 502,554	$ 582,017	$ 664,485	$ 3,337,470

Credit Amount **$ 3,337,470**

(1) Derived from Table 3.1 10-year Additional Single-Family Equivalent Calculation
(2) Wastewater Appendices - page 2 Section II

EXHIBIT B

Exhibit B.

Water Equivalency Table

Meter Size	Single Family Equivalent[1]	Zone 1A Maximum Assessable Impact Fee	Zone 1B Maximum Assessable Impact Fee	Zone 2 Maximum Assessable Impact Fee
5/8 x ¾"	1	$3,569	$5,352	$7,638
1"	2.5	$8,923	$13,380	$19,095
1-1/2"	5	$17,845	$26,760	$38,190
2"	8	$28,552	$42,816	$61,104
3"	22.5	$80,303	$120,420	$171,855
4"	50	$178,450	$267,600	$381,900
6"	100	$356,900	$535,200	$763,800
8"	200	$713,800	$1,070,400	$1,527,600
10"	325	$1,159,925	$1,739,400	$2,482,350

Wastewater Equivalency Table

Meter Size	Single Family Equivalent[1]	Maximum Assessable Impact Fee
5/8x3/4"	1	$4,716
1"	2.5	$11,790
1 – ½"	5	$23,580
2"	8	$37,728
3"	22.5	$106,110
4"	50	$235,800
6"	100	$471,600
8"	200	$943,200
10"	325	$1,532,700

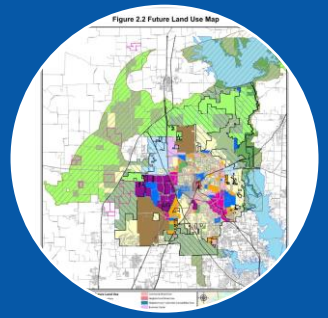
Water and Wastewater Impact Fee Update

City of Denton

August 5, 2025

ID 25-1140

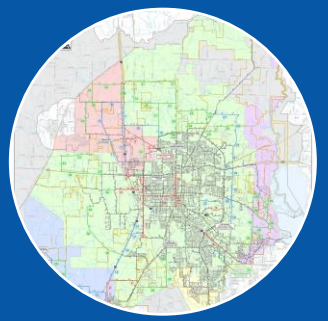
Impact Fee Study Components



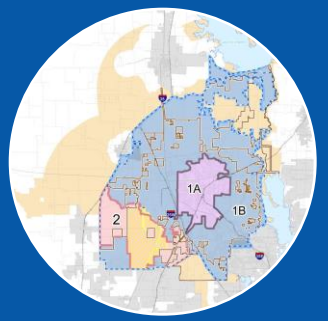
Land Use Assumptions Growth



Service Units



Impact Fee Capital Improvement Plans



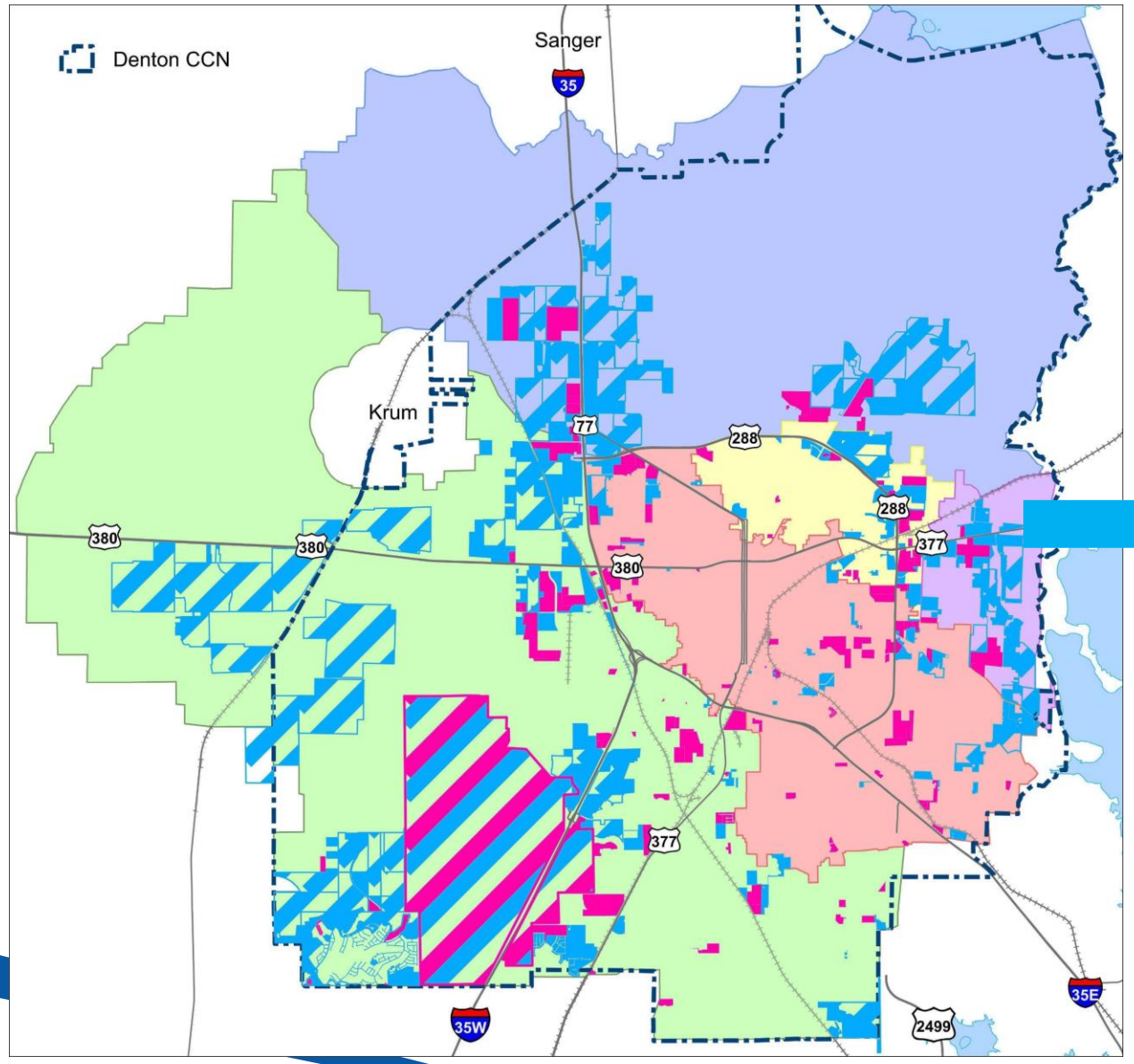
Service Area Comparisons

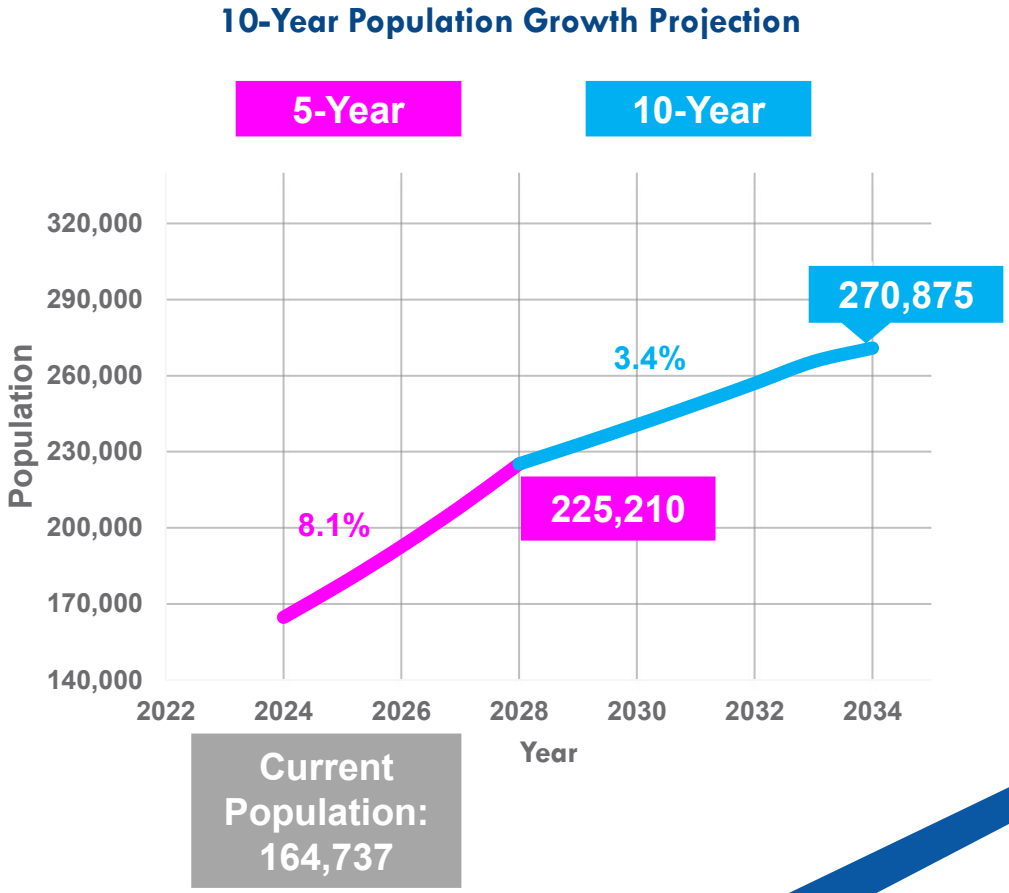


Impact Fee Calculation

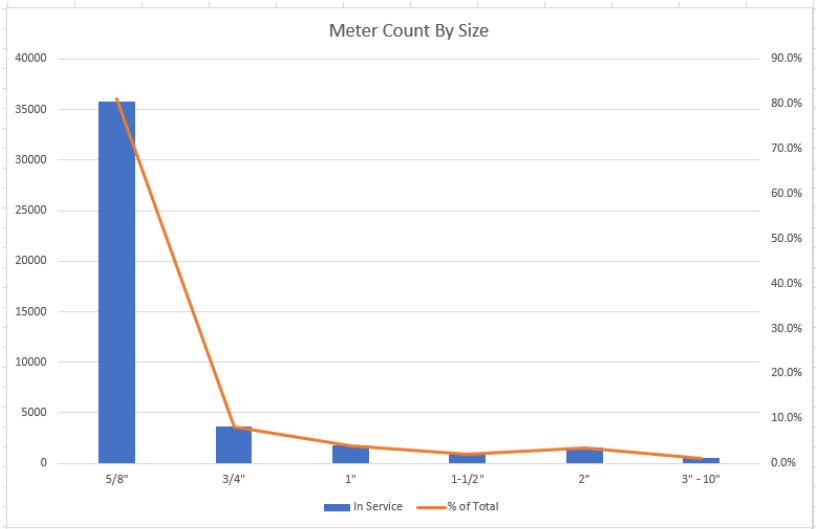
*Hunter/Cole Offsite Impacts are detailed in the appendix

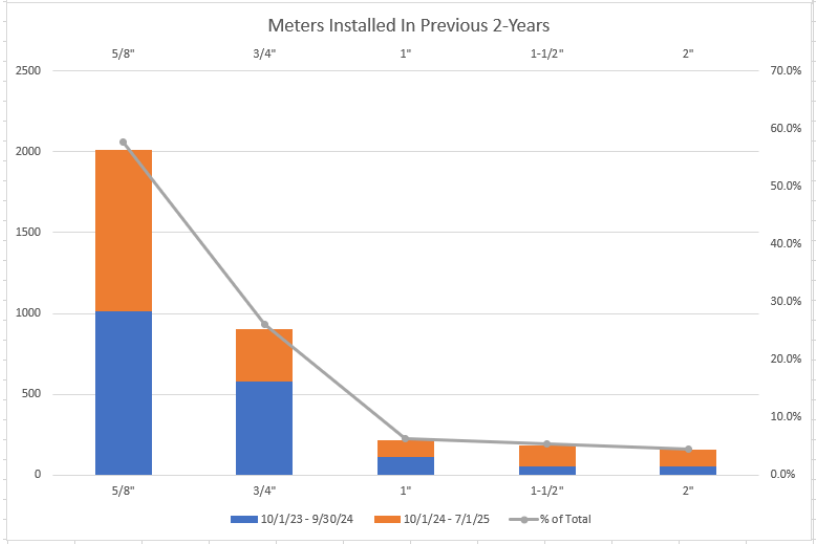
PHASING & POPULATION GROWTH





Impact Fee Components: Wastewater/Water Service Units





American Water Works Association (AWWA) establishes the 5/8” meter as 1 Single Family Equivalency (SFE) since that is the standard meter size required for a single-family home

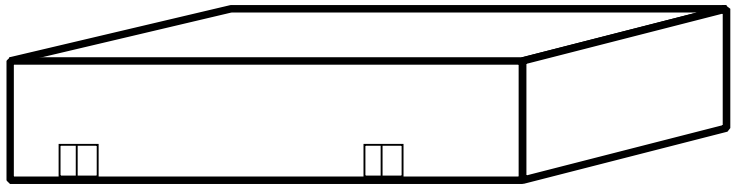
- **81% of Denton’s current meter count are 5/8” compared to 8% for ¾” (next size up)**
- **Therefore, the 5/8” meter was chosen as the base unit for calculations**

Impact Fee Components: Meter Size Comparison

Domestic Demand Meters (Potable & Reclaimed Source)			
Type	Size	†Safe Maximum Operating Capacity (gpm)	Recommended Continuous Max Service Unit Eq.
*Positive Displacement	5/8"	20	1.0
*Positive Displacement	3/4"	30	1.5
*Positive Displacement	1"	50	2.5
*Positive Displacement	1.5"	100	5.0
*Positive Displacement	2"	160	8.0
**Compound	3"	350	17.5
**Compound	4"	600	30.0
**Compound	6"	1350	67.5
**Compound	8"	1600	90.0

Impact fees are calculated as a multiple of the SFE based on meter sizing per the AWWA chart.

Large Retail Development (2” meter)



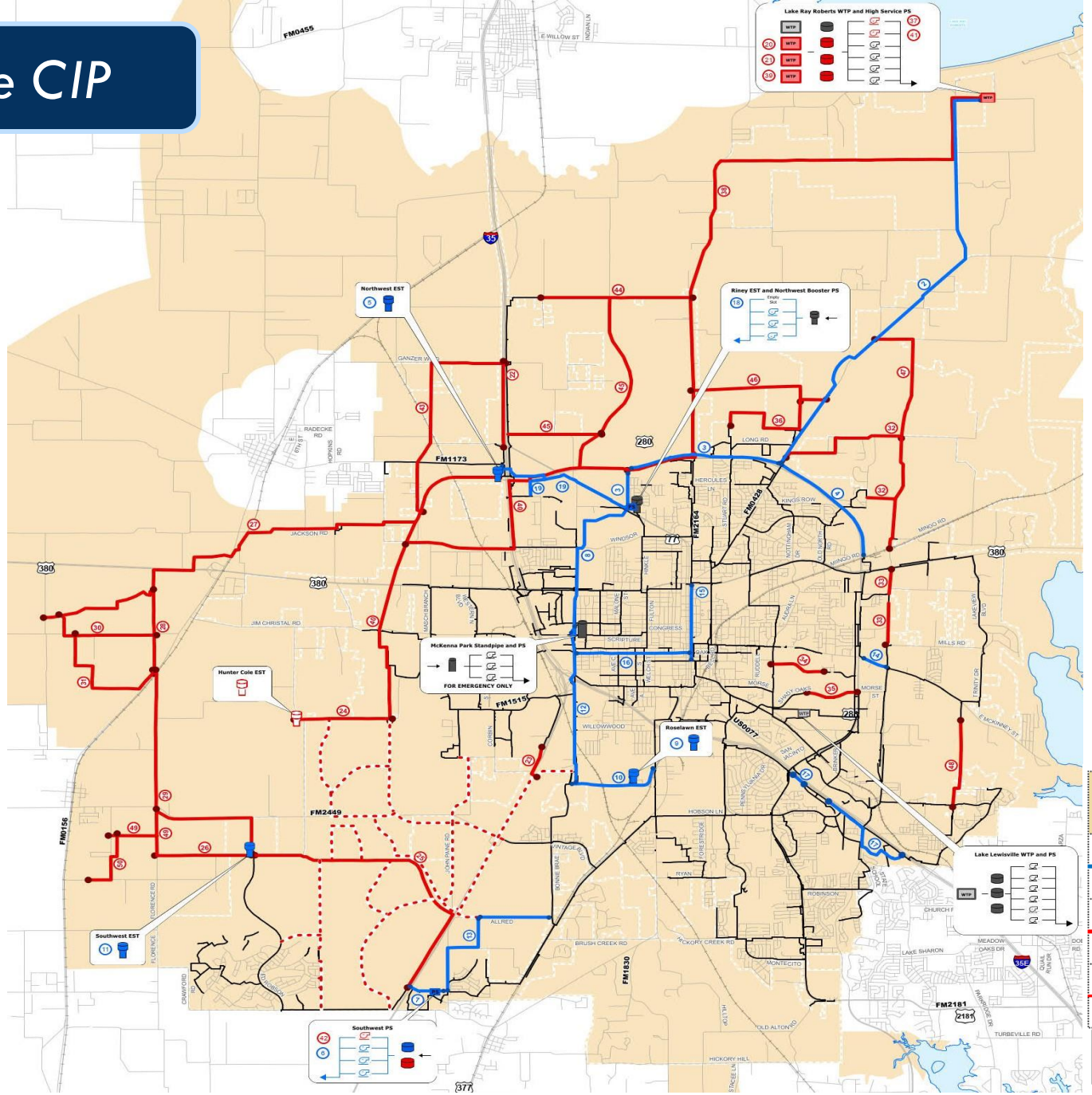
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8- Single Family Homes

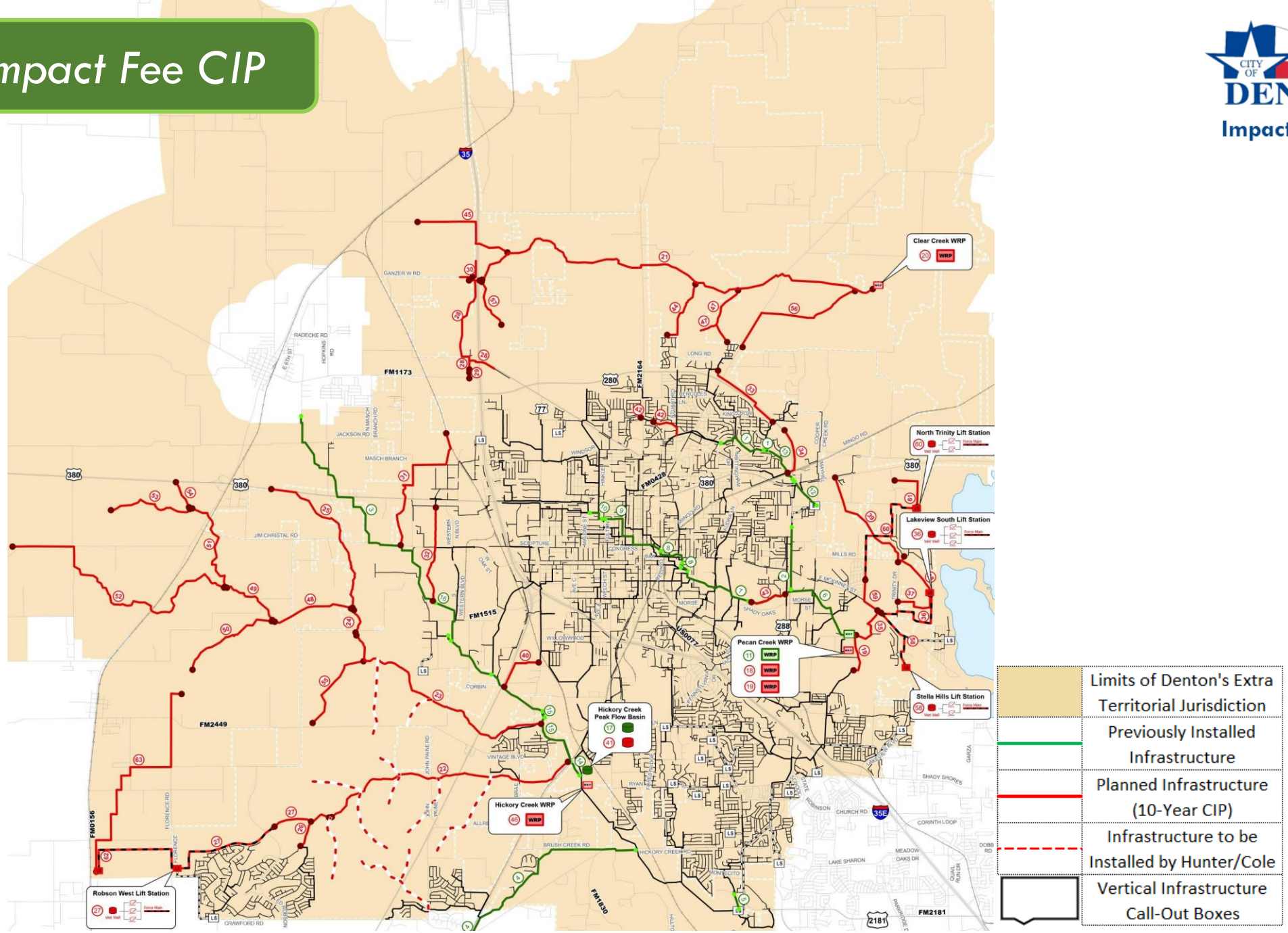
Water Impact Fee CIP

CITY OF DENTON
Impact Fee CIP

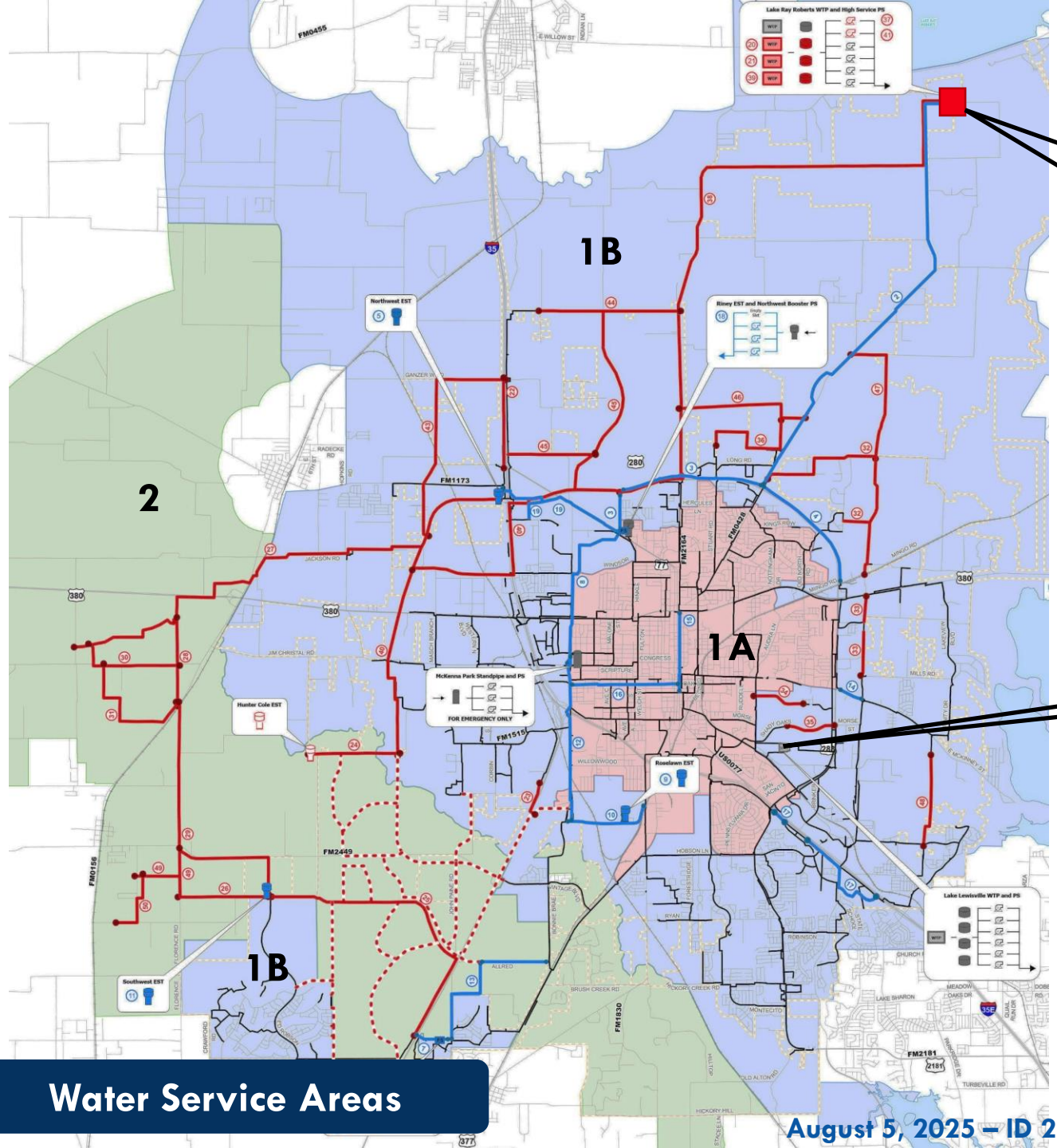


Wastewater Impact Fee CIP

CITY OF DENTON
Impact Fee CIP



Existing and Proposed Water Service Areas

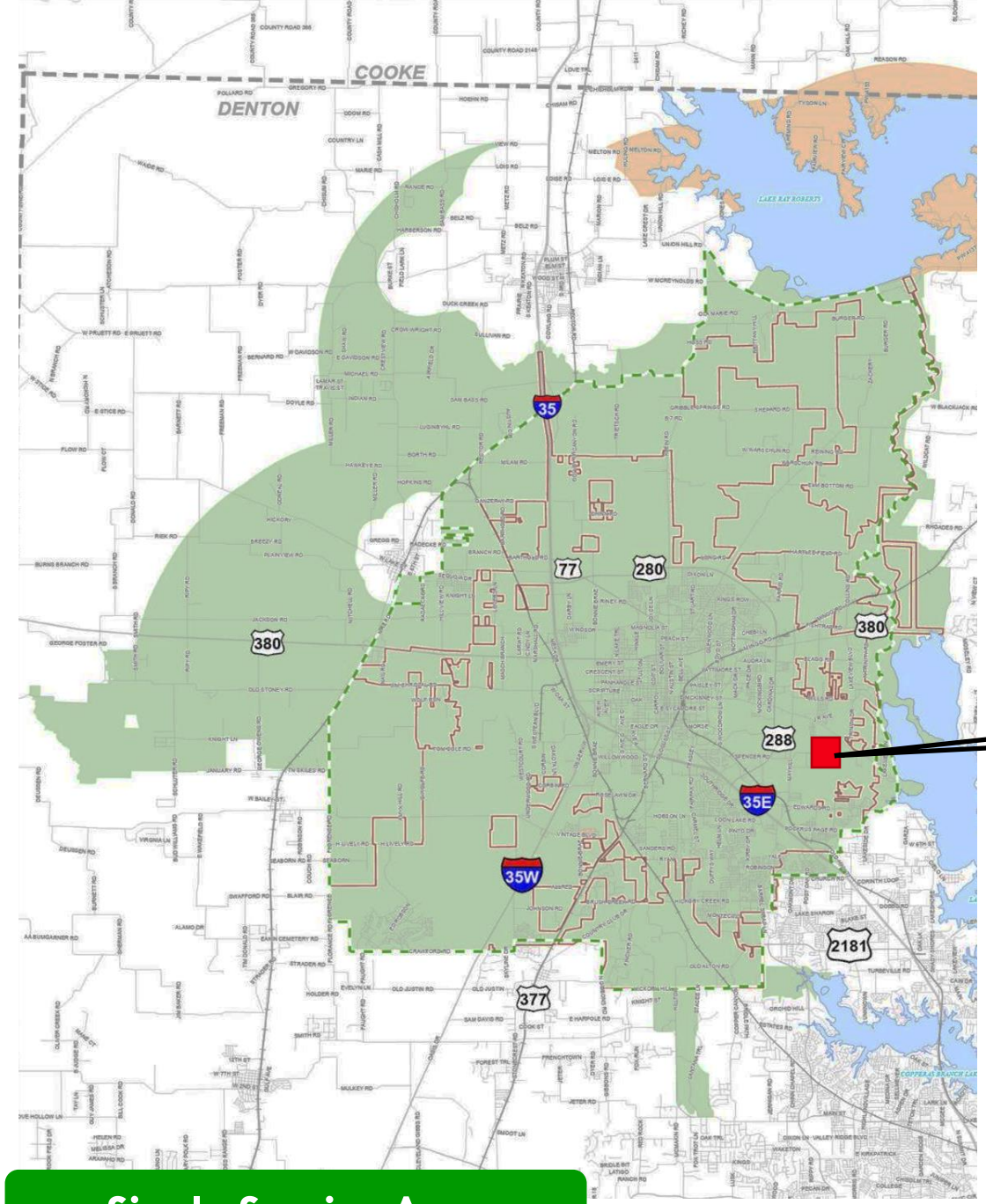


Existing Lake Ray Roberts WTP

Existing Lake Lewisville WTP

Water Service Areas

CITY OF DENTON Service Areas



Single Service Area

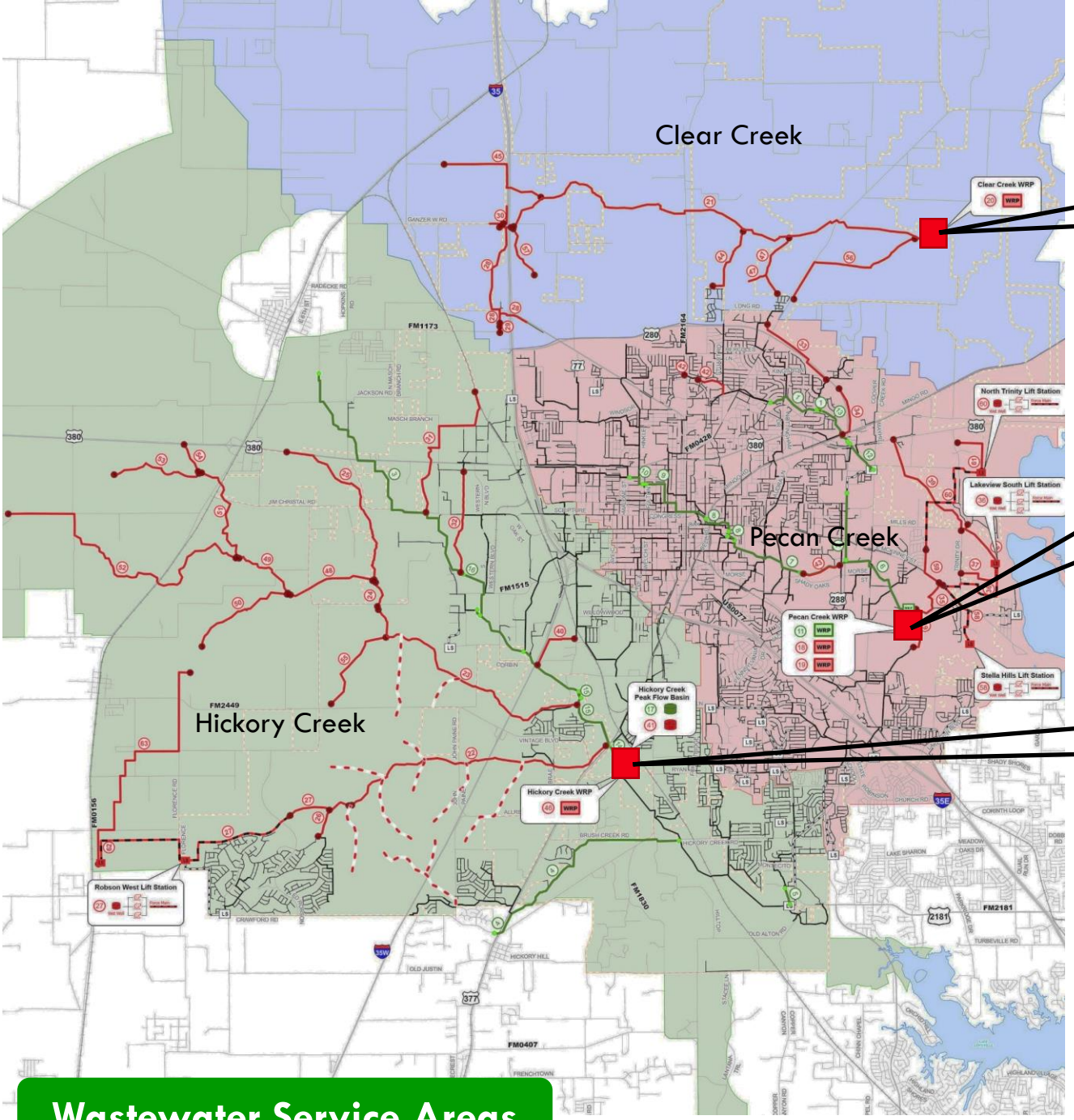
Existing Wastewater Service Area

Pecan Creek WRP Statistics:

- 21 MGD current treatment capacity
  - Approaching 90% utilization which requires expansion to be under construction by Texas Commission on Environmental Quality (TCEQ) rules
- 30 MGD after expansion
  - Treatment capacity and discharge permit will be fully utilized by 2030 according to current models

Existing Pecan Creek WRP

Proposed Wastewater Service Areas



Proposed Clear Creek WRP
10 MGD

Existing Pecan Creek WRP
30 MGD

Proposed Hickory Creek WRP
10-20 MGD

Wastewater Service Areas

Estimated Maximum Assessable Impact Fee Calculation (City-Wide)

$$Maximum\ Impact\ Fee\ Per\ Service\ Unit = \frac{10-Year\ Recoverable\ Cost\ of\ Impact\ Fee\ CIP}{10-Year\ Service\ Unit\ Projection}$$

Entire Study Area	Water	Wastewater
10 – Year Recoverable Cost of Impact Fee CIP	$582,923,277	$707,097,573
10 – Year Service Unit Projection	52,774	52,276
Max Assessable Impact Fee per Service Unit	$11,046	$13,526

- Water and Wastewater service unit counts differ slightly due to users with on-site septic or sewer systems
- This calculation is based on single city-wide service areas instead of divided service areas

Maximum Assessable (100%) Impact Fees Per Service Area

Water Maximum Impact fee by Service Areas

Year	Service Area 1A	Service Area 1B	Service Area 2
2018	$3,569	$5,352	$7,638
2025	$1,820	$10,745	$12,139

Wastewater Maximum Impact fee by Service Areas

Year	2018 Single Service Area		
2018	$4,716		
	Pecan Creek	Hickory Creek	Clear Creek
2025	$11,615	$12,791	$17,916

- The Hunter Ranch and Cole Ranch impacts to projects collectively known as “City Offsites” is calculated and detailed in the final appendix of the impact fee report.
  - This complies with both the Hunter and Cole Operating Agreements as well as Texas Local Government Code Chapter 395

75% of Maximum Assessable Impact Fees Per Service Area

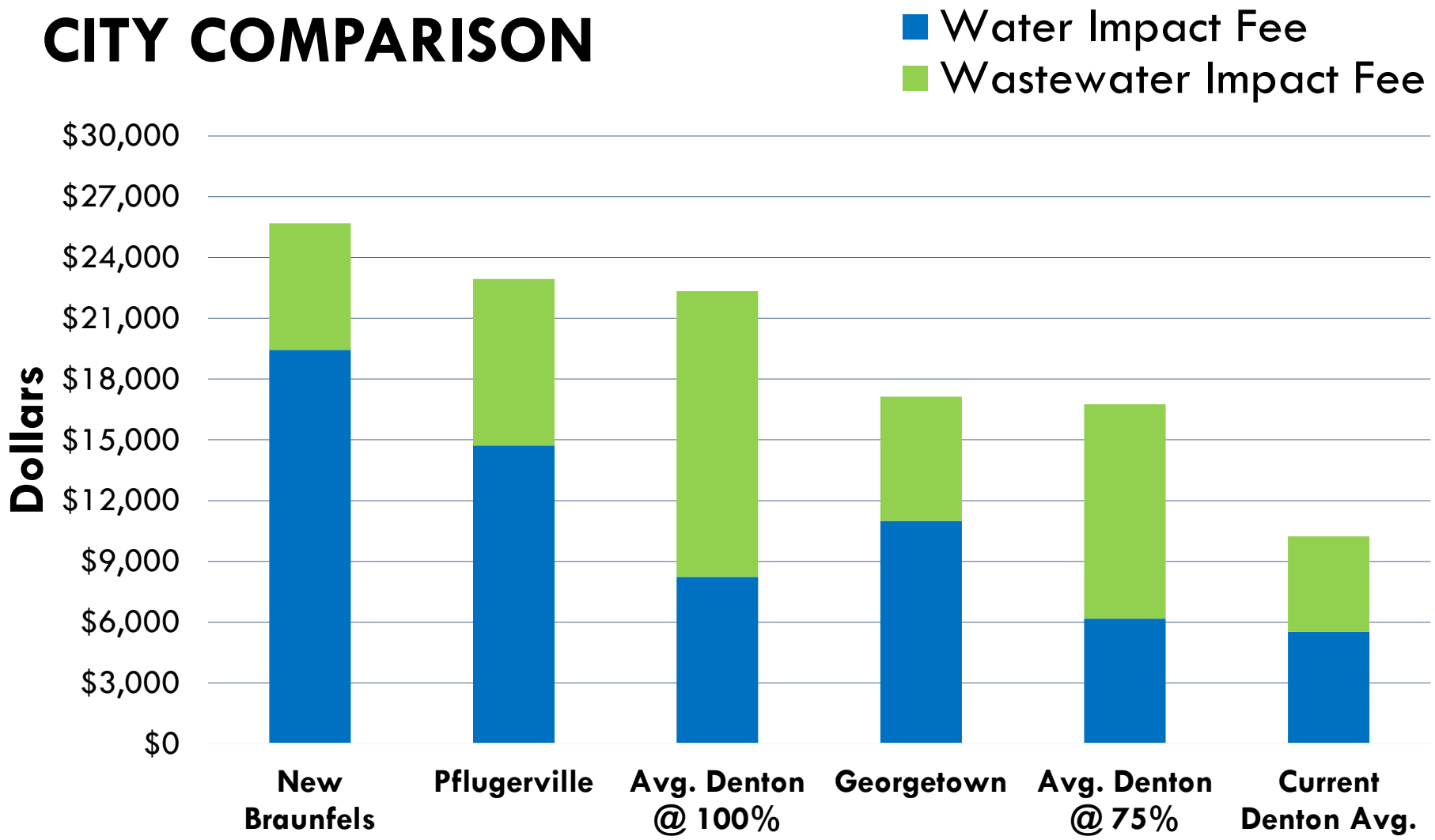
Water 75% Impact fee by Service Areas

Year	Service Area 1A	Service Area 1B	Service Area 2
2018	$3,569	$5,352	$7,638
2025	$1,365	$8,059	$9,104

Wastewater 75% Impact fee by Service Areas

Year	2018 Single Service Area		
2018	$4,716		
	Pecan Creek	Hickory Creek	Clear Creek
2025	$8,711	$9,593	$13,437

CITY COMPARISON



Pflugerville, New Braunfels, and Georgetown share the following characteristics with Denton:

- Full-service utilities — each city owns and operates all water and wastewater treatment and distribution facilities
- Similar population sizes and experiencing high population growth rates comparable to those of Denton
- Located near major Texas metropolitan areas
- Active capital improvement planning to support infrastructure expansion aligned with rapid development
- Diverse service areas with distinct water and wastewater impact fee zones (notably in Pflugerville) reflecting varied infrastructure costs across growing regions

Summary

- October 24, 2022 – Public Utilities Board gave initial direction
- July 8, 2024 – Developer meeting to share updates and gather feedback
- July 16, 2024 – City Council provided direction
- February and June 2025 – Staff presented to the Capital Improvements Advisory Committee
- March 5 and July 1, 2025 – Developer town halls to present proposed changes and hear input
- June 25, 2025 – Capital Improvements Advisory Committee voted 6–0 to recommend one hundred percent cost recovery
- July 15, 2025 – City Council Work Session; supported seventy-five percent cost recovery (6–1)

Staff recommends setting Water and Wastewater impact fees at seventy-five percent of the maximum allowed.

Adoption Steps

✓ Notice of Public Hearing	-	06/21/2025
✓ Capital Improvement Advisory Committee (CIAC); 6-0 approval	-	06/25/2025
✓ City Council Work Session/Resolution to set Public Hearing Meeting; 6-1 Recommendation	-	07/15/2025
❑ City Council Public Hearing Meeting	-	08/052025
❑ City Council Impact Fee Ordinance Update Meeting	-	08/19/2025
❑ Public Utilities Board Memo Update	-	09/22/2025
❑ Capital Improvement Advisory Committee Update	-	TBD

Questions

Kyle.Pedigo@cityofdenton.com

Legislation Text

File #: ID 25-1039, **Version:** 1

Hold a public hearing and consider approval of a resolution of the City of Denton stating no objection to 2100 Spencer Road (TX) Owner LP's 4% housing tax credit application to the Texas Department of Housing and Community Affairs for proposed rehabilitation of the Waterford at Spencer Oaks Apartments to provide affordable rental housing; and providing an effective date.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: **Community Services**

CM/ DCM/ ACM: **Christine Taylor**

DATE: **August 5, 2025**

SUBJECT

Hold a public hearing and consider approval of a resolution of the City of Denton stating no objection to 2100 Spencer Road (TX) Owner LP's 4% housing tax credit application to the Texas Department of Housing and Community Affairs for the proposed rehabilitation of the Waterford at Spencer Oaks Apartments to provide affordable rental housing; and providing an effective date.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Foster Economic Opportunity and Affordability.

BACKGROUND

The Texas Department of Housing and Community Affairs (TDHCA) offers a Housing Tax Credit program as one of the primary means of directing private capital toward the development and preservation of affordable rental housing for low-income households.

A Housing Tax Credit is an indirect federal subsidy. It does not equate to a local property tax reduction but is rather a credit that is sold to a bank as a dollar-for-dollar reduction of federal income tax liability. There are two types of Housing Tax Credit (HTC) programs available: a 4% (non-competitive) and a 9% (competitive) program. The Waterford at Spencer Oaks is submitting a non-competitive application, meaning that a threshold document for their application is a resolution of no objection from the municipality in which the project is located. A 4% tax credit will generate about 30% of a development's equity, or a maximum of $20 million dollars.

To meet the City of Denton housing and development objectives, it is the City's policy to review projects requesting support for proposed Housing Tax Credits (HTC). Such analysis will determine if the project(s) comply with the principles and policies found in the City's Denton Plan 2040, the Consolidated Plan for Housing and Community Development, as well as various other master, strategic, and redevelopment or neighborhood plans, adopted by the City of Denton.

DISCUSSION

The City has received an application seeking a Resolution of No Objection (RONO) for a 4% Housing Tax Credit application to TDHCA for new construction (Exhibit 3). Staff has evaluated this request, finds it aligned with the HTC Policy, and is therefore presenting the application to City Council. The application request for the RONO be presented for City Council consideration at the July 15, 2025 meeting where public comment may also be made on the proposed application in accordance with Texas Government Code, §2306.67071(b).

The Waterford at Spencer Oaks is an existing apartment development in the City of Denton. Its construction was funded by Housing Tax Credits in 1996. Their affordability commitments last 30 years, and would otherwise expire next year in 2026, with the apartments converting to market rate. By undergoing a rehabilitation with Housing Tax Credit funding, the development would recommit to affordability for another 30 years.

PROJECT – WATERFORD AT SPENCER OAKS

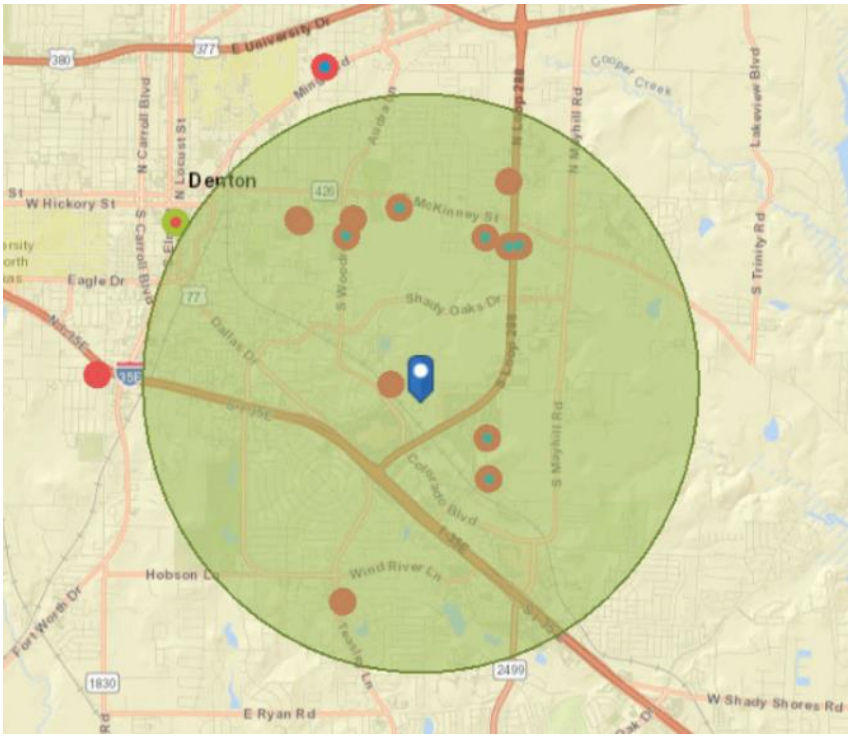


Figure 1 – Location map

- **Applicant:** April Housing
- **Location:** 2100 Spencer Rd, Denton, TX 76205
- **Project Type:** General
- **Property Type:** Rehabilitation
- **City Council District:** 1
- **Taxable Status of the Development:** Development will be eligible for a 50% property tax exemption due to a partnership with The Development Corporation of Tarrant County
- **Proposed Tenant Population:** Proposed housing will provide affordable housing to individuals and families.

	# of Total Units	# of Units							SF Range of Units	Rent Range of Units
		30%	40%	50%	60%	70%	80%	MR		
0 (Efficiency)	0									
1 BR	0									
2 BR	104			47	57				978	$1,177 - $1,436
3 BR	104				103			1	1100	$1,651
4 BR	0									
Total Units	208	0	0	47	160	0	0	1		
	% of Total	0%	0%	23%	77%	0%	0%	0%		

Figure 2– Unit Mix

- **Proposed Total Units:** 208 affordable units.
- **Proposed Unit Income Breakdown:** The proposed development currently includes income bands of 50% AMI and 60% AMI.
- **Proposed Unit Sizes:** Two and three-bedroom units between 978–1100 square feet.
- **Projected Rents:** $1,177-$1,651 per month

Staff Recommendation
Staff recommends **approval** of this Resolution of Support, in alignment with the Housing Tax Credit Policy, because the development:

- Is a Rehabilitation of existing affordable housing.

OPTIONS

1. Approve a Resolution of No Objection as presented
2. Do Not Approve the Resolution of No Objection
3. Postpone to a date certain to allow for further deliberation

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Presentation
Exhibit 3 – Application for a Resolution of No Objection
Exhibit 4 – Draft Resolution of No Objection

Respectfully submitted:
Jesse Kent
Director of Community Services

Prepared By:
Leia Atkinson
Housing Programs Coordinator

Waterford at Spencer Oaks 4% Housing Tax Credit App

ID 25-1039

Presenter: Jesse Kent

Director of Community Services

August 5, 2025



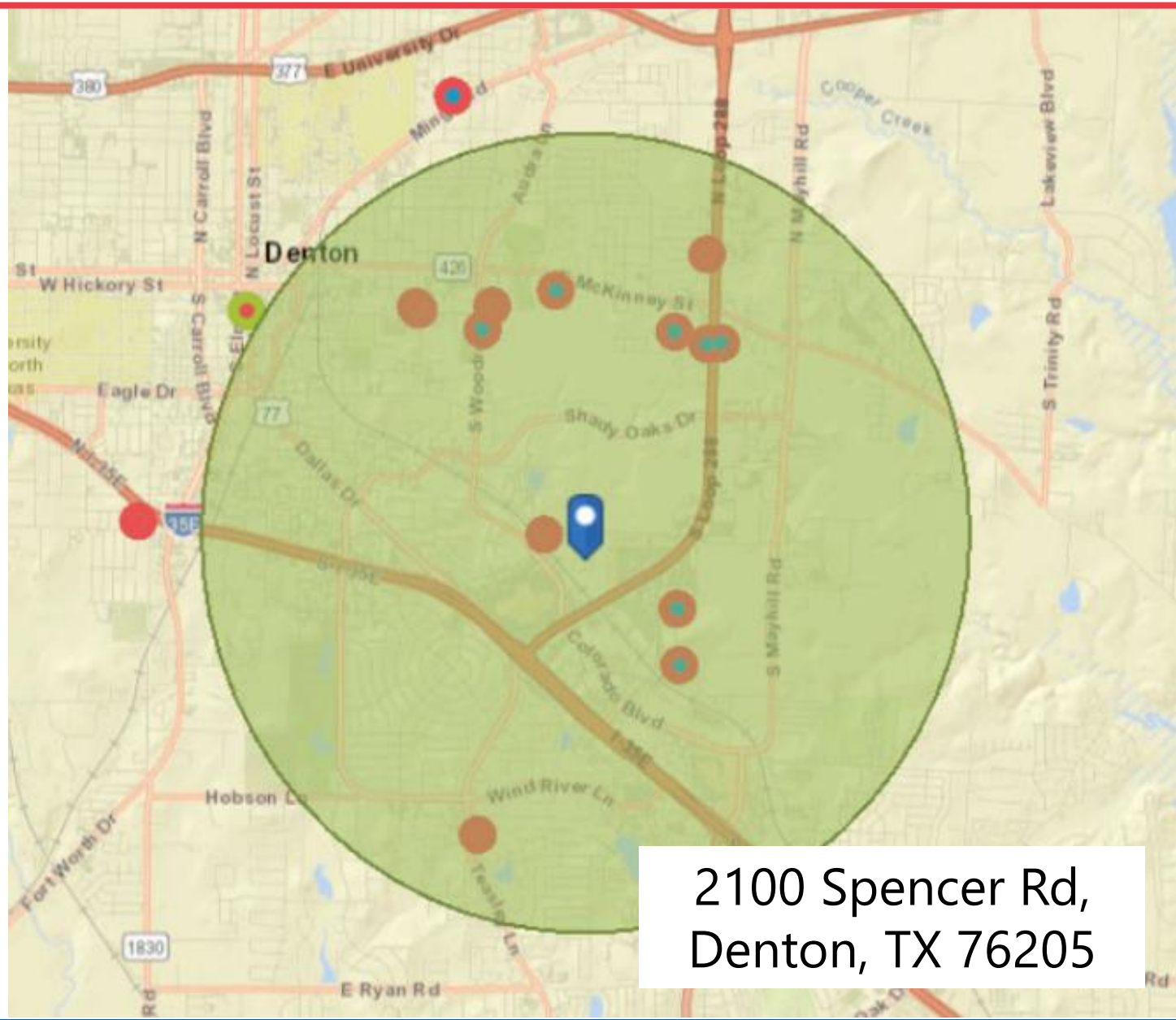
BACKGROUND

- **LOW INCOME HOUSING TAX CREDIT PROGRAM (Also known as LIHTC or Section 42)**
  - Administered by Texas Dept. of Housing & Community Affairs (TDHCA)
  - Two types: 4% (non-competitive) and 9% (competitive)
  - TDHCA requires Resolutions of No Objections as a minimum threshold documentation for consideration of 4% applications.

OVERVIEW

- Existing apartment complex applying for rehab funding
- Funded by Housing Tax Credits in 1996
- Affordability commitment (30 years) would otherwise expire in 2026 and convert to market rate
- By undergoing rehab with HTC funding, development recommits to affordability for another 30 years

Affordable Housing Two Mile Radius Map



2100 Spencer Rd, Denton, TX 76205

PROJECT

- **SCOPE OF WORK:**
  - Site Work
    - Perimeter Fencing, Sidewalk & Accessibility Improvements, Fire Lane & Compactor Area Upgrades
  - Building Exteriors
    - Paint, Window Inspections
  - Unit Interiors
    - Flooring, Kitchen Appliances, HVAC & Water Heater Inspections
  - Conversion of 12 units to fully ADA Accessible
- **TAX STATUS:**
  - 50% Property Tax Exempt due to partnership with a Community Housing Development Organization

PROJECT

- **INCOME RESTRICTIONS:** Individuals and Families earning between 50% and 60% AMI.
- **PROJECTED UNITS/RENTS:**

	# of Total Units	# of Units							SF Range of Units	Rent Range of Units
		30%	40%	50%	60%	70%	80%	MR		
0 (Efficiency)	*0*									
1 BR	*0*									
2 BR	*104*			47	57				978	$1,177 - $1,436
3 BR	*104*				103			1	1100	$1,651
4 BR	*0*									
Total Units	*208*	*0*	*0*	*47*	*160*	*0*	*0*	*1*		
% of Total		*0%*	*0%*	*23%*	*77%*	*0%*	*0%*	*0%*		

STAFF RECOMMENDATION

- Staff recommends approval of this Resolution of No Objection

Affordability Incentive Application Cover Sheet

Name of Development

Waterford at Spencer Oaks

Development Address

2100 Spencer Rd, Denton, TX 76205

Name of Developer

April Housing

Development Type	Target Population	Approximate Site Acreage
Multi-family	General	41.378 acres
Rehabilitation	**Council District**	**Total Number of Units**
Rental	District 1	208 units

Partner(s)

Applying for:

Resolution of No Objection (For State Housing Tax Credit Application)

April Housing

Waterford at Spencer Oaks

2100 Spencer Road
Denton, TX

Proposed Scope of Work & Current Conditions

May 13, 2025
Number of units: 208
Number of Building(s): 52

CURRENT CONDITIONS

Site Summary

The Property is a multifamily property that is best described as a garden style configuration. The development consists of 52 multifamily buildings that are two-story, wood framed fiber cement siding, and brick covered structures that contain a total of 208 apartment units and open concrete paved parking spaces and drives along the building perimeters. The buildings are constructed of standard wood platform framing with post tensioned concrete foundations and pitched wood framed roof systems. The Waterford at Spencer Oaks was originally constructed in 1997.

PROPOSED SCOPE OF WORK

Site Work
The site work includes repair and replacement of perimeter fencing in various locations. Inspection of the existing landscape irrigation systems, upgrading landscaping at the communal areas, tree trimming, and other minor fine grading as needed. Site sidewalks and accessibility to be addressed and improved. Limited parking lot repairs, new parking lot striping inclusive of ADA markings, and fire lanes. The trash compactor area upgrades and an area for recycling provided. New mail boxes and improved accessibility at the mail kiosk are to be provided.

Planned work on the amenities includes the following improvements to the pool, barbeque grill areas, and playground areas. The pool will be improved with new pool plaster, accessibility upgrades, and replacement of equipment. New barbeques grills with tables and benches installed.

Building Exteriors
On the building exteriors various minor repairs, sealant, and new paint for the cementitious siding areas/trim/doors and some tuck pointing for the masonry sections. The building unit entry doors will also have new lever type hardware installed. The windows will be inspected, and new screens provided if they are missing or damaged.

April Housing

Unit Interiors

For the interior of the apartment units the planned renovations include new flooring, paint, door hardware, window blinds, upgrades and repairs to the kitchen and bathroom cabinetry, new kitchen appliances, new light fixtures and ceiling fans in existing locations, new toilets in all bathrooms, inspection of the HVAC and water heaters with repairs/limited replacements.

Of the 208 units on site, 12 of the units will be fully converted to fully accessible units. This includes unit reconfigurations per the plans to comply with the proper clearances, working plumbing, electrical, and mechanical systems.

Common Areas

The office and community building will receive new lever type door hardware, paint on the walls, ceilings and trim, new flooring, upgraded lighting, and inspection of the HVAC and any required repairs. The common spaces will have accessibility upgrades needed for the accessible path and restrooms to comply with the appropriate requirements.

END SCOPE OF WORK

	# of Total Units	# of Units							SF Range of Units	Rent Range of Units
		30%	40%	50%	60%	70%	80%	MR		
0 (Efficiency)	*0*									
1 BR	*0*									
2 BR	*104*			47	57				978	$1,177 - $1,436
3 BR	*104*				103			1	1100	$1,651
4 BR	*0*									
Total Units	*208*	*0*	*0*	*47*	*160*	*0*	*0*	*1*		
	% of Total	*0%*	*0%*	*23%*	*77%*	*0%*	*0%*	*0%*		

Property Inventory

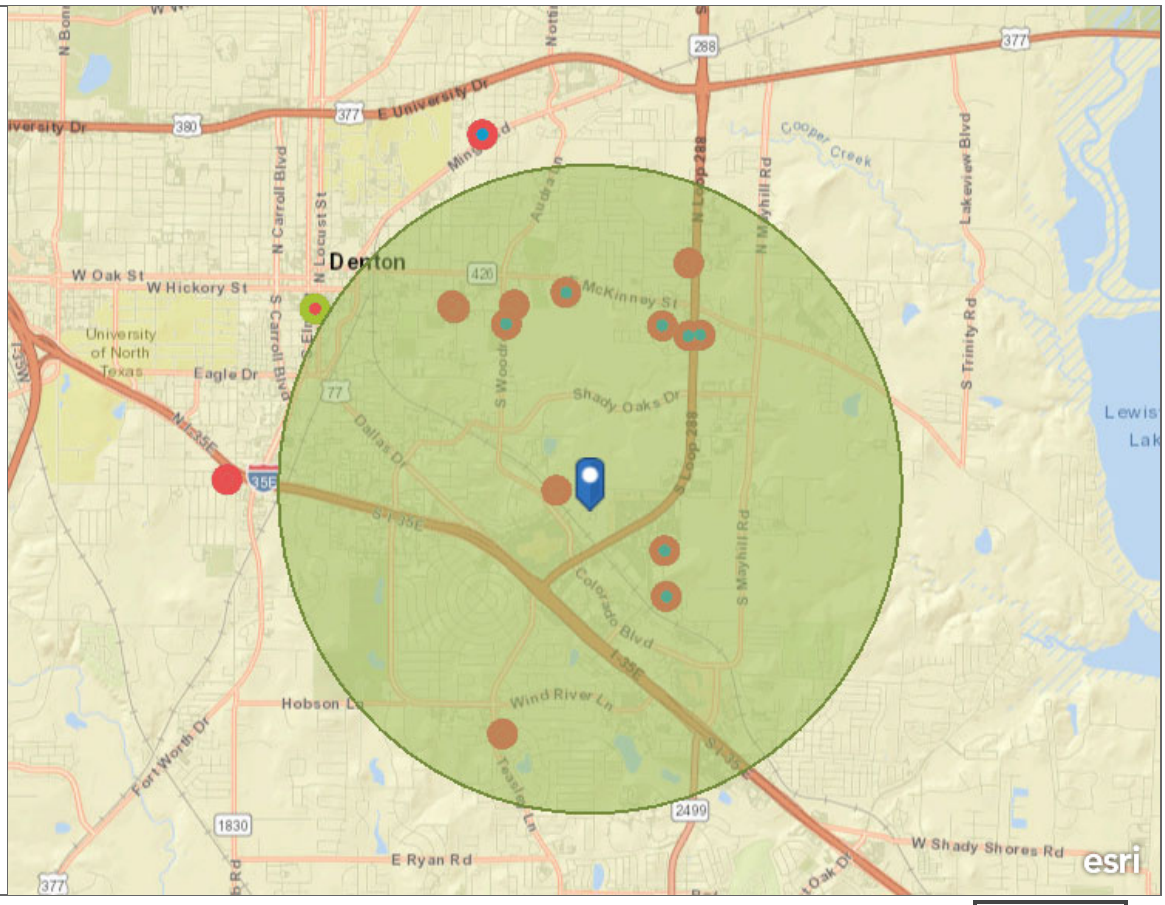
April 2025 Property Inventory

- 9%HTC
- 4%HTC
- Other

Population Type

Population Type

- General
- Elderly
- Supportive Housing



LIHTC Property Inventory May 20 2022

GIS Staff of the Texas Legislative Council, Research Division, Mapping and Redistricting Section, 512-463-6622, https://redistricting.capitol.texas.gov/contact | City of Denton, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

194	Aviation	410	Union Southeast	1407 Eastern Pass	Hinesville	GA	31313	Wednesday	229.373	5.51	9/27/2021	1.6e+07		
295	Participant Father	307	Union Texas	9969 Participant Drive	Houston	TX	77099	Harris	231.373	5.51	10/28/75	3.8e+07		
480	Participant Pass	307	Union Texas	10419 Participant Drive	Houston	TX	77099	Harris	210.323	5.51	10/28/75	3.8e+07		
586	Kentucky Place	108	Union Texas	4100 Gillespie	Houston	TX	77092	Harris	116.307	5.51	4/27/73	1.4e+07		
716	Lakeview Transformers	108	Union Iron	5004 Breeze Street	Dallas	TX	75212	Dallas	155.743	5.51	10/2/58	1.4e+07		
286	Lab Motors	80	Union Iron	4500 North Main Street	Houston	TX	77009	Harris	43.286	5.51	10/28/71	1.4e+07		
497	Legacy Point	408	Union Iron	1367 W. N. Main Street Blvd	Arlington	TX	76006	Tarrant	270.436	5.51	10/28/72	3.8e+07		
121	Lincoln Point	202	Union Texas	748 West Little York Road	Houston	TX	77091	Harris	282.857	5.51	4/27/57	1.6e+07		
764	Lotus Village	420	Union Texas	508 Ferguson Drive	Austin	TX	78753	Travis	254.972	5.51	10/28/57	3.8e+07		
117	M Touch	408	Union Texas	5113 North Mendenhall Avenue	Tarboa	FL	32571	Escambia(gh)			10/2/58	3.8e+07		
697	Magnolia Cross	408	Union Southeast	7 Cliffs N. Carroll Ferry Rd	Baton Rouge	LA	70816		242.455	5.51	10/28/55	3.8e+07		
180	Mainstream	305	Union Iron	4500 Mcneil St	Houston	TX	77092	Harris	256.216	5.51	10/27/71	1.6e+07		
775	Martin Midtown	410	Union Texas	4100 Biggby Street	Houston	TX	77006	Harris	266.905	5.51	10/2/58	3.8e+07		
782	393 Strategies Family Office I	112	Union Texas	508 College Park, Suite 104	Memphis	TN	38116	Shelby	154.215	5.51	10/2/61	3.8e+07		
783	393 Strategies Family Office II	307	Union Texas	5048 Walker Avenue	Memphis	TN	38108	Shelby	153.397	5.51	10/2/61	3.8e+07		
784	393 Strategies Treasury	205	Union Southeast	2/05 North Humphreys	Memphis	TN	38105	Shelby	156.905	5.51	10/28/55	3.8e+07		
785	Mid-City Tower	115	Union Iron	4900 Belmar	Dallas	TX	75214	Dallas	144.814	5.51	10/2/58	3.8e+07		
197	Mills Bridge	108	Union Texas	4500 Pittsfield Drive	Irvine	TX	77039	Mcmg Library	212.153	5.51	10/2/58	1.6e+07		
534	Mo-Way Storage	113	Union Texas	3914 Mo Kirkwood	Dallas	TX	77042	Harris	11.466	5.51	11/28/17	3.8e+07		
786	Monarch Transformers	65	Union Iron	4400 Kitty Street	Dallas	TX	75050	Dallas	65.777	5.51	10/2/58	3.8e+07		
787	Monterey Park	205	Union Texas	2000 West Commerce Street	San Antonio	TX	78207	Bexar	142.883	5.51	4/7/54	3.8e+07		
788	Montrose Tavern	108	Union Texas	1510 Westheimer	Houston	TX	77007	Harris	145.254	5.51	10/28/72	3.8e+07		
789	North Coast Trains	108	Union Iron	4500 North Magnolia	Houston	TX	77009	Harris	152.364	5.51	10/2/58	3.8e+07		
580	Oak Arbor Transformers	62	Union Texas	574 Berry Street	Houston	TX	77092	Harris	34.268	5.51	10/27/72	3.1e+07		
241	Oakland Mills	108	Union Texas	488 Plasma Drive	Pinkneyville	IL	62274	Wilson	113.245	5.51	10/28/72	3.8e+07		
790	Oaks of Interstate	180	Union Iron	7240 Highway 6	Interstate	TX	77064	Galveston	132.855	5.51	10/2/57	3.8e+07		
586	Oaks of Pittsburgh Inn	205	Union Texas	1700 Sweeney Court	Houston	TX	77008	Harris	242.328	5.51	10/7/74	1.6e+07		
127	Office Hub	420	Union Iron	1200 Granite Park Blvd	Garland	TX	75041	Dallas	210.323	5.51	10/2/58	1.6e+07		
101	Orchid Place	202	Union Texas	508 Berry Road	Houston	TX	77003	Harris	252.243	5.51	10/2/57	1.6e+07		
792	Park of Interest Inc	420	Union Texas	5245 Common Ground Parkway	Austin	TX	78728	Travis	247.262	5.51	10/27/72	3.1e+07		
585	Park of Interstate	210	Union Iron	4/900 Rt 1 N/S	Hinckley	TX	77532	Harris	247.114	5.51	10/2/58	1.6e+07		
670	Peachtree Pavilion	108	Union Texas	7 Cliffs Ryde Grand Drive	Baton Springs	TX	78148	Dallas	113.455	5.51	10/28/72	1.1e+07		
793	Pepper Tree Plaza	205	Union Texas	5004 Jenkins Drive	Houston	TX	77007	Harris	256.245	5.51	10/28/57	3.8e+07		
507	Plaza at Window Hills (Facility Only)	420	Union Texas	5007 Wells Fargo Blvd	Austin	TX	78753	Travis	152.383	5.51	10/27/72	3.8e+07		
484	Plymouth	108	Union Southeast	7 Mile Hwy Road	Winter Park	FL	32789	Orange	154.455	5.51	10/2/57	3.8e+07		
507	Princeton at Fry Creek (Facility Only)	180	Union Texas	5000 Cromwell Drive	Katy	TX	77449	Floyd	151.383	5.51	10/28/57	3.8e+07		
794	Princeton at Windchase	305	Union Texas	2400 Windhaven Parkway	Lewisville	TX	75056	Denton	266.373	5.51	10/28/72	3.8e+07		
504	Princeton at Sun Harrison	102	Union Texas	7240 S. Old Spanish Road	Sugarland	TX	77498	Fort Bend	145.853	5.51	10/7/72	3.8e+07		
507	Princeton at Wekiva	180	Union Texas	2000 East Wekiva Road	Wekiva	TX	75034	Collin	157.253	5.51	10/2/72	3.8e+07		
507	Princeton at West Bellfort	112	Union Texas	7240 E. Westheimer Road	Sugarland	TX	77498	Fort Bend	113.253	5.51	10/2/58	3.8e+07		
795	Quail Grass	408	Union Iron	508 Jones	Houston	TX	77092	Harris	258.325	5.51	10/2/58	3.8e+07		
508	Radnor Avenue	30	Union Southeast	200 Radnor Avenue	Winter Park	FL	32789	Orange	52.256	5.51	10/2/57	3.8e+07		
585	Ranger Steel	71	Union Texas	4500 West Commerce Street	San Antonio	TX	78207	Bexar	5.238	5.51	10/28/72	3.8e+07		
286	Redwood Heights	80	Union Texas	7305 Jensen Drive	Houston	TX	77092	Harris	53.286	5.51	10/7/72	3.1e+07		
450	Retreat at Riverstone (Main)	408	Union Texas	10648 University Blvd	Sugarland	TX	77478	Fort Bend	243.851	5.51	11/10/72	3.8e+07		
795	Retreat at Riverstone (Annex)	208	Union Texas	10648 University Blvd	Sugarland	TX	77478	Fort Bend	243.851	5.51	10/28/57	1.1e+08		
584	River Island	408	Union Iron	4700 Marina Drive	Ft. Collins	CO	80546	Larimer	254.253	5.51	10/7/72	3.8e+07		
586	Riverhaven Freeside	207	Union Texas	508 Creekside Way	New Braunfels	TX	78130	Comi	261.126	5.51	10/2/58	3.8e+07		
586	Riverwind Ivy	80	Union Southeast	10600 Beaver Drive	Birmingham	AL	35246	Jefferson	152.721	5.51	10/2/57	3.8e+07		
195	Rosebend Hillside	152	Union Iron	7240 N. Westridge	Dallas	TX	75063	Dallas	166.763	5.51	10/2/58	3.8e+07		
796	Rosebend Townhomes	108	Union Iron	7240 N. Westridge	Dallas	TX	75063	Dallas	156.383	5.51	10/2/58	3.8e+07		
285	Saddle Ridge	108	Union Texas	5171 North Core	San Antonio	TX	78249	Bexar	166.365	5.51	10/7/72	3.1e+08		
288	Sandia Park	108	Union Iron	5757 Luella Blvd	La Porte	TX	77571	Harris	156.215	5.51	10/2/57	1.6e+07		
797	Silver Oaks	308	Union Texas	10408 Jenkins Highway	Scottsdale	AZ	75737	Anderson	255.153	5.51	10/28/55	3.8e+07		
197	Silver Spring Heights	420	Union Texas	10400 West 10th Street	Houston	TX	77008	Harris	272.455	5.51	11/2/57	3.8e+07		
586	Southbrook	305	Union Texas	508 South Rock Drive	Lewisville	TX	78621	Williamson	167.364	5.51	10/28/55	1.6e+07		
795	Southbrook	305	Union Texas	508 South Rock Drive	Lewisville	TX	78621	Williamson	167.364	5.51	10/7/72	3.8e+07		
585	Southbrook Gardens	105	Union Southeast	545 Retail Lake Blvd	Jackson	MS	39213	Hinds	54.258	5.51	4/7/2054	3.1e+08		
798	Southfork Lanes	108	Union Texas	5004 Northline Parkway	Monroe	TX	77358	Anacoma	256.455	5.51	10/7/72	3.8e+07		
187	Space Obsolescence	4	Union Iron	4700 Space Blvd	Monroe	GA	30271	Walton	2.528	5.51	10/2/72	1.6e+07		
504	Spring Oaks	102	Union Texas	2417 Westchase Lane	Newcastle	TX	76130	Wilson	152.763	5.51	10/28/72	3.8e+07		
286	Spring Shadows	308	Union Texas	10108 Bridgewood Drive	Houston	TX	77099	Harris	246.215	5.51	10/28/72	3.8e+07		
584	Spyglass Hill	375	Union Texas	7700 East Mississippi Avenue	Denver	CO	80224	Denver	265.245	5.51	10/7/72	1.6e+07		
504	Stonegate Arbors	102	Union Iron	4/900 N. 7th, Angelina Office	Dallas	TX	75207	Dallas	147.854	5.51	10/28/55	3.8e+07		
286	Strathaven	108	Union Iron	7/200 Northwest Freeway	Houston	TX	77040	Harris	175.245	5.51	10/28/72	3.8e+07		
585	Sunbrook Gardens	65	Union Southeast	508 Cypress Street	Dolphin d	LA	70883	Calcasieu	54.258	5.51	10/2/72	3.8e+07		
799	Sunrise at 1790	112	Union Texas	1790 Main Airport	Houston	TX	77071	Harris	156.245	5.51	10/28/72	3.8e+07		
800	Sunset at Lovely Way	205	Union Texas	7410 Abbeville Road	Ft. Worth	TX	76112	Tarrant	117.373	5.51	10/2/72	3.8e+07		
586	Territory at Hunt Green	408	Union Texas	4500 Hasentree Road	Houston	TX	77084	Harris	268.366	5.51	10/7/72	3.1e+07		
795	The Flex at 1960 (Flex-Lo Bldg)	308	Union Texas	5400 Bammel-Lake Drive	Houston	TX	77088	Harris	213.751	5.51	11/28/72	3.8e+07		
195	The Flex at 1960 (Flex-Tilt Section)	408	Union Texas	7240 Lockhart	San Antonio	TX	78073	Bexar	253.383	5.51	10/28/72	3.8e+07		
795	The Lakeside Estates	420	Union Texas	10100 Almeda Genoa Road	Houston	TX	77075	Harris	255.253	5.51	10/2/58	3.8e+07		
101	Treasury Oaks	108	Union Texas	7710 Gardel Way	San Antonio	TX	78240	Bexar	152.253	5.51	10/28/72	3.8e+07		
195	Tricentennial at Prairie Hill (Flex-Increment/Tilt-Section)	412	Union Texas	10407 Tarrant Meadow Lane	Houston	TX	77035	Harris	258.325	5.51	10/2/58	3.8e+07		
584	Trust at Meadows	117	Union Southeast	7 W Bergquist Square	Winter Park	FL	32789	Orange	51.268	5.51	10/2/57	3.8e+07		
586	Trust Tops at Point Oak	112	Union Texas	4510 Main Willow Place	Houston	TX	77087	Harris	51.268	5.51	10/28/72	3.1e+07		
795	Trust Oakville	408	Union Texas	4400 Mcdaniels Mines	Austin	TX	78721	Travis	255.253	5.51	10/2/58	1.6e+07		
802	Trustee at Winter	180	Union Southeast	5500 Alafaya Avenue	Winter Park	FL	32789	Orange	155.383	5.51	10/2/57	3.8e+07		
586	Trinity (Jacqual with HR)	180	Union Texas	7300 Bailey	Houston	TX	77075	Harris	153.257	5.51	10/2/57	3.8e+07		
703	Villa de San Antonio	65	Union Texas	4101 Lone Star	San Antonio	TX	78207	Bexar	15.385	5.51	10/28/72	3.8e+07		
507	Villa de Valencia	102	Union Iron	7/800 Artesian Road	San Antonio	TX	78245	Bexar	53.258	5.51	10/28/72	3.8e+07		
586	Villa Solana	10	Union Texas	4707 Valeta	Houston	TX	77096	Harris	11.386	5.51	10/28/72	1.6e+07		
507	Villa Nido	108	Union Iron	507 Main Avenue	Port Arthur	TX	77642	Jefferson	155.153	5.51	10/2/72	1.1e+08		
795	Villages of Lake Jackson	115	Union Texas	508 Highway 332	Lake Jackson	TX	77566	Brazoria	151.373	5.51	10/7/72	1.6e+08		
795	Villas at Sandhurst	275	Union Texas	10600 Martin Luther King Blvd	Houston	TX	77048	Harris	255.157	5.51	10/27/72	3.8e+07		
795	Villas de Bella Fe	208	Union Texas	5401 Magic Drive	San Antonio	TX	78239	Bexar	155.855	5.51	10/7/72	3.8e+07		
195	Villas de Treasure	102	Union Texas	7300 Victoria Road	San Antonio	TX	78221	Bexar	152.383	5.51	10/7/72	3.8e+07		
795	Villas of Oak Grove	108	Union Iron	508 Plum Grove Drive	Katy	TX	77450	Harris	113.253	5.51	10/2/58	3.8e+07		
195	Villas Mid-Center	308	Union Texas	7710 Ashland Road	Houston	TX	77054	Harris	255.153	5.51	10/28/57	3.8e+07		

176	Shahara Fraser	118	Union Hill	2469 Mather	Dallas	TX	75215	Dallas	140,870	10/29/58	04/01/97
191	Shanford at Isabel Jack	495	Union Creek	13838 Isabel Jack Drive	Dallas	TX	75240	Dallas	159,954	12/18/64	12/7/19
178	Shanice Jack at Talbot Park	169	Union Creek	7297 Talbot Park Avenue	Norfolk	VA	23505	Norfolk City		12/25/38	04/28/20
179	Shaniqua Family Homes	188	Union Southeast	9464 Idalia Extension	Mt Laura	MO	65710	Saint Laura	154,454	05/27/53	04/28/20
194	Shaniqua at Ridgeport	498	Union Hill	13538 Ridgeport Way Southeast	Lakewood	WA	98498	Pierce		09/28/57	04/27/97
197	Shanley Crossing	256	Union Creek	1367 E 51st Ave	Houston	TX	77026	Harris	166,345	05/06/19	04/19/20
176	Shanlinda	389	Union Southeast	7473 Mitchell Mill Mnt	Harvey	LA	70058	Jefferson	266,745	10/19/21	12/27/20
184	Shantanna Apartments (Tower Capital)	119	Union Creek	2453 West Nora Brandon Parkway	Houston	TX	77042	Harris	23,770	02/08/64	04/28/20
201	Shantanyel	42	Union Southeast	5164 Madyson Rd	Jaunted	MN	56036	Orion I	87,255	12/25/36	07/16/20
191	Shira Rolo Van Overshoe	489	Union Hill	7494 Ferguson Road	Dallas	TX	75208	Dallas	143,954	07/07/58	06/17/19
191	Shirley Manor	198	Union Southeast	7 717 Whitley Avenue	Terrytown LA	LA	70056	Jefferson	173,905	10/19/21	12/27/20
185	Shirlene Ranch (JV)	256	Union Creek	5429 Shelly Rake Manor	Ft. Worth	TX	76140	Tarrant	266,345	12/01/19	01/17/20
185	Shirley Vista	488	Union Creek	13838 Elkhart Drive	Houston	TX	77086	Harris	261,756	07/08/17	01/28/19
191	Shirly Shores	198	Union Creek	2453 Whitlow Lane	Alvarado Pass	TX	76009	San Patricio	234,905	02/08/19	09/28/20
207	Shiva Club Apts	159	Union Southeast	328 Mather Drive	Winter Park	FL	32789	Orange	82,366	03/01/17	04/28/17
190	Shoot Alpha	45	Union Hill	14598 Wood Bayou	Houston	TX	77073	Harris	24,988	10/07/58	10/01/17
197	Shubrill	168	Union Creek	2453 Woodbourne Pass	San Antonio	TX	78258	Bexar	262,451	07/08/19	09/28/20
184	Shyheemah Ainsley	216	Union Creek	2469 Gosling Road	Spring	TX	77386	Harris	270,370	05/07/20	07/17/20

Schedule of Real Estate Owned

Sponsor Name: **Development Corporation of Tarrant County** **As of:** 1/31/2025

	PropertyName	Address	City	State	Zip Code	Country	Acquisition Date	Cost Basis	Current Value	%Owned	In Market of Subject Property	Property Type	Square Feet	Multifamily Units	Year Built	Occupancy %	Current Loan Balance	Annual Payment	Maturity Date	Lender	Interest Only Indicator	Recourse %	Recourse Amount	2nd Loan Amount (Balance)	2nd Loan Amount (Payment)	3rd Loan Amount (Balance)	3rd Loan Amount (Payment)	Gross Income	Operating Expenses	NCF	Lender Cap Rate	Lender Value
1	Sphinx at Alsbury Villas**(DCTC Lender Only)**	755 NE Alsbury Blvd	Burleson	Texas	76028	United States			15,000,000	0	No	Multifamily	161,604	150	2006						No	0	0	1,630,127	0	0	0	0	0	0		
2	Sansom Ridge Apartments	3100 LaJunta Street	Sansom Park	Texas	76114	United States	8/24/2016	19,341,245	15,000,000	1%	Yes	Multifamily	109,500	100	2017	87%	7,585,000	467,276	7/1/2056	BOKF, NA	No	0	0	800,000	0	0	0	1,424,592	1,111,057	313,535		
3	Sansom Bluff Apartments	2900 LaJunta Street	Sansom Park	Texas	76117	United States	11/27/2018	48,466,470	44,400,000	1%	Yes	Multifamily	330,912	296	2020	84%	25,393,335	1,515,036	12/1/2058	BOKF, NA	No	0	0	805,831	13,659	0	0	4,424,664	2,156,904	2,267,760		
4	Summit Senior Village	1101 Lawrence Street	Gainesville	Texas	76240	United States	7/31/2020	4,500,000	7,600,000	100%	No	Multifamily	63,882	76	2005	97%	4,365,501	283,982	6/21/2025	Veritex Bank	No	0	0	0	0	0	0	842,412	393,315	449,097		
5	The Villas Del San Xavier	140 Royale Senior Way	San Marcos	Texas	78666	United States	7/26/2021	34,067,446	30,000,000	1%	No	Multifamily	135,000	156	Under Construction	12%	25,550,000	2,640,156	2/1/2025	Churchill	Yes	0	0	0	0	0	0	25,482	14,974	10,508		
	The Meridian	4450 Marine Creek Parkway	Fort Worth	Texas	76106	United States	7/18/2024	45,241,547	21,565,349	0.01%	Yes	Multifamily	339,311	280	Under Rehab	95%	25,537,000		7/18/2029	PNC								3,416,846	1,647,412	1,769,434		
	Wildwood Branch	6225 Shady Oaks Manor Drive	Fort Worth	Texas	76135	United States	1/24/2025	65,599,550	29,611,942	0.01%	Yes	Multifamily	289,660	280	Under Rehab	89%	26,605,000		2/1/2028	PNC								4,163,040	1,786,578	2,376,462		
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Signature

Date

RESOLUTION NO. 2025-010

A Resolution by the Board of Directors of The Development Corporation of Tarrant County ("DCTC") authorizing DCTC to execute any and all documents, or take any other action, that is necessary or desirable to:

1. Facilitate the re-syndication and rehabilitation of Waterford at Spencer Oaks, which consists of multifamily affordable housing units and associated amenities previously built upon land to be owned by the Partnership (defined below);
2. Cause DCTC's wholly owned, subsidiary limited liability company, Housing Waterford at Spencer Oaks GP, LLC (the "General Partner") to execute an amended and restated agreement of limited partnership of 2100 Spencer Road (TX) Owner LP(the "Partnership") and/or assigns and other related documents;
3. Cause the Partnership to enter into development financing for the Project; and
4. Cause DCTC and/or the General Partner and/or the Partnership to execute any such further documentation as necessary or desirable to allow the consummation of the transactions described herein.

WHEREAS, DCTC is the sole member of the General Partner;

WHEREAS, the General Partner is the sole General Partner of the Partnership;

WHEREAS, the Partnership was formed for the purpose of owning, re-syndicating and rehabbing, managing, and otherwise dealing with Waterford at Spencer Oaks, a 208-unit multifamily apartment complex (the **"Project")** under re-syndication and rehabilitation on a parcel of land located in Denton, Denton County, Texas (the **"Land"),** and intended for rental to families or individuals of low income;

WHEREAS, DCTC, The General Partner and Partnership desire to enter into certain equity documents for the purpose of admitting affiliates of TBD, and/or assigns, as limited partners to the Partnership, including a First Amended and Restated Agreement of Limited Partnership for the Partnership (the **"Partnership Agreement");**

WHEREAS, in connection with the proceedings relating to the issuance and delivery by Legacy Denton Public Facility Corporation (the **"Bond Lender") of** its Multifamily Bonds (Waterford at Spencer Oaks) Series A in the original principal amount not to $44,200,000 and pursuant to a Promissory Note in the same amount (the **"Bond Note")** loan the associated bond proceeds to the Partnership **("Bond Loan");**

WHEREAS, the terms of the Bond Loan will be included in a Borrower Loan Agreement between the Bond Lender and the Borrower (the **"Borrower Loan Agreement");**

WHEREAS, in connection with the Borrower Loan Agreement, the Bond Note and the Bond Loan, the Partnership desires to enter into a tax regulatory agreement, and other related certifications and documents, all upon such terms and conditions as the Partnership deems reasonable (collectively, the **"Tax-Exempt Loan Documents");**

WHEREAS, in connection with the transactions contemplated herein, the Partnership, General Partner and DCTC are required to enter into various documents which will evidence the same, including, but not limited to the Partnership Agreement, Tax-Exempt Loan Documents, security agreements, fixture filing statements, indemnity agreements, guaranties, development agreements, certificates, directions, approvals, waivers, notices, instruments and other communications as may be required by the

parties (all of such documents collectively, the **"Financing Documents");**

NOW, BE IT RESOLVED, that all of the documents, instruments, or other writing executed by DCTC (both individually and in a representative capacity as identified in these resolutions), in consummation of the transactions herein described (both individually and in a representative capacity as identified in these resolutions) including, but not limited to, (i) the Financing Documents and (ii) anv and all such additional documents executed to consummate the transactions contemplated herein (collectively, the **"Transaction Documents")** shall be in form and substance approved by the President (as such term is hereinafter defined), both individually and in representative capacity as identified in these resolutions, his/her approval of each such Instrument to be conclusively evidenced by his execution thereof; and it is further;

RESOLVED, that DCTC (both individually and in representative capacity as identified in these resolutions), review, execute and approve all other documents necessary to effectuate the foregoing transactions, all on such terms and containing such provisions as the President shall deem appropriate, and the approval of the terms of each such instrument herein described by the President shall be conclusively evidenced by his/her execution and delivery thereof; and it is further;

RESOLVED, that the authorization of DCTC, Partnership and/or General Partner to enter into Transaction Documents and that execution and delivery in the name and on behalf of DCTC and/or General Partner and/or Partnership, by any of the officers of DCTC of the Transaction Documents, in the form as so executed and delivered is hereby approved, ratified and confirmed; and it is further;

RESOLVED, that any officer of DCTC (each a **"President"),** acting alone without the joinder of any other officer, is hereby authorized and directed for and on behalf, and as the act and deed of DCTC and/or General Partner and/or the Partnership, to execute and deliver all other documents and other writings of every nature whatsoever in connection with the development of the Project, including but not limited to, the Transaction Documents and the Financing documents, as the President deems necessary in order to carry into effect the intent and purposes of these resolutions, and any other instruments approved by the President of DCTC (acting in a representative capacity as identified in these resolutions, acting individually and on behalf of the General Partner), executing same, his approval of each such instrument to be conclusively evidenced by his execution thereof, and to take such other action in the consummation of the transactions herein contemplated as the President acting shall deem to be necessary or advisable, without the necessity of attestation by the secretary or other officer or director, and any and all acts heretofore taken by the President to such end are hereby expressly ratified and confirmed as the acts and deeds of DCTC and/or General partner and/or Partnership, effective as of the date such action was taken; and it is further;

RESOLVED, that action by any of the officers of DCTC, and any person or persons designated and authorized so to act by any such officer, to do and perform, or cause to be done and performed, *in* the name and on behalf of DCTC and/or General Partner and/or the Partnership, or the execution and delivery, or causing to be executed and delivered, such other security agreements, financing statements, notices, requests, demands, directions, consents, approvals, waivers, acceptances, appointments, applications, certificates, agreements, supplements, amendments, further assurances or other instruments or communications, in the name and on behalf of DCTC or otherwise, as they, or any of them, may deem to be necessary or advisable in order to carry into effect the intent of the foregoing resolutions or to comply with the requirements of the instruments approved or authorized by the foregoing resolutions is hereby approved, ratified and confirmed; and it is further;

RESOLVED, that the Board of Directors finds the actions authorized by these resolutions may reasonably be expected to directly or indirectly benefit DCTC; and it is further;

RESOLVED, that the Partnership be promptly notified in writing by the Secretary or any such other officer of DCTC or any change in these resolutions, and until it has actually received such notice, in writing, the Partnership is authorized to act in pursuance of these resolutions.

PASSED this 20 day of February 2025.

mike sandlin (Feb 20, 2025 13:59 CST)

Mike Sandlin, Vice-Chair

ATTEST:

Glenda Drexel-Conner (Feb 20, 2025 20:33 CST)

Glenda Drexel, Secretary

April Housing

Waterford at Spencer Oaks

Property Details	
Property Name	Waterford at Spencer Oaks
Address	2100 Spencer Road
City	Denton
County	Denton
State	TX
Zip	76205
Acres	41.38
Construction	Acq Rehab
Building Type	Garden Style
# of Buildings	52
Population	Family
Built/Rehabbed	1997

Property Details		
Tax Rate		21%
Units		208
Parking		
Total Credits	$	29,553,364
Tax Credit %		4%
Bonus Depreciation		Yes
Cash from Ops	$	2,843,587
Reserve Interest		1%

Timeline	
Closing	9/26/2025
Construction Start	9/26/2025
1st Building Complete	12/31/2026
Completion	3/26/2027
Lease-up Start	9/26/2025
Stabilization	10/1/2028
Perm Conversion	10/1/2028
8609's	10/1/2028
Sale Year	1/1/2042
Construction Period	18
Conversion Period	18

Partners	Entity	Fed Credits	State Credits	Developer Fee
AH - GP	AH	0.005%	0.00%	85.00%
Co-GP	TBD	0.005%	0.00%	15.00%
Co-GP #2		0.000%	0.00%	0.00%
ILP	TBD	99.990%	0.00%	0.00%
State ILP		0.000%	100.00%	0.00%
SLP		0.000%	0.00%	0.00%
Total		**100.00%**	**100.00%**	**100.00%**

State ILP = ILP

Date	Benchmark	%	Developer Fee
9/26/2025	Closing	0%	-
3/26/2027	Completion	0%	-
10/1/2028	Stabilization	74%	745,440
10/1/2028	8609's	26%	265,954
		100%	**1,011,394**
			-

Developer Fee	
Total	8,090,349
Deferred	(7,078,956)
Cash Fee	1,011,394
	12.50%

ILP Pay-ins						
Date	**Pay-in**	**%**	**26,595,368**	**Timing Adj.**	**Basis Adj.**	**Total Equity**
9/26/2025	Closing	10%	2,659,537	-	-	2,659,537
			-	-	-	-
			-	-	-	-
			-	-	-	-
4/1/2027	Completion	17%	4,521,212	-	-	4,521,212
10/1/2028	Stabilization	72%	19,148,665	-	-	19,148,665
10/1/2028	8609's	1%	265,954	-	-	265,954
			-	-	-	-
			-	-	-	-
			-	-	-	-
			-	-	-	-
			-	-	-	-
		100%	**26,595,368**	**-**	**-**	**26,595,368**
			-			

Sources & Uses		Closing	Completion	Total Dev Costs	Per Unit	% of Total
Hard Debt		57,825,968	79,447,215	24,407,416	117,343	31.0%
Soft Debt - Seller Note		12,094,101	12,094,101	12,094,101	58,145	15.3%
Federal Equity	(At $0.9)	2,659,537	2,659,537	26,595,368	127,862	33.7%
State Equity		-	-	-	-	0.0%
GP Equity		100	100	100	0	0.0%
Grants		-	-	-	-	0.0%
Cash Collateral Income		-	2,189,256	4,394,432	21,127	5.6%
Accrued Interest		-	1,436,174	1,436,174	6,905	1.8%
Cash From Operations		-	2,328,138	2,843,587	13,671	3.6%
Deferred Developer Fee		-	-	7,078,956	34,033	9.0%
Total Sources		**72,579,706**	**100,154,520**	**78,850,134**	**379,087**	**100.0%**
Acquisition		30,927,500	30,927,500	30,927,500	148,690	39.2%
Construction Contract		342,991	16,640,000	16,640,000	80,000	21.1%
Hard Costs Outside Contract		-	932,000	932,000	4,481	1.2%
Hard Cost Contingency - 10%		-	1,722,901	1,722,901	8,283	2.2%
Financing		2,724,966	9,280,871	16,433,739	79,008	20.8%
Soft Costs		1,139,309	3,206,309	3,206,309	15,415	4.1%
Reserves		37,444,939	37,444,939	897,335	4,314	1.1%
Developer Fee - 15%		-	-	8,090,349	38,896	10.3%
Total Uses		**72,579,706**	**100,154,520**	**78,850,134**	**379,087**	**100.0%**
		-	-	-	-	-

Debt Assumptions

Loan	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Name	Seller Note	TE Bond A	TE Bond B	Construction Loan	Equity Bridge	Permanent Loan									
Permanent	12,094,101					24,407,416									**36,501,516**
Construction	12,094,101	24,407,416	12,962,523	24,407,416	23,113,496										**96,984,951**
Max Draw	12,094,101	24,407,416	12,962,523	24,407,416	18,100,601	24,407,416									
Interest Rate	7.50%	3.70%	3.70%	7.03%	7.03%	6.31%									
Loan Type	Soft, Compounding	Construction	Construction	Construction	Construction	Amortizing									
Amortization	55	3	3	3	3	40									
IO Period		3	3	3	3	3									
Term	55	3	3	3	3	15									**Debt Service**

April Housing

Waterford at Spencer Oaks - Development Budget

Development Budget	Total Budgeted Costs	$ Per Sq. Ft.	$ Per Unit	Eligible Basis Rehab/New Constr.	Eligible Basis Acquisition	Amortizable	Depreciable	Expensable	Timing	Life
Land Value	2,810,000	13.02	13,510	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	Indefinite
Building Value	27,915,000	129.29	134,207	XXXXXXXX	27,915,000	XXXXXXXX	27,915,000	XXXXXXXX	Closing	Real Property - Acq.
Closing Costs	2,500	0.01	12	XXXXXXXX	2,500	XXXXXXXX	2,500	XXXXXXXX	Closing	Indirect
Title and Recording	200,000	0.93	962	XXXXXXXX	200,000	XXXXXXXX	200,000	XXXXXXXX	Closing	Indirect
Total Acquisition Costs	**30,927,500**	**143**	**148,690**	**-**	**28,117,500**	**-**	**28,117,500**	**-**		
Sitework	1,352,000	6.26	6,500	1,352,000	XXXXXXXX	XXXXXXXX	1,352,000	-	S-Curve	Sitework
Structures	12,943,622	59.95	62,229	12,943,622	XXXXXXXX	XXXXXXXX	12,943,622	-	S-Curve	Real Property
General Requirements - 6.00%	857,737	3.97	4,124	857,737	XXXXXXXX	XXXXXXXX	857,737	-	S-Curve	Indirect
Contractor Overhead - 2.00%	285,912	1.32	1,375	285,912	XXXXXXXX	XXXXXXXX	285,912	-	S-Curve	Indirect
Contractor Profit - 6.00%	857,737	3.97	4,124	857,737	XXXXXXXX	XXXXXXXX	857,737	-	S-Curve	Indirect
Payment & Performance Bond	192,991	0.89	928	192,991	XXXXXXXX	XXXXXXXX	192,991	-	Closing	Indirect
Builder's Risk Insurance	150,000	0.69	721	150,000	XXXXXXXX	XXXXXXXX	150,000	-	Closing	Indirect
Off-Site Work	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Sitework
FF&E	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	FF&E
Contractor's Contingency	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Indirect
Solar Property	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	FF&E
Demolition	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Indirect
Internet	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Indirect
Elevator	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Indirect
Laundry	-	-	-	-	XXXXXXXX	XXXXXXXX	-	-	S-Curve	Indirect
Total Construction Contract Costs	**16,640,000**	**77**	**80,000**	**16,640,000**	**-**	**-**	**16,640,000**	**-**		
FF&E (Outside Contract)	100,000	0.46	481	100,000	XXXXXXXX	XXXXXXXX	100,000	-	S-Curve	FF&E
Additional Contingency	832,000	3.85	4,000	832,000	XXXXXXXX	XXXXXXXX	832,000	-	S-Curve	Indirect
Total Hard Costs (Outside Contract)	**932,000**	**4**	**4,481**	**932,000**	**-**	**-**	**932,000**	**-**		
Hard Cost Contingency 10.00%	1,722,901	**7.98**	**8,283**	**1,722,901**	XXXXXXXX	**XXXXXXXX**	**1,722,901**	**-**	S-Curve	Indirect
Total Hard Costs	**19,294,901**	**89**	**92,764**	**19,294,901**	**-**	**-**	**19,294,901**	**-**		
Architectural Design	248,000	1.15	1,192	248,000	-	XXXXXXXX	248,000	-	Pre Dev	Indirect
Architectural Supervision	62,000	0.29	298	62,000	-	XXXXXXXX	62,000	-	Construction	Indirect
Landscape Architect	25,000	0.12	120	25,000	-	XXXXXXXX	25,000	-	Pre Dev	Indirect
Interior Design	35,000	0.16	168	35,000	-	XXXXXXXX	35,000	-	Closing	Indirect
Engineering	95,000	0.44	457	95,000	-	XXXXXXXX	95,000	-	Pre Dev	Indirect
Survey	25,000	0.12	120	25,000	-	XXXXXXXX	25,000	-	Pre Dev	Indirect
Soil Reports	25,000	0.12	120	25,000	-	XXXXXXXX	25,000	-	Pre Dev	Indirect
Environmental	40,000	0.19	192	40,000	-	XXXXXXXX	40,000	-	Pre Dev	Indirect
Elevator Consultant	-	-	-	-	-	XXXXXXXX	-	-	Pre Dev	Indirect
Fire & Life Safety	4,000	0.02	19	4,000	-	XXXXXXXX	4,000	-	Pre Dev	Indirect
Accessibility Consultant	10,000	0.05	48	10,000	-	XXXXXXXX	10,000	-	Pre Dev	Indirect
Appraisal	7,500	0.03	36	-	-	XXXXXXXX	7,500	-	Pre Dev	Indirect
Market Study	7,500	0.03	36	-	-	XXXXXXXX	7,500	-	Pre Dev	Indirect
Relocation	1,664,000	7.71	8,000	-	-	XXXXXXXX	-	1,664,000	Construction	Indirect
Impact Fees	-	-	-	-	-	XXXXXXXX	-	-	Closing	Indirect
Tap Fees	-	-	-	-	-	XXXXXXXX	-	-	Closing	Indirect
Inspection Fees	16,000	0.07	77	16,000	-	XXXXXXXX	16,000	-	Construction	Indirect
Const. Mgmt Pre- Closing	50,000	0.23	240	50,000	-	XXXXXXXX	50,000	-	Closing	Indirect
Construction Management Fee	150,000	0.69	721	150,000	-	XXXXXXXX	150,000	-	Construction	Indirect
Permits	50,000	0.23	240	50,000	-	XXXXXXXX	50,000	-	Closing	Indirect
Real Estate Tax	-	-	-	-	-	XXXXXXXX	-	-	Construction	Indirect
Property Insurance	-	-	-	-	-	XXXXXXXX	-	-	Construction	Indirect
Utilities	-	-	-	-	-	XXXXXXXX	-	-	Construction	Indirect
Tax Credit Application Fees	5,616	0.03	27	XXXXXXXX	-	5,616	XXXXXXXX	XXXXXXXX	Closing	Compliance
Tax Credit Determination Fees	118,213	0.55	568	XXXXXXXX	-	118,213	XXXXXXXX	XXXXXXXX	Closing	Compliance
Marketing Costs	-	-	-	XXXXXXXX	-	XXXXXXXX	XXXXXXXX	-	Completion	N/A
Accounting and Cost Certification	25,000	0.12	120	25,000	-	XXXXXXXX	25,000	-	Completion	Indirect
Tax Abatement Fees	30,000	0.14	144	XXXXXXXX	-	30,000	XXXXXXXX	XXXXXXXX	Closing	Compliance
Legal - Tax Abatement	-	-	-	XXXXXXXX	-	-	XXXXXXXX	XXXXXXXX	Closing	Compliance
Legal - Borrower	200,000	0.93	962	200,000	-	100,000	100,000	-	Closing	Perm Loan
Legal - Non-Profit	30,000	0.14	144	XXXXXXXX	-	30,000	XXXXXXXX	XXXXXXXX	Closing	Compliance
Legal - Organizational	25,000	0.12	120	XXXXXXXX	-	25,000	XXXXXXXX	XXXXXXXX	Closing	Compliance
Legal - Syndication	-	-	-	XXXXXXXX	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	N/A
Syndication Costs	-	-	-	XXXXXXXX	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	N/A
Misc. Consultant	-	-	-	-	-	XXXXXXXX	-	-	Closing	Indirect
Application Consultant	96,000	0.44	462	96,000	-	XXXXXXXX	96,000	-	Closing	Indirect
Tenant Income Certification	12,480	0.06	60	12,480	-	XXXXXXXX	12,480	-	Closing	Indirect
Soft Cost Contingency	150,000	0.69	721	150,000	-	XXXXXXXX	150,000	-	Construction	Indirect
Total Soft Costs	**3,206,309**	**15**	**15,415**	**1,318,480**	**-**	**308,829**	**1,233,480**	**1,664,000**		
1. Seller Note - Construction Interest	1,436,174	6.65	6,905	1,359,491	-	XXXXXXXX	1,359,491	76,684	Close to Stable	Indirect
2. TE Bond A - Construction Interest	2,870,134	13.29	13,799	1,353,521	-	XXXXXXXX	1,353,521	1,516,613	Close to Stable	Indirect
3. TE Bond B - Construction Interest	1,524,298	7.06	7,328	718,841	-	XXXXXXXX	718,841	805,457	Close to Stable	Indirect
4. Construction Loan - Construction Interest	5,355,108	24.80	25,746	2,482,902	-	XXXXXXXX	2,482,902	2,872,206	Close to Stable	Indirect
5. Equity Bridge - Construction Interest	2,468,058	11.43	11,866	641,150	-	XXXXXXXX	641,150	1,826,907	Close to Stable	Indirect
6. Permanent Loan - Construction Interest	-	-	-	-	-	XXXXXXXX	-	-	Close to Stable	Indirect
Origination Fee	475,209	2.20	2,285	475,209	-	XXXXXXXX	475,209	-	Closing	Indirect
Bond Issuer Fees	186,850	0.87	898	-	-	186,850	-	-	Closing	Perm Loan
Construction Lender Legal	35,000	0.16	168	35,000	-	XXXXXXXX	35,000	-	Closing	Indirect
Title and Recording	45,000	0.21	216	45,000	-	XXXXXXXX	45,000	-	Closing	Indirect
Closing Costs	20,000	0.09	96	20,000	-	XXXXXXXX	20,000	-	Closing	Indirect
Bond Fees	-	-	-	-	-	XXXXXXXX	-	-	Closing	Indirect
Construction Lender Due Dilligence	-	-	-	-	-	XXXXXXXX	-	-	Closing	Indirect
Lender Construction Monitoring	18,000	0.08	87	18,000	-	XXXXXXXX	18,000	-	Closing	Indirect
Interest Arbitrage	150,000	0.69	721	75,000	-	XXXXXXXX	75,000	75,000	Closing	Perm Loan
Interest Rate Cap Premium	500,000	2.32	2,404	250,000	-	250,000	250,000	-	Closing	Construction Loan
Total Const. Interest and Fees	**15,083,831**	**70**	**72,518**	**7,474,114**	**-**	**436,850**	**7,474,114**	**7,172,868**		
Loan Origination Fee	244,074	1.13	1,173	XXXXXXXX	XXXXXXXX	244,074	XXXXXXXX	XXXXXXXX	Closing	Perm Loan
Legal - Perm	50,000	0.23	240	XXXXXXXX	XXXXXXXX	XXXXXXXX	50,000	XXXXXXXX	Closing	Indirect
Legal - Bond	200,000	0.93	962	XXXXXXXX	XXXXXXXX	XXXXXXXX	200,000	XXXXXXXX	Closing	Indirect
Legal - Bond Underwriter	65,000	0.30	313	XXXXXXXX	XXXXXXXX	XXXXXXXX	65,000	XXXXXXXX	Closing	Indirect
Legal - Issuer	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	Closing	Indirect
Legal - Agency	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	Closing	Indirect
Legal - Trustee	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	Closing	Indirect
Title & Recording	-	-	-	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	XXXXXXXX	Stabilization	Perm Loan
Closing Costs	20,000	0.09	96	XXXXXXXX	XXXXXXXX	20,000	XXXXXXXX	XXXXXXXX	Stabilization	Perm Loan
Standby Fee	109,833	0.51	528	XXXXXXXX	XXXXXXXX	109,833	XXXXXXXX	XXXXXXXX	Closing	Perm Loan
Perm Conversion UW Fee	35,000	0.16	168	XXXXXXXX	XXXXXXXX	35,000	XXXXXXXX	XXXXXXXX	Stabilization	Perm Loan
Trustee Fees	16,000	0.07	77	XXXXXXXX	XXXXXXXX	16,000	XXXXXXXX	XXXXXXXX	Closing	Perm Loan
Bond Issuer Fees	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	Closing	Indirect
Bond Application and Confirmation Fees	30,000	0.14	144	XXXXXXXX	XXXXXXXX	XXXXXXXX	30,000	XXXXXXXX	Closing	Indirect
Bond Administration Fee	200,000	0.93	962	XXXXXXXX	XXXXXXXX	XXXXXXXX	200,000	XXXXXXXX	Closing	Indirect
Bond UW Fee	335,000	1.55	1,611	XXXXXXXX	XXXXXXXX	XXXXXXXX	335,000	XXXXXXXX	Closing	Indirect
Bond Rating Fee	20,000	0.09	96	XXXXXXXX	XXXXXXXX	XXXXXXXX	20,000	XXXXXXXX	Closing	Indirect
Financial Advisory Fee	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	-	XXXXXXXX	Closing	Indirect
Due Diligence/Cost Deposit	25,000	0.12	120	XXXXXXXX	XXXXXXXX	XXXXXXXX	25,000	XXXXXXXX	Closing	Indirect
Total Permanent Financing Costs	**1,349,908**	**6**	**6,490**	**-**		**424,908**	**925,000**	**-**		
Operating Reserve (3.0 Months)	822,335	3.81	3,954	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Stabilization	Indefinite
Cash Collateral Account	37,369,939	173.09	179,663	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	N/A
Cash Collateral Release	(37,369,939)	(173.09)	(179,663)	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Stabilization	N/A
Replacement Reserve	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Completion	Indefinite
Tax Escrow	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	Indefinite
Insurance Escrow	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Completion	Indefinite
Transition Reserve	-	-	-	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Stabilization	Indefinite
Working Capital	75,000	0.35	361	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	XXXXXXXX	Closing	Indefinite
Total Reserve Costs	897,335	4	4,314	-	-	-	-	-		
Sub Total Residential Costs	70,759,784	328	340,191	28,087,495	28,117,500	1,170,587	57,044,995	8,836,868		
Developer Fee	8,090,349	37.47	38,896	3,872,724	4,217,625	XXXXXXXX	8,090,349	XXXXXXXX	N/A	Real Property
Total Project Costs	**78,850,134**	**365**	**379,087**	**31,960,219**	**32,335,125**	**1,170,587**	**65,135,344**	**8,836,868**		

April Housing

Waterford at Spencer Oaks - Credits

	Federal LIHTC's	
	Acquisition	**Construction**
Basis	32,335,125	31,960,219
Basis Reduction	-	-
Basis Reduction - Credits	-	-
Adjusted Basis	**32,335,125**	**31,960,219**
DDA/QCT	100%	130%
Applicable Fraction	100%	100%
Eligible Basis	32,335,125	41,548,285
Tax Credit %	4%	4%
Maximum Credits	12,934,050	16,619,314
Credit Award	**12,934,050**	**16,619,314**
Excess Basis	-	-
Price Per Credit	$ 0.90	$ 0.90
ILP Ownership %	99.99%	99.99%
ILP Equity	**11,639,481**	**14,955,887**
State ILP Ownership %	0%	0%
State ILP Equity	**-**	**-**
Total Equity	**11,639,481**	**14,955,887**

	Fed LIHTC
2025	-
2026	1,955,947
2027	2,955,336
2028	2,955,336
2029	2,955,336
2030	2,955,336
2031	2,955,336
2032	2,955,336
2033	2,955,336
2034	2,955,336
2035	2,955,336
2036	999,389
2037	-
2038	-
2039	-
2040	-
2041	-
2042	-
2043	-
2044	-
Total	29,553,364

April Housing

Waterford at Spencer Oaks - Unit Mix

MSA	Dallas
County	Denton

	VLI Trending	CAGR
2025	117,300	
2024	110,300	6.35%
2023	103,100	6.66%
2022	97,400	6.39%
2020	86,200	6.36%
2015	70,400	5.24%

LIHTC	207
Section 8	-
HOME	-
State	-
Workforce (LIHTC)	-
Workforce (Non-LIHTC)	-
Exempt	1
Market	-

Studio	-
1 - BDR	-
2 - BDR	104
3 - BDR	104
4 - BDR	-
5 - BDR	-
6 - BDR	-

	# of Units	% of Total
30%	0	0%
40%	0	0%
50%	47	23%
60%	138	66%
70%	0	0%
80%	22	11%
Workforce (Non-LIHTC)	0	0%
Market	0	0%
Exempt	1	0%
	208	100%

	Units	SQFT
Affordable	207	214,804
Non-LIHTC	-	-
Exempt	1	1,100
Fraction	100%	100%

Income Average	59.9%

Bedrooms	Unit Type	AMI %	Units	Baths	SQFT	U/W Rents	Recent 2's	In-Place Rents	Max LIHTC Rent	UA's	Max Net Rent	Annual Rent	Overhang	Market Rent	Rent Advantage
2	LIHTC	50%	39	2	976	1,177	1,130	1,099	1,320	143	1,177	550,836	-	1,595	26%
2	LIHTC	50%	8	2	976	1,177	1,130	1,195	1,320	143	1,177	112,992	-	1,595	26%
2	LIHTC	60%	16	2	976	1,436	1,385	1,311	1,584	143	1,441	275,616	-	1,595	10%
2	LIHTC	60%	15	2	976	1,436	1,385	1,279	1,584	143	1,441	258,390	-	1,595	10%
2	LIHTC	60%	26	2	976	1,436	1,388	1,398	1,584	143	1,441	447,876	-	1,595	10%
3	LIHTC	60%	62	2	1,100	1,651	1,587	1,483	1,830	179	1,651	1,228,344	-	1,950	15%
3	LIHTC	60%	19	2	1,100	1,651	1,587	1,466	1,830	179	1,651	376,428	-	1,950	15%
3	LIHTC	80%	22	2	1,100	1,651	1,604	1,557	2,441	179	2,262	435,864	-	1,950	15%
3	Exempt		1	2	1,100	-		1,400	-	-	-	-	-	-	0%
			208		**215,904**	3,686,346	3,551,328	3,412,665			3,851,412	**3,686,346**	**-**	4,400,760	16%

2026	2027	2028	2029	Stabilized
0.35%	3.64%	3.43%	3.47%	**2028**
1,181	1,224	1,266	1,310	592,563
1,181	1,224	1,266	1,310	121,551
1,446	1,499	1,550	1,604	297,630
1,446	1,499	1,550	1,604	279,028
1,446	1,499	1,550	1,604	483,649
1,657	1,717	1,776	1,838	1,321,393
1,657	1,717	1,776	1,838	404,943
2,270	2,353	2,433	2,518	642,404
-	-	-	-	-
3,865,033	**4,005,696**	**4,143,162**	**4,287,022**	**4,143,162**

April Housing

Waterford at Spencer Oaks - Underwriting

	Historicals									Mar-25			OpEx in Escalation Start:		2025 $'s 2028	Vacancy Trends				Stabilized Operations		
Revenue	**2022**	PUPY	% GR	**2023**	PUPY	% GR	**2024**	PUPY	% GR	**T-12**	PUPY	% GR	**Year 0**	PUPY	Vacancy	**2026**	**2027**	**2028**	**2029**	**2028**	Vacancy	Escalato
LIHTC	3,020,581	14,522	100.00%	3,246,478	15,608	100.00%	3,501,687	16,835	100.00%	3,530,922	16,976	100.00%	3,851,412	18,516	5.00%	10.00%	8.00%	6.00%	5.00%	4,143,162	6%	2%
Section 8	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	5.00%	5.00%	5.00%	5.00%	5.00%	-	5%	2%
State	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
Workforce (LIHTC)	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
Workforce (Non-LIHTC)	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
Exempt	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
Market	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	5.00%	5.00%	5.00%	5.00%	5.00%	-	5%	2%
Overhang	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
Gain/(Loss) to Legal	(182,841)	(879)	-6.05%	(209,764)	(1,008)	-6.46%	(263,523)	(1,267)	-7.53%	(232,765)	(1,119)	-6.59%	(438,747)	(2,109)	11.39%	10.20%	7.87%	5.47%	4.29%	(226,441)	5%	4.3%
Gross Potential Rent	**2,837,740**	**13,643**		**3,036,714**	**14,600**		**3,238,165**	**15,568**		**3,298,157**	**15,857**		**3,412,665**	**16,407**		**3,470,740**	**3,690,555**	**3,916,722**	**4,103,120**	**3,916,722**		
													$1,365			$1,388	$1,476	$1,569	$1,644	4.8%		
			% GPR			% GPR			% GPR			% GPR											
Commercial Income	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	10.00%	10.00%	10.00%	10.00%	10.00%	-	10%	2%
Laundry	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	0 -	-	7.00%	7.00%	7.00%	7.00%	7.00%	-	7%	2%
NSF/Late Fees/Pet Fees	59,609	287	2.10%	74,912	360	2.47%	77,593	373	2.40%	78,784	379	2.39%	65,452	315	0.00%	0.00%	0.00%	0.00%	0.00%	75,119	0%	2%
RUBS	67,582	325	2.38%	107,772	518	3.55%	141,854	682	4.38%	147,485	709	4.47%	-	-	0.00%	0.00%	0.00%	0.00%	0.00%	-	0%	2%
Parking	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	5.00%	10.00%	8.00%	6.00%	5.00%	-	6%	2%
Misc. Income	25	0	0.00%	(160)	(1)	-0.01%	(4,456)	(21)	-0.14%	(4,456)	(21)	-0.14%	-	-	5.00%	10.00%	8.00%	6.00%	5.00%	-	6%	2%
Total Other Income	**127,215**	**612**	0.00%	**182,524**	**878**	0.00%	**214,991**	**1,034**	0.00%	**221,813**	**1,066**	0.00%	**65,452**	**315**		**66,566**	**70,782**	**75,119**	**78,694**	**75,119**		
Gross Income	**2,964,956**			**3,219,238**			**3,453,156**			**3,519,970**			**3,478,117**			**3,537,305**	**3,761,336**	**3,991,841**	**4,181,814**	**3,991,841**		
Bad Debt	(39,494)	1.33%		(125,665)	3.90%		(67,750)	1.96%		(74,851)	2.13%		(69,562)	2.00%		2.00%	1.50%	1.00%	1.00%	(39,167)	1%	0.80%
Concessions	(2,671)	0.09%		(2,807)	0.09%		(2,107)	0.06%		(2,526)	0.07%		(5,000)	0.14%		0.20%	0.20%	0.00%	0.00%	-	0%	0.00%
Vacancy	(78,430)	2.65%		(102,811)	3.19%		(121,543)	3.52%		(134,251)	3.81%		(170,633)	5.00%		(347,074)	(295,244)	(235,003)	(205,156)	(235,003)	-6%	
Effective Gross Income	**2,844,361**			**2,987,955**			**3,261,756**			**3,308,342**			**3,232,922**			**3,113,875**	**3,403,353**	**3,717,670**	**3,935,627**	**3,717,670**		
		4.07%			7.18%			5.54%			6.01%					Operating Expense Trends						
Operating Expenses	**2022**	PUPY	% Income	**2023**	PUPY	% Income	**2024**	PUPY	% Income	**T-12**	PUPY	% Income		PUPY	% Income	**2026**	**2027**	**2028**	**2029**	**2028**	PUPY	Escalato
Telephone	3,620	17		3,824	18		3,949	19		3,994	19		3,994	19		3%	3%	3%	3%	4,364	21	3%
Office Supplies	22,501	108		26,282	126		14,001	67		10,607	51		10,607	51		3%	3%	3%	3%	11,590	56	3%
Accounting Fees	9,972	48		-	-		18,446	89		20,012	96		12,000	58		3%	3%	3%	3%	13,113	63	3%
Legal	214	1		17,083	82		20,457	98		12,077	58		16,539	80		3%	3%	3%	3%	18,073	87	3%
Marketing	12,773	61		29,807	143		19,260	93		17,911	86		20,000	96		3%	3%	3%	3%	21,855	105	3%
Misc. Admin	120,311	578		40,562	195		69,731	335		64,372	309		64,372	309		3%	3%	3%	3%	70,341	338	3%
Administration	**169,391**	**814**	**5.96%**	**117,558**	**565**	**3.93%**	**145,845**	**701**	**4.47%**	**128,973**	**620**	**3.90%**	**127,512**	**613**	**3.94%**	**131,337**	**135,277**	**139,336**	**143,516**	**139,336**	**670**	**3%**
Electricity	36,555	176		42,471	204		44,891	216		47,147	227		47,147	227		3%	3%	3%	3%	51,519	248	3%
Water/Sewer	123,558	594		147,683	710		186,647	897		196,906	947		59,072	284		3%	3%	3%	3%	64,549	310	3%
Gas/Fuel	2,949	14		5,950	29		10,353	50		9,776	47		9,776	47		3%	3%	3%	3%	10,682	51	3%
Cable Expense	1,025	5		1,049	5		1,205	6		1,149	6		1,149	6		3%	3%	3%	3%	1,256	6	3%
Trash	32,904	158		36,375	175		36,521	176		37,266	179		37,266	179		3%	3%	3%	3%	40,721	196	3%
Misc. Utilities	-	-		14,125	68		13,843	67		13,595	65		13,595	65		3%	3%	3%	3%	14,856	71	3%
Utilities	**196,991**	**947**	**6.93%**	**247,652**	**1,191**	**8.29%**	**293,460**	**1,411**	**9.00%**	**305,839**	**1,470**	**9.24%**	**168,005**	**808**	**5.20%**	**173,045**	**178,237**	**183,584**	**189,091**	**183,584**	**883**	**3%**
Admin Payroll	172,691	830		114,503	550		128,124	616		128,682	619		128,682	619		3%	3%	3%	3%	140,614	676	3%
Maintenance Payroll	124,958	601		130,173	626		189,260	910		209,015	1,005		209,015	1,005		3%	3%	3%	3%	228,396	1,098	3%
Bonus	13,197	63		3,919	19		15,128	73		16,949	81		16,949	81		3%	3%	3%	3%	18,520	89	3%
Payroll Taxes And Benefits	67,482	324	21.71%	70,256	338	28.26%	78,662	378	23.66%	81,180	390	22.89%	81,180	390	22.89%	3%	3%	3%	3%	88,707	18.63%	3%
Staff Apartments	-	-		-	-		-	-		-	-		-	-		3%	3%	3%	3%	-	-	3%
Payroll	**378,328**	**1,819**	**13.30%**	**318,851**	**1,533**	**10.67%**	**411,174**	**1,977**	**12.61%**	**435,825**	**2,095**	**13.17%**	**435,825**	**2,095**	**13.48%**	**448,900**	**462,367**	**476,238**	**490,525**	**476,238**	**2,290**	**3%**
Make Ready	114,155	549		223,972	1,077		88,331	425		119,431	574		95,544	459		3%	3%	3%	3%	104,404	502	3%
Plumbing/HVAC	38,581	185		51,811	249		28,883	139		30,947	149		24,757	119		3%	3%	3%	3%	27,053	130	3%
Misc. R&M	38,455	185		22,275	107		21,005	101		19,274	93		19,274	93		3%	3%	3%	3%	21,061	101	3%
Repairs and Maintenance	**191,191**	**919**	**6.72%**	**298,059**	**1,433**	**9.98%**	**138,218**	**665**	**4.24%**	**169,651**	**816**	**5.13%**	**139,575**	**671**	**4.32%**	**143,762**	**148,075**	**152,518**	**157,093**	**152,518**	**733**	**3%**
Pool/Spa	8,048	39		10,901	52		8,394	40		8,605	41		8,605	41		3%	3%	3%	3%	9,402	45	3%
Pest Control	8,059	39		5,510	26		12,494	60		10,121	49		10,121	49		3%	3%	3%	3%	11,060	53	3%
Security	-	-		323	2		325	2		429	2		429	2		3%	3%	3%	3%	468	2	3%
Landscaping	37,022	178		41,338	199		40,200	193		39,290	189		40,200	193		3%	3%	3%	3%	43,928	211	3%
Elevator	-	-		-	-		-	-		-	-		-	-		3%	3%	3%	3%	-	-	3%
Snow Removal	362	2		-	-		-	-		-	-		-	-		3%	3%	3%	3%	-	-	3%
Misc. Contract Services	4,243	20		-	-		-	-		-	-		-	-		3%	3%	3%	3%	-	-	3%
Contract Services	**57,734**	**278**	**2.03%**	**58,072**	**279**	**1.94%**	**61,413**	**295**	**1.88%**	**58,445**	**281**	**1.77%**	**59,355**	**285**	**1.84%**	**61,135**	**62,970**	**64,859**	**66,804**	**64,859**	**312**	**3%**
Taxes	320,081	1,539	11.25%	300,615	1,445	10.06%	332,442	1,598	10.19%	340,713	1,638	10.30%	156,874	754	4.85%	5%	3%	3%	3%	174,749	840	3%
Insurance	139,631	671	4.91%	117,077	563	3.92%	141,685	681	4.34%	103,361	497	3.12%	% 145,837	701	4.51%	3%	3%	3%	3%	159,360	766	3%
Management Fee	121,884	586	4.29%	134,632	647	4.51%	146,613	705	4.49%	151,856	730	4.59%	4% 129,317	622	4.00%	3%	3%	3%	3%	148,707	715	3%
Resident Services	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	35,520	171	1.10%	3%	3%	3%	3%	38,814	187	3%
Compliance	-	-	0.00%	2,340	11	0.08%	2,340	11	0.07%	2,340	11	0.07%	8,320	40	0.26%	0%	0%	0%	0%	8,320	40	0%
Trustee Fee	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	5,000	24	0.15%	0%	0%	0%	0%	5,000	24	0%
Ground Lease	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	3%	3%	3%	3%	-	-	3%
Replacement Reserves	-	-	0.00%	-	-	0.00%	-	-	0.00%	-	-	0.00%	$ 300 62,400	300	1.93%	0%	0%	0%	3%	62,400	300	3%
Total Operating Expenses	**1,575,230**	**7,573**	**55.38%**	**1,594,855**	**7,668**	**53.38%**	**1,673,190**	**8,044**	**51.30%**	**1,697,003**	**8,159**	**51.29%**	**1,473,540**	**7,084**	**45.58%**	**1,509,970**	**1,560,840**	**1,613,883**	**1,666,156**	**1,613,883**		**43.41%**
NOI	**1,269,131**			**1,393,100**			**1,588,566**			**1,611,339**			**1,759,382**			**1,603,905**	**1,842,512**	**2,103,788**	**2,269,470**	**2,103,788**		**Stabilized DCF**
Debt Service																**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**		**1.2**
Cash Available for Waterfall	**1,269,131**			**1,393,100**			**1,588,566**			**1,611,339**			**1,759,382**			**(71,553)**	**167,055**	**428,330**	**594,013**	**428,330**		

April Housing

Waterford at Spencer Oaks - Projections

			Stabilization																	Sale Yr.
			Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18
			2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042
Income	Escalator		26%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
LIHTC		2%	1,012,974	3,865,033	4,005,696	4,143,162	4,287,022	4,372,763	4,460,218	4,549,422	4,640,411	4,733,219	4,827,883	4,924,441	5,022,930	5,123,388	5,225,856	5,330,373	5,436,981	5,545,720
Gain/(Loss) to Legal		4%	(115,396)	(394,294)	(315,142)	(226,441)	(183,902)	(187,410)	(191,159)	(194,982)	(198,881)	(202,859)	(206,916)	(211,054)	(215,276)	(219,581)	(223,973)	(228,452)	(233,021)	(237,682)
Gross Potential Rent			**897,578**	**3,470,740**	**3,690,555**	**3,916,722**	**4,103,120**	**4,185,352**	**4,269,059**	**4,354,440**	**4,441,529**	**4,530,360**	**4,620,967**	**4,713,386**	**4,807,654**	**4,903,807**	**5,001,883**	**5,101,921**	**5,203,959**	**5,308,039**
NSF/Late Fees/Pet Fees		2%	17,215	66,566	70,782	75,119	78,694	80,268	81,874	83,511	85,181	86,885	88,623	90,395	92,203	94,047	95,928	97,846	99,803	101,799
Total Other Income			**17,215**	**66,566**	**70,782**	**75,119**	**78,694**	**80,268**	**81,874**	**83,511**	**85,181**	**86,885**	**88,623**	**90,395**	**92,203**	**94,047**	**95,928**	**97,846**	**99,803**	**101,799**
Gross Income			**914,792**	**3,537,305**	**3,761,336**	**3,991,841**	**4,181,814**	**4,265,620**	**4,350,933**	**4,437,951**	**4,526,711**	**4,617,245**	**4,709,590**	**4,803,781**	**4,899,857**	**4,997,854**	**5,097,811**	**5,199,767**	**5,303,763**	**5,409,838**
Bad Debt		1%	(17,952)	(69,415)	(55,358)	(39,167)	(32,825)	(33,483)	(34,152)	(34,836)	(35,532)	(36,243)	(36,968)	(37,707)	(38,461)	(39,230)	(40,015)	(40,815)	(41,632)	(42,464)
Concessions		0%	(1,290)	(6,941)	(7,381)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacancy		6%	(44,879)	(347,074)	(295,244)	(235,003)	(205,156)	(262,366)	(267,613)	(272,965)	(278,425)	(283,993)	(289,673)	(295,466)	(301,376)	(307,403)	(313,551)	(319,822)	(326,219)	(332,743)
Effective Gross Income			**850,672**	**3,113,875**	**3,403,353**	**3,717,670**	**3,943,833**	**3,969,772**	**4,049,167**	**4,130,151**	**4,212,754**	**4,297,009**	**4,382,949**	**4,470,608**	**4,560,020**	**4,651,220**	**4,744,245**	**4,839,130**	**4,935,912**	**5,034,631**
Operating Expenses	Escalator																			
Administration		3%	33,537	131,337	135,277	139,336	143,516	147,821	152,256	156,824	161,528	166,374	171,365	176,506	181,802	187,256	192,873	198,659	204,619	210,758
Utilities		3%	44,188	173,045	178,237	183,584	189,091	194,764	200,607	206,625	212,824	219,209	225,785	232,559	239,535	246,721	254,123	261,747	269,599	277,687
Payroll		3%	114,628	448,900	462,367	476,238	490,525	505,240	520,398	536,010	552,090	568,653	585,712	603,283	621,382	640,023	659,224	679,001	699,371	720,352
Repairs and Maintenance		3%	36,710	143,762	148,075	152,518	157,093	161,806	166,660	171,660	176,810	182,114	187,577	193,205	199,001	204,971	211,120	217,454	223,977	230,697
Contract Services		3%	15,611	61,135	62,970	64,859	66,804	68,808	70,873	72,999	75,189	77,445	79,768	82,161	84,626	87,165	89,779	92,473	95,247	98,104
Taxes		3%	41,260	164,717	169,659	174,749	179,991	185,391	190,952	196,681	202,581	208,659	214,919	221,366	228,007	234,847	241,893	249,150	256,624	264,323
Insurance		3%	38,357	150,212	154,718	159,360	164,141	169,065	174,137	179,361	184,742	190,284	195,993	201,873	207,929	214,167	220,592	227,209	234,026	241,046
Management Fee %		4%	34,027	124,555	136,134	148,707	157,753	158,791	161,967	165,206	168,510	171,880	175,318	178,824	182,401	186,049	189,770	193,565	197,436	201,385
Resident Services		3%	9,342	36,586	37,683	38,814	39,978	41,177	42,413	43,685	44,996	46,346	47,736	49,168	50,643	52,162	53,727	55,339	56,999	58,709
Compliance		0%	-	-	-	2,080	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320	8,320
Trustee Fee		0%	1,315	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Ground Lease		3%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Replacement Reserves		3%	-	-	-	15,600	64,272	66,200	68,186	70,232	72,339	74,509	76,744	79,046	81,418	83,860	86,376	88,967	91,637	94,386
Total Operating Expenses			**368,976**	**1,439,250**	**1,490,120**	**1,560,843**	**1,666,485**	**1,712,385**	**1,761,769**	**1,812,602**	**1,864,929**	**1,918,792**	**1,974,237**	**2,031,312**	**2,090,063**	**2,150,541**	**2,212,798**	**2,276,884**	**2,342,856**	**2,410,767**
NOI			**481,696**	**1,674,625**	**1,913,232**	**2,156,828**	**2,277,348**	**2,257,387**	**2,287,399**	**2,317,548**	**2,347,825**	**2,378,217**	**2,408,712**	**2,439,296**	**2,469,957**	**2,500,679**	**2,531,447**	**2,562,245**	**2,593,057**	**2,623,863**
Loan 6 - Debt Service	Amortizing		-	-	-	256,725	1,540,352	1,540,352	1,562,870	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458	1,675,458
Total Debt Service			**-**	**-**	**-**	**256,725**	**1,540,352**	**1,540,352**	**1,562,870**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**	**1,675,458**
BTL CapEx		3%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reserve Release/(Funding)			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Flow			**481,696**	**1,674,625**	**1,913,232**	**1,900,103**	**736,996**	**717,035**	**724,529**	**642,091**	**672,367**	**702,759**	**733,254**	**763,839**	**794,499**	**825,221**	**855,990**	**886,788**	**917,599**	**948,406**
DCR			**-**	**-**	**-**	**-**	**1.48**	**1.47**	**1.46**	**1.38**	**1.40**	**1.42**	**1.44**	**1.46**	**1.47**	**1.49**	**1.51**	**1.53**	**1.55**	**1.57**
Cash From Operations	**2,843,587**		**481,696**	**1,674,625**	**687,266**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Lease-Up Reserve			**-**	**-**	**(1,225,966)**	**1,225,966**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Cash Available for Waterfall			**-**	**-**	**-**	**3,126,069**	**736,996**	**717,035**	**724,529**	**642,091**	**672,367**	**702,759**	**733,254**	**763,839**	**794,499**	**825,221**	**855,990**	**886,788**	**917,599**	**948,406**
Operating Waterfall																				
LP Asset Management Fee	100%		-	-	-	3,900	16,068	16,550	17,047	17,558	18,085	18,627	19,186	19,762	20,354	20,965	21,594	22,242	22,909	23,596
Deferred Developer Fee	100%		-	-	-	3,122,169	720,928	700,485	707,483	624,533	654,283	549,075	-	-	-	-	-	-	-	-
GP Asset Management Fee	100%		-	-	-	-	-	-	-	-	-	135,057	46,193	25,000	25,000	25,000	25,000	25,000	25,000	25,000
CHDO Fee	100%		-	-	-	-	-	-	-	-	-	-	181,250	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Seller Note	100%	Soft, Compoundi	-	-	-	-	-	-	-	-	-	-	486,625	694,077	724,145	754,256	784,396	814,546	844,690	874,809
Cash Flow			**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
IMF/SMF		**50%**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
ILP		0%	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Ending Cash Flow			**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Depreciation/Amortization	66,305,931		269,430	1,027,755	2,465,764	3,100,491	2,739,122	2,531,267	2,514,061	2,357,023	2,208,136	2,208,136	2,208,136	2,208,136	2,208,136	2,208,136	2,208,136	2,208,136	2,194,214	2,128,195
Principal Amortization			-	-	-	-	-	-	(22,577)	(140,550)	(149,681)	(159,405)	(169,762)	(180,791)	(192,536)	(205,045)	(218,366)	(232,553)	(247,661)	(263,751)
Soft Loan Interest			-	-	761,078	1,071,851	1,152,240	1,238,658	1,331,558	1,431,425	1,538,781	1,654,190	1,778,254	1,875,127	1,963,705	2,056,672	2,154,353	2,257,100	2,365,292	2,479,337
Budgeted Construction Interest	13,653,773		1,257,076	4,455,809	4,376,719	3,564,169	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Capitalized Construction Interest	6,555,905		(1,257,076)	(4,455,809)	(4,376,719)	(3,564,169)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Budgeted Construction Expenses	1,664,000		369,778	1,109,333	184,889	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Budgeted Lease-Up Expenses	-		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Collateral Income			460,896	1,382,688	1,382,688	1,168,161	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Taxable Income			**303,385**	**920,224**	**(115,811)**	**(1,112,256)**	**(3,212,128)**	**(3,111,052)**	**(3,157,087)**	**(3,064,808)**	**(2,984,311)**	**(3,060,059)**	**(3,143,744)**	**(3,199,490)**	**(3,246,166)**	**(3,296,423)**	**(3,350,553)**	**(3,408,871)**	**(3,457,795)**	**(3,459,519)**

April Housing

Waterford at Spencer Oaks - Sources & Uses

Sources	Period	Construction	Closing	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	Stabilization 37
	Permanent	Construction	6/1/2020	8/1/2020	9/1/2020	10/1/2020	11/1/2020	12/1/2020	1/1/2021	2/1/2021	3/1/2021	4/1/2021	5/1/2021	6/1/2021	7/1/2021	8/1/2021	9/1/2021	10/1/2021	11/1/2021	12/1/2021	1/1/2022	2/1/2022	3/1/2022	4/1/2022	5/1/2022	6/1/2022	7/1/2022	8/1/2022	9/1/2022	10/1/2022	11/1/2022	12/1/2022	1/1/2023	2/1/2023	3/1/2023	4/1/2023	5/1/2023	6/1/2023	7/1/2023	8/1/2023	9/1/2023	10/1/2023
Loan 1 - Seller Note	12,094,101	12,094,101	12,094,101	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan 2 - TE Bond A	-	24,407,416	24,407,416	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan 3 - TE Bond B	-	12,962,523	12,962,523	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan 4 - Construction Lo	-	24,407,416	20,458,029	242,424	468,037	745,463	974,243	1,159,320	330,093	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan 5 - Equity Bridge		23,113,496		-	-	-	-	-	1,091,792	1,479,057	1,567,297	1,621,476	1,630,975	1,595,532	1,516,252	1,395,570	1,237,190	1,045,923	827,037	671,263	428,902	2,099,645	4,320,456	185,381	167,365	108,346	169,332	170,324	171,322	172,325	173,335	231,623	232,980	234,344	235,717	237,098	238,487	239,884	241,290	251,359	-
Permanent Loan	24,407,416	24,407,416	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	24,407,416
Federal Equity		39,661,586	2,858,537	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4,521,212	-	-	-	-	-	-	-	-	-	-	-	-	-	-	19,414,818
GP Equity		100	100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Collateral Income		4,384,432	-	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	115,224	123,043	123,346
Accrued Interest		1,436,174	-	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Flow Operations		2,043,987	-	129,424	129,424	129,424	129,424	129,424	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	+ 219,906
Cash Flow Developer Fee		2,000,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	+ 1,780,094
Total		**183,743,664**	**72,879,706**	**553,993**	**813,273**	**1,066,699**	**1,295,479**	**1,479,692**	**1,663,049**	**1,908,421**	**1,897,801**	**1,931,040**	**1,961,339**	**1,925,997**	**1,846,816**	**1,726,834**	**1,567,544**	**1,376,287**	**1,159,061**	**919,347**	**698,897**	**2,347,729**	**384,280**	**359,087**	**339,965**	**348,842**	**341,826**	**342,826**	**343,819**	**344,822**	**348,831**	**348,847**	**349,284**	**349,568**	**350,941**	**352,322**	**353,711**	**365,199**	**366,514**	**374,373**	**51,824,339**
Acquisition																																								
Land Value		2,810,000	2,810,000																																					
Building Value		27,915,000	27,915,000																																					
Site Work		7,300,000	7,300,000																																					
Title and Recording		200,000	200,000																																					
Construction Contract																																								
Sitework		1,382,080	-	9,243	27,448	44,819	60,826	74,689	86,672	96,115	102,438	105,646	105,646	102,438	96,115	86,672	74,689	60,826	44,919	27,448	9,243	135,200	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Structure		12,043,022	-	88,489	262,779	429,994	582,352	717,925	831,683	925,174	998,704	1,011,436	1,011,436	980,704	925,174	831,665	717,925	582,352	429,994	262,779	88,489	1,294,302	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Common Improvements		5,964	17,414	5,964	17,414	28,454	38,591	47,576	55,113	63,677	64,968	67,025	67,025	64,968	63,677	55,113	47,576	38,591	28,454	17,414	5,964	85,774	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contractor Overhead		289,737	-	1,988	5,916	9,478	12,994	16,006	18,547	20,655	21,865	22,542	22,542	21,865	20,655	18,547	16,006	12,994	9,478	5,916	1,988	28,881	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contractor Profit		867,737	-	5,964	17,414	28,454	38,591	47,576	55,113	63,677	64,968	67,025	67,025	64,968	63,677	55,113	47,576	38,591	28,454	17,414	5,964	85,774	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Payment & Performance Bond		192,991	192,991																																					
Builder's Risk Insurance		150,000	150,000																																					
Hard Costs (Outside Contract)																																								
FF&E (Outside Contract)		150,000	-	694	2,030	3,315	4,499	5,547	6,605	7,109	7,577	7,814	7,814	7,577	7,109	6,605	5,547	4,499	3,315	2,030	694	10,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hard Cost Contingency		1,722,081	-	5,588	16,901	27,391	37,433	46,147	53,460	59,148	63,038	65,014	65,014	63,038	59,148	53,460	46,147	37,433	27,391	16,901	5,588	83,200	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hard Cost Contingency		1,722,081	-	11,778	34,978	57,115	77,515	95,582	110,754	122,463	130,548	134,630	134,630	130,548	122,463	110,754	95,582	77,515	57,115	34,978	11,778	172,200	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Soft Costs																																								
Architectural Design		248,000	248,000																																					
Architectural Supervision		62,080	-	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	3,444	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Civil Engineer/Architect		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interior Design		39,000	39,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Engineering		95,000	95,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Survey		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Soil Reports		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental		4,000	4,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fire & Life Safety		4,000	4,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Accessibility Consultant		10,000	10,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Appraisal		7,500	7,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Market Study		7,500	7,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Relocation		1,664,000	-	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	92,444	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Inspector Fees		50,000	-	889	889	889	889	889	889	889	889	889	889	889	889	889	889	889	889	889	889	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Title & Recording- Pre- Closing		50,000	50,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Construction Management Fee		150,000	-	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Permits		90,000	90,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Credit Application Fees		5,616	5,616	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Credit Determination Fees		118,213	118,213	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Credit Allocation Certification		25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Abatement Fees		30,000	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Borrower		200,000	200,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Non-Profit		30,000	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Organizational		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Credit Consultant		96,000	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tenant Income Certification		10,400	12,480	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Soft Cost Contingency		150,000	-	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	8,333	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Construction Interest and Fees																																								
Loan 1 - Seller Note - Interest		1,436,174	-	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,568	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	68,393	68,561
Loan 2 - TE Bond A - Interest		2,870,134	-	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,258	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	75,256	68,393	68,561
Loan 3 - TE Bond B - Interest		1,524,288	-	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	39,968	42,673	42,755
Loan 4 - Construction Loan - Interest		2,485,680	-	129,424	129,424	129,424	129,424	129,424	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	129,682	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272	57,272
Loan 5 - Equity Bridge - Interest		2,485,680	-	-	-	-	-	-	5,909	14,491	23,893	33,162	42,717	52,964	63,946	75,570	82,497	87,346	91,278	93,739	190,089	80,676	81,651	82,831	83,613	84,699	85,687	86,611	87,828	88,836	89,983	91,355	92,731	94,111	95,500	96,898	98,303	103,269	104,843
Origination Fee		479,299	479,299	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond Issuer Fees		186,800	186,800	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Construction Lender Legal		35,000	35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Title & Recording		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing Costs		20,000	20,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lender Construction Monitoring		18,000	18,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest At Closing		150,000	150,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Rate Cap Premium		500,000	500,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Permanent Financing Costs																																								
Loan Origination Fee		344,074	344,074	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Perm		50,000	50,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Bond		200,000	200,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal - Bond Underwriter		65,000	65,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing Costs		20,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	20,000
Standby Fee		109,833	109,833	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond Issuance Expense Util Fee		35,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	35,000
Trustee Fees		16,000	16,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond Application and Confirmation Fees		30,000	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond Administration Fee		200,000	200,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond UW Fee		335,000	335,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bond UW Exp		100,000	100,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Due Diligence/Cost Deposit		25,000	25,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reserves																																								
Operating Reserve		822,335	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	822,335
Cash Collateral Account		37,369,939	37,369,939	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Collateral Release		(37,369,939)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(37,369,939)
Working Capital		75,000	75,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Developer Fee																																								
Developer Fee - Stabilization		745,440	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	745,440
Developer Fee - 8609's		269,994	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	269,994
Deferred Developer Fee		7,579,666	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7,579,666
Working Capital		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loan 2 - TE Bond A - Perm Paydown		24,407,416	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	24,407,416
Loan 3 - TE Bond B - Perm Paydown		12,962,523	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	12,962,523
Loan 4 - Construction Loan - Perm Paydown		24,407,416	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	24,407,416
Loan 5 - Equity Bridge - Perm Paydown		23,113,496	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	17,272,655
Development Escrow				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		**183,743,664**	**72,879,706**	**553,993**	**813,273**	**1,066,699**	**1,295,479**	**1,479,692**	**1,663,049**	**1,908,421**	**1,897,801**	**1,931,040**	**1,961,339**	**1,925,997**	**1,846,816**	**1,726,834**	**1,567,544**	**1,376,287**	**1,159,061**	**919,347**	**698,897**	**2,347,729**	**384,280**	**359,087**	**339,965**	**348,842**	**341,826**	**342,826**	**343,819**	**344,822**	**348,831**	**348,847**	**349,284**	**349,568**	**350,941**	**352,322**	**353,711**	**365,199**	**366,514**	**374,373**	**51,824,339**
	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
	Permanent	Construction	SOFR Curve	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.03%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.03%	4.03%	4.03%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.02%	4.27%	4.26%
Loan 1 - Seller Note	**12,094,101**	**12,094,101**																																						
Beginning Balance	**3/09/2027**			**12,094,101**	**12,094,101**	**12,094,101**

EXISTING ARCHITECTURAL SITE PLAN

WATERFORD AT SPENCER OAKS APARTMENTS

2100 SPENCER ROAD
DENTON, TX 76205

APRIL HOUSING
300 S. GRAND AVENUE, 2ND FLOOR
LOS ANGELES, CA 90071

TDHCA APPLICATION SET NOT FOR CONSTRUCTION

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CONSULTANT

BENTON DESIGN GROUP
MISSOURI STATE CERTIFICATE OF AUTHORITY:
2019026158

Benton Design Group
1520 S. 5th St., Suite 304
St. Charles, MO 63303
P: (636) 537-0202
E: adam@bentondg.com

BDG Benton Design Group

IF THIS BOX IS NOT 2" WIDE, DRAWING IS NOT MEASURE ONE INCH (1") EXACTLY. THEN ADJUST ALL SCALES ACCORDINGLY. ALL SCALES ARE INCORRECT AFTER PLOTTING AT A DIFFERENT SIZE.

MARK	DATE	REVISIONS

ISSUE DATE:	ISSUE DATE
SCALE	AS NOTED
DRAWN BY:	ATP
CHECKED:	
PROJECT	152-010

AS101

PLOTTED ON: 4/25/2025

SITE SUMMARY:
41.378 ACRES

EXISTING PARKING SUMMARY:	
EXISTING STANDARD	382
EXISTING ACCESSIBLE	42
TOTAL EXISTING PARKING:	**424**

FLOOD PLAIN: THE FLOOD PLAIN IS INDICATED BY ZONE 'X' ON THE SITE PLAN.

1 EXISTING SITE PLAN
SCALE: 1" = 100'

April Housing

Waterford at Spencer Oaks

2100 Spencer Road
Denton, TX

Proposed Amenities

May 13, 2025
Number of units: 208
Number of Building(s): 52

PROJECT AMENIITIES

Project amenities include furnished clubhouse, community room, swimming pool, exercise room, library with sitting area, picnic area with BBQ grills, playgrounds, dog park, on-site management, on-site maintenance, and common area Wi-Fi.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON STATING NO OBJECTION TO 2100 SPENCER ROAD (TX) OWNER LP'S 4% HOUSING TAX CREDIT APPLICATION TO TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR PROPOSED REHABILITATION OF THE WATERFORD AT SPENCER OAKS APARTMENTS TO PROVIDE AFFORDABLE RENTAL HOUSING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, 2100 Spencer Road (TX) Owner LP ("Applicant") is proposing the rehabilitation of a multi-family affordable rental housing development including 208 rental units located at 2100 Spencer Rd, Denton, TX 76205 named The Waterford at Spencer Oaks Apartments (the "Project"); and

WHEREAS, the Applicant has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs ("TDHCA") for Housing Tax Credit funding to provide equity financing for the Project (the "Application"); and

WHEREAS, the City Council of the City of Denton wishes to express no objection for this proposed Project's application to TDHCA pursuant to Texas Government Code § 2306.67071 to facilitate the possible award of Housing Tax Credits to the Project; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitals contained in the preamble of this Resolution are incorporated by reference into the body of this Resolution as if fully set forth herein.

SECTION 2. As provided for in Gov't Code §2306.6703(a)(4), it is hereby acknowledged that the proposed Project is located in a municipality that has more than twice the state average of units per capita supported by Housing Tax Credits and the City hereby supports the Project and authorizes the allocation of Housing Tax Credits for the Project pursuant to Gov't Code §2306.6703(a)(4).

SECTION 3. In accordance with the requirements of Texas Government Code §2306.67071 and Texas Administrative Code §11.204(4), it is hereby found that:

1. Notice has been provided to the City in accordance with Texas Government Code, §2306.67071(a); and

2. The City has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Application; and

3. The City has held a hearing at which public comment may be made on the proposed Application in accordance with Texas Government Code, §2306.67071(b); and

4. After due consideration of the information provided by the Applicant and public comment, the City has no objection to the proposed Application; and

SECTION 4. The City Manager is hereby authorized, empowered, and directed to certify this Resolution to the TDHCA.

SECTION 5. The City Council hereby approves and authorizes the execution on behalf of the City of all other documents and writings whatsoever that may be necessary or convenient, in the reasonable opinion of either the City Manager or the City Attorney, for carrying out this Resolution.

SECTION 6. This Resolution shall be effective as of its date of approval and passage by City Council.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray _____
Scott Bray
Deputy City Attorney

Legislation Text

File #: ID 25-1315, **Version:** 1

Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025 to provide affordable rental housing; and providing an effective date.

AGENDA INFORMATION SHEET

DEPARTMENT: Community Services

CM/DCM/ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025 to provide affordable rental housing; and providing an effective date.

BACKGROUND

4% Housing Tax Credit Program

On February 18, 2025, City Council approved a Resolution of No Objection to Roselawn Village Ltd.'s 4% housing tax credit application to the Texas Department of Housing and Community Affairs for the proposed new construction of Roselawn Village Apartments in Denton, Texas to provide affordable rental housing (ID 25-103).

The tax credits are awarded to eligible participants and provide a source of equity financing for the development of affordable housing. Investors in qualified affordable multifamily residential developments can use the HTCs as a dollar-for-dollar reduction of federal income tax liability. The value associated with the HTCs allows housing to be leased to qualified families at below market rate rents. The Non-Competitive (4%) Housing Tax Credit program is coupled with the Multifamily Bond Program when the bonds finance at least 50% of the cost of the land and buildings in the Development.

Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025

Legacy Denton Public Facility Corporation (LDPFC) is a nonprofit public facility corporation created by the Denton Housing Authority. The LDPFC has induced the issuance of Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025 (Bonds), to be issued in one or more series of tax-exempt bonds or governmental notes in an aggregate principal amount not to exceed $49,000,000. The proceeds of the Bonds will be loaned to the borrower Roselawn Village, Ltd., a Texas limited partnership. The proceeds will finance a portion of the costs of acquisition, construction and equipping the 297-unit residential rental development to be known as the Roselawn Village.

Public approval requirement of § 147(f) of the Internal Revenue Code

The purpose of the approval requirement of § 147(f) is to ensure that the affected members of the general public will be notified of a pending bond issue and made aware of the intended use of proceeds in order to elicit comments that will ensure a substantial public benefit from issuing the bonds.

Legacy Denton Public Facility Corporation (LDPFC) has requested the City Council approve the issuance of the Bonds for purposes of Section 147(f) of the Code and for purposes of permitting the Issuer to finance the project.

Section 147(f) generally requires that both the governmental unit that issues the bonds (LDPFC) and a governmental unit with jurisdiction over the location of the financed project (City of Denton) approve an issue of private activity bonds.

OPTIONS

1. Approve the Resolution
2. Do not approve the Resolution

FISCAL INFORMATION

The City has no obligation with respect to the Bonds

EXHIBITS

Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Presentation
Exhibit 3 - Resolution
Exhibit 4 - ISR 2025-057

Respectfully submitted:
Jesse Kent
Director of Community Services

Prepared by:
Leia Atkinson
Housing Programs Coordinator

Multifamily Housing Revenue Bonds

ID 25-1315 ID 25-1316

Presenter: Jesse Kent

Director of Community Services

August 5, 2025



BACKGROUND – HOUSING TAX CREDITS

The Housing Tax Credit program is the largest public funding source in the nation for affordable rental homes. Housing Tax Credits are funded federally and administered by states. In Texas, the program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

There are two types of Housing Tax Credits:

4% HTC	• Non-Competitive • Applications accepted year-round • Allows the developer to reduce federal tax burden by a proportion of eligible construction costs, 30% of the development costs. • Requires resolution of no objection from municipality • Must be at least 50% funded by Multifamily Housing Revenue Bonds
9% HTC	• Competitive • Application occurs once per year • Allows the developer to reduce federal tax burden by a proportion of the eligible construction costs, 70% of the development costs. • Requires resolution of support from municipality

MULTIFAMILY HOUSING REVENUE BONDS

- Per Internal Revenue Code, 4% Housing Tax Credit developments are required to finance at least 50% of the cost of land and construction using Multifamily Housing Revenue Bonds.
- Texas Bond Review Board administers an annual finite amount of tax-exempt Private Activity Bonds, including Multifamily Housing Revenue Bonds.
- Once issued a Certificate of Reservation, 4% Housing Tax Credit Developments must find an approved government entity to issue the bond on a conduit basis. The bond is then purchased by a private investor fund the cost of development. These bonds do not create a debt or liability to the State of Texas or taxpayers of the jurisdiction.
- Two Housing Tax Credit Developments in the City of Denton have chosen Denton Housing Authority (DHA) as the conduit issuer.
  - Under the Internal Revenue Code, bond issuers are required to receive approval from the elected body that governs them.
  - The City of Denton's City Council is the elected body that governs DHA.

4% HTC Developments (2025)

- **Roselawn Village:** Roselawn Village Apartments is a 4% Housing Tax Credit Development proposed for 2800 Roselawn Dr. On February 18, 2025, City Council approved a Resolution of No Objection for the developer's application to TDHCA for the tax credit (ID 25-103).

- **Waterford at Spencer Oaks**: The Waterford at Spencer Oaks Apartments is an existing apartment complex at 2100 Spencer Rd, Denton, TX 76205. Its' construction was funded by Housing Tax Credits in 1996. Their affordability commitments last 30 years, and would otherwise expire next year in 2026, with the apartments converting to market rate. By undergoing a rehabilitation with Housing Tax Credit funding, the development would recommit to affordability for another 30 years.

TIMELINE

- **Feb. 18:** Roselawn Village received Resolution of No Objection
- **July 10:** DHA held public hearings regarding Multifamily Housing Revenue Bond conduit issuance for both developments
- **Aug. 5:** City Council considered Resolution of No Objection for Waterford at Spencer Oaks
- **Aug. 5:** City Council will consider approval of DHA's Multifamily Housing Revenue Bond conduit issuance for both developments.

STAFF RECOMMENDATION

- Staff recommends **approval** of these Resolutions.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON APPROVING THE ISSUANCE AND SALE BY LEGACY DENTON PUBLIC FACILITY CORPORATION OF MULTIFAMILY HOUSING REVENUE BONDS (ROSELAWN VILLAGE) SERIES 2025 TO PROVIDE AFFORDABLE RENTAL HOUSING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Legacy Denton Public Facility Corporation (the "Issuer"), a nonprofit public facility corporation created by the Housing Authority of the City of Denton, Texas, has induced the issuance of Multifamily Housing Revenue Bonds (Roselawn Village) Series 2025 (the "Bonds"), to be issued in one or more series of tax-exempt bonds or governmental notes in an aggregate principal amount not to exceed $49,000,000; and

WHEREAS, the proceeds of the Bonds will be loaned to Roselawn Village Ltd., a Texas limited partnership (the "Borrower"), to finance a portion of the costs of acquisition, construction and equipping of an approximately 297-unit residential rental development to be known as the Roselawn Village Apartments (the "Project"); and

WHEREAS, Section 147(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), requires the Issuer to hold a public hearing and obtain the approval by the City of Denton before the Bonds can be issued; and

WHEREAS, the City Council is informed that the requisite public hearing was held by the Issuer on July 10, 2025, at 10:00 a.m., as evidenced by the public hearing minutes attached hereto as Exhibit A; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The findings and recitations contained in the preamble of this Resolution are true and are incorporated herein by reference.

SECTION 2. The City Council gives its approval for the Issuer to issue the Bonds, the proceeds of which will be loaned to the Borrower to finance the costs of acquisition, construction and equipping of the Project located at 2800 Roselawn Drive, Denton, Texas, 76205.

SECTION 3. The City Manager is authorized and directed to take any action and to execute and deliver any documents that are necessary or advisable to comply with the terms of this Resolution.

SECTION 4. Nothing in this Resolution shall be construed to create any obligation whatsoever of the City with respect to the repayment of the Bonds. The Bonds shall never constitute an indebtedness or pledge of the City within the meaning of any constitutional or statutory provision, and the Bonds shall never be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues of the City.

SECTION 5. This Resolution is adopted solely for the purposes of approval under

Section 147(f) of the Code and shall not be construed as a representation, warranty, or other understanding of any kind by the City in respect of the Bonds or the Project. In particular, but without limiting the foregoing, this Resolution does not constitute zoning approval, approval of any building permit, or any other approval required by the City in regard to the Project.

SECTION 6. This Resolution shall be effective as of its date of approval and passage by City Council.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray Scott Bray
Deputy City Attorney

Exhibit A

MINUTES OF PUBLIC HEARING

Re: Legacy Denton Public Facility Corporation
Multifamily Housing Revenue Bonds
(Roselawn Village Apartments)
Series 2025

The undersigned Hearing Officer of the Legacy Denton Public Facility Corporation (the "Issuer") presided over the public hearing called to order at 10:02 a.m. on July 10, 2025, and conducted on behalf of the Issuer pursuant to Section 147(f) of the Internal Revenue Code.

The public hearing, required under Section 147(f) of the Internal Revenue Code of 1986, was declared open for purposes of discussing the above-captioned bonds (the "Bonds"), the proceeds of which will be loaned to Roselawn Village Ltd. to acquire, construct and maintain a multifamily residential rental facility to be known as the Roselawn Village to be located at approximately 2800 Roselawn Drive, Denton, Texas 76205 (the "Project"), and to contain approximately 297 units.

The required notice of the public hearing for the Project was published in the *Denton-Record Chronicle*, being a newspaper of general circulation in the specific location of the Project and in the jurisdiction in which the public hearing was held, as set forth in the affidavit of publication attached hereto as Exhibit A.

No comments were made by the general public at the public hearing with respect to the Project.

After sufficient time was given for all present to make their comments with respect to the Bonds and the Project, the public hearing was closed.

Dated as of July 10, 2025.

Ms. Sherri McDade
Hearing Officer

EXHIBIT A

AFFIDAVIT OF PUBLICATION
(SEE ATTACHED)

Denton Record-Chronicle

AFFIDAVIT OF PUBLICATION

Denton Record-Chronicle
2413 Fort Worth Dr
(940) 387-7755

I, Ankit Sachdeva, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Denton Record-Chronicle, a publication that is a "legal newspaper" as that phrase is defined for the city of Denton, for the County of Denton, in the state of Texas, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Jun. 26, 2025

Notice ID: BpQfji4E15BfGyV87cPE
Notice Name: Roselawn Village TEFRA notice

PUBLICATION FEE: $67.92

I declare under penalty of perjury that the foregoing is true and correct.

Ankit Sachdeva

Agent

JESSICA GORDON-THOMPSON
Notary Public - State of Florida
Commission # HH391466
Expires on August 17, 2026

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 06/27/2025

Notary Public
Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

Legacy Denton Public Facility Corporation (the "Issuer") will conduct a public hearing on July 10, 2025 at 10:00 A.M., at 1225 Wilson St., Denton, Texas 76205 with respect to an issue of multifamily housing revenue bonds (the "Bonds") to be issued by the Issuer in one or more series of tax-exempt bonds in an aggregate principal amount not to exceed $49,000,000. The proceeds of the Bonds will be loaned to Roselawn Village Ltd. (or a related person or affiliate thereof) (the "Borrower"), to finance a portion of the costs of the acquisition and construction of a multifamily residential rental development to be known as the Roselawn Village (the "Development"), containing approximately 297 units and located at approximately 2800 Roselawn Drive, Denton, TX 76205.
The Bonds will be issued pursuant to the provisions of the Texas Public Facility Corporations Act, Local Government Code, Chapter 303, Vernon's Texas Code, as amended (the "Act"). The Bonds are expected to be issued as "exempt facility bonds" for a qualified residential rental project pursuant to Section 142(a)(7) and (d) of the Internal Revenue Code of 1986, as amended (the "Code"). The initial owner of the Development will be the Borrower identified above. Questions or requests for additional information may be directed to Ms. Sherri McDade, The Housing Authority of the City of Denton, 1225 Wilson St., Denton, Texas 76205 or s.mcdade@dentonhousingauthority.com. Persons who intend to appear at the hearing and express their views are invited to contact Ms. McDade in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Ms. McDade prior to the date scheduled for the hearing.

drc 06/26/2025

INFORMAL STAFF REPORT
TO MAYOR AND CITY COUNCIL

SUBJECT:
Non-Competitive 4% Low Income Housing Tax Credit Financing

BACKGROUND:
Housing Tax Credits
The Housing Tax Credit program is the largest public funding source in the nation for affordable rental homes. Housing Tax Credits are funded federally and administered by states. In Texas, the program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

There are two types of Housing Tax Credits (HTC):

4% HTC	• Non-Competitive • Applications accepted year-round • Allows the developer to reduce federal tax burden by a proportion of eligible construction costs, 30% of the development costs. • Requires resolution of no objection from municipality • Must be at least 50% funded by Multifamily Housing Revenue Bonds
9% HTC	• Competitive • Application occurs once per year • Allows the developer to reduce federal tax burden by a proportion of the eligible construction costs, 70% of the development costs. • Requires resolution of support from municipality

Multifamily Housing Revenue Bonds
Because a 4% Housing Tax Credit only covers approximately 30% of a development's equity, developments must seek other sources of funding. Per Internal Revenue Code[1], 4% Housing Tax Credit developments are required to finance at least 50% of the cost of land and construction using Multifamily Housing Revenue Bonds. The State has a set amount of tax-exempt Private Activity Bonds which can be issued in Texas each year, including Multifamily Housing Revenue Bonds. The Texas Bond Review Board administers the Private Activity Bond program and issues Certificates of Reservation to 4% Housing Tax Credit developments, stating that one of the state's tax-exempt Private Activity Bonds may go to that development.

Afterwards, the development must find an approved government entity to issue the bond on a conduit basis. Then the bond is purchased by a private investor to fund the cost of development. These bonds do not create a debt or liability to the State of Texas or taxpayers of the jurisdiction.

[1] Section 42(h)(4)(B)

Developers have options for conduit bond issuers, including Texas Department of Community Affairs (TDHCA), but they may also partner with a conduit issuer local to the development. Denton Housing Authority (DHA) is authorized to issue Multifamily Housing Revenue Bonds.

Under the Internal Revenue Code[2], bond issuers are required to receive approval from the elected body that governs them. The City of Denton's City Council is the elected body that governs DHA.

DISCUSSION:

There are two potential development projects in Denton seeking a 4% Housing Tax Credits award in 2025 and an accompanying Multifamily Housing Revenue Bond. Both project developers have partnered with DHA as the conduit issuer, who will need the bond issuance approved by the City of Denton. If approved, **no debt obligation will be created for the City of Denton**. If not approved, the developers would have to seek Multifamily Housing Revenue Bonds elsewhere and the projects may be at risk.

Roselawn Village

Roselawn Village Apartments is a 4% Housing Tax Credit Development proposed for 2800 Roselawn Dr. On [illegible], City Council approved a Resolution of No Objection for the developer's application to TDHCA for the tax credit (https://de

Waterford at Spencer Oaks

The Waterford at Spencer Oaks Apartments is an existing apartment complex at 2100 Spencer Rd, Denton, TX 76205. Its' construction was funded by Housing Tax Credits in 1996. Their affordability commitments last 30 years, and would otherwise expire next year in 2026, with the apartments converting to market rate. By undergoing a rehabilitation with Housing Tax Credit funding, the development would recommit to affordability for another 30 years. A Resolution of No Objection to their application for the 4% Housing Tax Credit award will be brought to City Council on the July 22 agenda for Public Hearing.

Bond Issuance

Both projects have selected DHA as the conduit issuer for their required Multifamily Housing Revenue Bonds. DHA will hold the public hearings at 1225 Wilson St., Denton, Texas 76205 on July 10 at 10 a.m. (Roselawn Village) and 11 a.m. (Waterford at Spencer Oaks). Approval for a DHA bond issuance has not been considered by the City Council since Sep. 20, 2022. The City's process has been to place this item on the consent agenda. Staff will place the approval of these bonds for both developments on the Aug. 5 Consent Agenda. Staff will bring proposed amendments to the HTC process later this year that include approving bond issuance for projects concurrently with approving the Resolution of No Objection when possible.

[2] Section 147(f), established by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA),

Timeline

- **Feb. 18:** Roselawn Village received a Resolution of No Objection
- **July 10:** DHA will hold public hearings regarding Multifamily Housing Revenue Bond conduit issuance for both Roselawn Village and Waterford at Spencer Oaks
- **July 22:** City Council will consider a Resolution of No Objection for Waterford at Spencer Oaks
- **Aug. 5:** City Council will consider approval of DHA's Multifamily Housing Revenue Bond conduit issuance for both developments.

STAFF CONTACT:
Jesse Kent, Director of Community Services

REQUESTOR:
Staff initiated

STAFF TIME TO COMPLETE REPORT:
1 hour

PARTICIPATING DEPARTMENTS:
Community Services

Legislation Text

File #: ID 25-1316, **Version:** 1

Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025 to provide affordable rental housing; and providing an effective date.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Community Services

CM/DCM/ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider approval of a resolution of the City of Denton approving the issuance and sale by Legacy Denton Public Facility Corporation of Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025 to provide affordable rental housing; and providing an effective date.

BACKGROUND

4% Housing Tax Credit Program

On August 5, 2025, City Council will consider a Resolution of No Objection to 2100 Spencer Road (TX) Owner LP.'s 4% housing tax credit application to the Texas Department of Housing and Community Affairs for the proposed rehabilitation of Waterford at Spencer Oaks Apartments in Denton, Texas to provide affordable rental housing (ID 25-1039)

The tax credits are awarded to eligible participants and provide a source of equity financing for the development of affordable housing. Investors in qualified affordable multifamily residential developments can use the HTCs as a dollar-for-dollar reduction of federal income tax liability. The value associated with the HTCs allows housing to be leased to qualified families at below market rate rents. The Non-Competitive (4%) Housing Tax Credit program is coupled with the Multifamily Bond Program when the bonds finance at least 50% of the cost of the land and buildings in the Development.

Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025

Legacy Denton Public Facility Corporation (LDPFC) is a nonprofit public facility corporation created by the Denton Housing Authority. The LDPFC has induced the issuance of Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025 (Bonds), to be issued in one or more series of tax-exempt bonds or governmental notes in an aggregate principal amount not to exceed $49,000,000. The proceeds of the Bonds will be loaned to the borrower 2100 Spencer Road (TX) Owner LP., a Texas limited partnership. The proceeds will finance a portion of the costs of rehabilitation the 208-unit residential rental development to be known as the Waterford at Spencer Oaks.

Public approval requirement of § 147(f) of the Internal Revenue Code

The purpose of the approval requirement of § 147(f) is to ensure that the affected members of the general public will be notified of a pending bond issue and made aware of the intended use of proceeds in order to elicit comments that will ensure a substantial public benefit from issuing the bonds.

Legacy Denton Public Facility Corporation (LDPFC) has requested the City Council approve the issuance of the Bonds for purposes of Section 147(f) of the Code and for purposes of permitting the Issuer to finance the project.

Section 147(f) generally requires that both the governmental unit that issues the bonds (LDPFC) and a governmental unit with jurisdiction over the location of the financed project (City of Denton) approve an issue of private activity bonds.

OPTIONS

1. Approve the Resolution
2. Do not approve the Resolution

FISCAL INFORMATION

The City has no obligation with respect to the Bonds

EXHIBITS

Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Presentation
Exhibit 3 - Resolution
Exhibit 4 - ISR 2025-057

Respectfully submitted:
Jesse Kent
Director of Community Services

Prepared by:
Leia Atkinson
Housing Programs Coordinator

Multifamily Housing Revenue Bonds

ID 25-1315 ID 25-1316

Presenter: Jesse Kent

Director of Community Services

August 5, 2025



COMMUNITY SERVICES

BACKGROUND – HOUSING TAX CREDITS

The Housing Tax Credit program is the largest public funding source in the nation for affordable rental homes. Housing Tax Credits are funded federally and administered by states. In Texas, the program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

There are two types of Housing Tax Credits:

4% HTC	• Non-Competitive • Applications accepted year-round • Allows the developer to reduce federal tax burden by a proportion of eligible construction costs, 30% of the development costs. • Requires resolution of no objection from municipality • Must be at least 50% funded by Multifamily Housing Revenue Bonds
9% HTC	• Competitive • Application occurs once per year • Allows the developer to reduce federal tax burden by a proportion of the eligible construction costs, 70% of the development costs. • Requires resolution of support from municipality

MULTIFAMILY HOUSING REVENUE BONDS

- Per Internal Revenue Code, 4% Housing Tax Credit developments are required to finance at least 50% of the cost of land and construction using Multifamily Housing Revenue Bonds.
- Texas Bond Review Board administers an annual finite amount of tax-exempt Private Activity Bonds, including Multifamily Housing Revenue Bonds.
- Once issued a Certificate of Reservation, 4% Housing Tax Credit Developments must find an approved government entity to issue the bond on a conduit basis. The bond is then purchased by a private investor fund the cost of development. These bonds do not create a debt or liability to the State of Texas or taxpayers of the jurisdiction.
- Two Housing Tax Credit Developments in the City of Denton have chosen Denton Housing Authority (DHA) as the conduit issuer.
  - Under the Internal Revenue Code, bond issuers are required to receive approval from the elected body that governs them.
  - The City of Denton's City Council is the elected body that governs DHA.

4% HTC Developments (2025)

- **Roselawn Village:** Roselawn Village Apartments is a 4% Housing Tax Credit Development proposed for 2800 Roselawn Dr. On February 18, 2025, City Council approved a Resolution of No Objection for the developer's application to TDHCA for the tax credit (ID 25-103).

- **Waterford at Spencer Oaks**: The Waterford at Spencer Oaks Apartments is an existing apartment complex at 2100 Spencer Rd, Denton, TX 76205. Its' construction was funded by Housing Tax Credits in 1996. Their affordability commitments last 30 years, and would otherwise expire next year in 2026, with the apartments converting to market rate. By undergoing a rehabilitation with Housing Tax Credit funding, the development would recommit to affordability for another 30 years.

TIMELINE

- **Feb. 18:** Roselawn Village received Resolution of No Objection
- **July 10:** DHA held public hearings regarding Multifamily Housing Revenue Bond conduit issuance for both developments
- **Aug. 5:** City Council considered Resolution of No Objection for Waterford at Spencer Oaks
- **Aug. 5:** City Council will consider approval of DHA's Multifamily Housing Revenue Bond conduit issuance for both developments.

STAFF RECOMMENDATION

- Staff recommends **approval** of these Resolutions.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON APPROVING THE ISSUANCE AND SALE BY LEGACY DENTON PUBLIC FACILITY CORPORATION OF MULTIFAMILY HOUSING REVENUE BONDS (WATERFORD AT SPENCER OAKS) SERIES 2025 TO PROVIDE AFFORDABLE RENTAL HOUSING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Legacy Denton Public Facility Corporation (the "Issuer"), a nonprofit public facility corporation, created by the Housing Authority of the City of Denton, Texas, has induced the issuance of Multifamily Housing Revenue Bonds (Waterford at Spencer Oaks) Series 2025 (the "Bonds"), to be issued in one or more series of tax-exempt bonds or governmental notes in an aggregate principal amount not to exceed $49,000,000; and

WHEREAS, the proceeds of the Bonds will be loaned to 2100 Spencer Road (TX) Owner LP, a Texas limited partnership (the "Borrower"), to finance a portion of the costs of rehabilitation of an approximately 208-unit residential rental development to be known as the Waterford at Spencer Oaks Apartments (the "Project"); and

WHEREAS, Section 147(f) of the United States Internal Revenue Code of 1986, as amended (the "Code"), requires the Issuer to hold a public hearing and obtain the approval by the City of Denton before the Bonds can be issued; and

WHEREAS, the City Council is informed that the requisite public hearing was held by the Issuer on July 10, 2025, at 11:00 a.m., as evidenced by the public hearing minutes attached hereto as Exhibit A; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The findings and recitations contained in the preamble of this Resolution are true and are incorporated herein by reference.

SECTION 2. The City Council gives its approval for the Issuer to issue the Bonds, the proceeds of which will be loaned to the Borrower to finance the costs of rehabilitation of the Project located at 2100 Spencer Rd, Denton, TX 76205.

SECTION 3. The City Manager is authorized and directed to take any action and to execute and deliver any documents that are necessary or advisable to comply with the terms of this Resolution.

SECTION 4. Nothing in this Resolution shall be construed to create any obligation whatsoever of the City with respect to the repayment of the Bonds. The Bonds shall never constitute an indebtedness or pledge of the City within the meaning of any constitutional or statutory provision, and the Bonds shall never be paid in whole or in part out of any funds raised or to be raised by taxation or any other revenues of the City.

SECTION 5. This Resolution is adopted solely for the purposes of approval under

Section 147(f) of the Code and shall not be construed as a representation, warranty, or other understanding of any kind by the City in respect of the Bonds or the Project. In particular, but without limiting the foregoing, this Resolution does not constitute zoning approval, approval of any building permit, or any other approval required by the City in regard to the Project.

SECTION 6. This Resolution shall be effective as of its date of approval and passage by City Council.

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

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray _____ Scott Bray
Deputy City Attorney

Exhibit A

MINUTES OF PUBLIC HEARING

Re: Legacy Denton Public Facility Corporation
Multifamily Housing Revenue Bonds
(Waterford at Spencer Oaks Apartments)
Series 2025

The undersigned Hearing Officer of the Legacy Denton Public Facility Corporation (the "Issuer") presided over the public hearing called to order at 11:02 a.m. on July 10, 2025, and conducted on behalf of the Issuer pursuant to Section 147(f) of the Internal Revenue Code.

The public hearing, required under Section 147(f) of the Internal Revenue Code of 1986, was declared open for purposes of discussing the above-captioned bonds (the "Bonds"), the proceeds of which will be loaned to 2100 Spencer Road (TX) Owner LP to acquire, construct and maintain a multifamily residential rental facility to be known as the Waterford at Spencer Oaks to be located at approximately 2100 Spencer Road, Denton, Texas 76205 (the "Project"), and to contain approximately 208 units.

The required notice of the public hearing for the Project was published in the *Denton-Record Chronicle*, being a newspaper of general circulation in the specific location of the Project and in the jurisdiction in which the public hearing was held, as set forth in the affidavit of publication attached hereto as Exhibit A.

No comments were made by the general public at the public hearing with respect to the Project.

After sufficient time was given for all present to make their comments with respect to the Bonds and the Project, the public hearing was closed.

Dated as of July 10, 2025.

Ms. Sherri McDade
Hearing Officer

EXHIBIT A

AFFIDAVIT OF PUBLICATION
(SEE ATTACHED)

Denton Record-Chronicle

AFFIDAVIT OF PUBLICATION

Denton Record-Chronicle
2413 Fort Worth Dr
(940) 387-7755

I, Ankit Sachdeva, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Denton Record-Chronicle, a publication that is a "legal newspaper" as that phrase is defined for the city of Denton, for the County of Denton, in the state of Texas, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Jun. 27, 2025

Notice ID: xVKW0rFESPbzp6NVJF4f
Notice Name: Spencer Oaks TEFRA notice

PUBLICATION FEE: $68.80

I declare under penalty of perjury that the foregoing is true and correct.

Ankit Sachdeva

Agent

JESSICA GORDON-THOMPSON
Notary Public - State of Florida
Commission # HH389984
Expires on August 17, 2026

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 06/30/2025

Notary Public
Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

Legacy Denton Public Facility Corporation (the "Issuer") will conduct a public hearing on July 10, 2025 at 11:00 A.M. at 1225 Wilson St., Denton, Texas 76205 with respect to an issue of multifamily housing revenue bonds (the "Bonds") to be issued by the Issuer in one or more series of tax-exempt bonds in an aggregate principal amount not to exceed $44,200,000. The proceeds of the Bonds will be loaned to 2100 Spencer Road (TX) Owner LP (or a related person or affiliate thereof)(the "Borrower"), to finance a portion of the costs of the acquisition and rehabilitation of a multifamily residential rental development to be known as the Waterford at Spencer Oaks Apartments (the "Development"), containing approximately 208 units and located at approximately 2100 Spencer Road, Denton, Texas 76205.
The Bonds will be issued pursuant to the provisions of the Texas Public Facility Corporations Act, Local Government Code, Chapter 303, Vernon's Texas Code, as amended (the "Act"). The Bonds are expected to be issued as "exempt facility bonds" for a qualified residential rental project pursuant to Section 142(a)(7) and (d) of the Internal Revenue Code of 1986, as amended (the "Code"). The initial owner of the Development will be the Borrower identified above. Questions or requests for additional information may be directed to Ms. Sherri McDade, The Housing Authority of the City of Denton, 1225 Wilson St., Denton, Texas 76205 or s.mcdade@dentonhousingauthority.com. Persons who intend to appear at the hearing and express their views are invited to contact Ms. McDade in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Ms. McDade prior to the date scheduled for the hearing.

drc 06/27/2025

INFORMAL STAFF REPORT
TO MAYOR AND CITY COUNCIL

SUBJECT:
Non-Competitive 4% Low Income Housing Tax Credit Financing

BACKGROUND:
Housing Tax Credits
The Housing Tax Credit program is the largest public funding source in the nation for affordable rental homes. Housing Tax Credits are funded federally and administered by states. In Texas, the program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

There are two types of Housing Tax Credits (HTC):

4% HTC	• Non-Competitive • Applications accepted year-round • Allows the developer to reduce federal tax burden by a proportion of eligible construction costs, 30% of the development costs. • Requires resolution of no objection from municipality • Must be at least 50% funded by Multifamily Housing Revenue Bonds
9% HTC	• Competitive • Application occurs once per year • Allows the developer to reduce federal tax burden by a proportion of the eligible construction costs, 70% of the development costs. • Requires resolution of support from municipality

Multifamily Housing Revenue Bonds
Because a 4% Housing Tax Credit only covers approximately 30% of a development's equity, developments must seek other sources of funding. Per Internal Revenue Code[1], 4% Housing Tax Credit developments are required to finance at least 50% of the cost of land and construction using Multifamily Housing Revenue Bonds. The State has a set amount of tax-exempt Private Activity Bonds which can be issued in Texas each year, including Multifamily Housing Revenue Bonds. The Texas Bond Review Board administers the Private Activity Bond program and issues Certificates of Reservation to 4% Housing Tax Credit developments, stating that one of the state's tax-exempt Private Activity Bonds may go to that development.

Afterwards, the development must find an approved government entity to issue the bond on a conduit basis. Then the bond is purchased by a private investor to fund the cost of development. These bonds do not create a debt or liability to the State of Texas or taxpayers of the jurisdiction.

[1] Section 42(h)(4)(B)

Developers have options for conduit bond issuers, including Texas Department of Community Affairs (TDHCA), but they may also partner with a conduit issuer local to the development. Denton Housing Authority (DHA) is authorized to issue Multifamily Housing Revenue Bonds.

Under the Internal Revenue Code[2], bond issuers are required to receive approval from the elected body that governs them. The City of Denton's City Council is the elected body that governs DHA.

DISCUSSION:

There are two potential development projects in Denton seeking a 4% Housing Tax Credits award in 2025 and an accompanying Multifamily Housing Revenue Bond. Both project developers have partnered with DHA as the conduit issuer, who will need the bond issuance approved by the City of Denton. If approved, **no debt obligation will be created for the City of Denton**. If not approved, the developers would have to seek Multifamily Housing Revenue Bonds elsewhere and the projects may be at risk.

Roselawn Village

Roselawn Village Apartments is a 4% Housing Tax Credit Development proposed for 2800 Roselawn Dr. On [illegible], City Council approved a Resolution of No Objection for the developer's application to TDHCA for the tax credit (https://de

Waterford at Spencer Oaks

The Waterford at Spencer Oaks Apartments is an existing apartment complex at 2100 Spencer Rd, Denton, TX 76205. Its' construction was funded by Housing Tax Credits in 1996. Their affordability commitments last 30 years, and would otherwise expire next year in 2026, with the apartments converting to market rate. By undergoing a rehabilitation with Housing Tax Credit funding, the development would recommit to affordability for another 30 years. A Resolution of No Objection to their application for the 4% Housing Tax Credit award will be brought to City Council on the July 22 agenda for Public Hearing.

Bond Issuance

Both projects have selected DHA as the conduit issuer for their required Multifamily Housing Revenue Bonds. DHA will hold the public hearings at 1225 Wilson St., Denton, Texas 76205 on July 10 at 10 a.m. (Roselawn Village) and 11 a.m. (Waterford at Spencer Oaks). Approval for a DHA bond issuance has not been considered by the City Council since Sep. 20, 2022. The City's process has been to place this item on the consent agenda. Staff will place the approval of these bonds for both developments on the Aug. 5 Consent Agenda. Staff will bring proposed amendments to the HTC process later this year that include approving bond issuance for projects concurrently with approving the Resolution of No Objection when possible.

[2] Section 147(f), established by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA),

Timeline

- **Feb. 18:** Roselawn Village received a Resolution of No Objection
- **July 10:** DHA will hold public hearings regarding Multifamily Housing Revenue Bond conduit issuance for both Roselawn Village and Waterford at Spencer Oaks
- **July 22:** City Council will consider a Resolution of No Objection for Waterford at Spencer Oaks
- **Aug. 5:** City Council will consider approval of DHA's Multifamily Housing Revenue Bond conduit issuance for both developments.

STAFF CONTACT:
Jesse Kent, Director of Community Services

REQUESTOR:
Staff initiated

STAFF TIME TO COMPLETE REPORT:
1 hour

PARTICIPATING DEPARTMENTS:
Community Services

File #: ID 25-1343, **Version:** 1

AGENDA CAPTION

Consider adoption of 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 6, 2023, in the not-to-exceed amount of $14,952,000.00; said first amendment to provide additional engineering design and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion Project for the Wastewater Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-027 - providing for an additional first amendment expenditure amount not-to-exceed $18,840,500.00, with the total contract amount not-to-exceed $33,792,500.00). The Public Utilities Board recommends approval (5 - 0).

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of 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 6, 2023, in the not-to-exceed amount of $14,952,000.00; said first amendment to provide additional engineering design and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion Project for the Wastewater Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-027 – providing for an additional first amendment expenditure amount not-to-exceed $18,840,500.00, with the total contract amount not-to-exceed $33,792,500.00). The Public Utilities Board recommends approval (5 - 0).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Pecan Creek Water Reclamation Plant (PCWRP) was built in 1961 and has a capacity of 21 MGD, million gallons per day. The 2023 Wastewater Master Plan concluded that the existing PCWRP needs an expansion to support Denton's growth. TCEQ has approved an amended discharge permit to increase the PCWRP capacity to 30 MGD. The proposed expansion plan involves updating the existing facility with modern technologies, including membrane bioreactor basins, solids handling, UV disinfection, and new headworks.

In March 2024, the City contracted with a consultant to perform a condition assessment of the existing PCWRP facility. The consultant prepared a comprehensive report that concluded the existing plant requires significant upgrades to ensure it complies with all State and Federal regulations and can operate efficiently for the next twenty years. As part of the condition assessment, an alternatives analysis was performed comparing the costs associated with refurbishing the existing facility to constructing a new water reclamation plant. The assessment indicated that constructing a new plant could potentially save the city up to $133 million over expanding and updating the existing plant. The savings include costs avoided for future construction, maintenance, operations, and regulatory compliance for the existing 60-plus-year-old plant.

Once the new PCWRP is fully operational, the current facility will be decommissioned and demolished, freeing up valuable space for future facility needs. The new plant will incorporate the latest technology, significantly enhancing the city's wastewater treatment processes and strengthening the protection of

nearby sensitive streams and ecosystems. This upgrade aims to ensure environmental safety and to improve the overall efficiency and reliability of wastewater management for decades to come.

Due to the expanded scope, this proposed change order adjusts the existing contract with Kimley-Horn and Associates Inc. accordingly.

- Preliminary Design and Final Design for a total of 30 MGD treatment capacity at PCWRP
- CCA (Construction Contract Administration), RPR (Resident Project Representative)
- Design of Operations / SCADA building, including Electrical, Maintenance, and Storage
- Plant Non-Potable Water System and Chemical Feed System

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On March 22, 2021, the City Council approved RFQ 7574 for a prequalified list of firms to provide engineering services for various water and wastewater utilities projects for the Water Utilities Department (Ordinance 21-546).

On June 6, 2023, the City Council approved a contract with Kimley Horn and Associates, Inc., in the not-to-exceed amount of $14,952,000 (Ordinance 23-1007).

On July 28, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award Amendment No. 1 with Kimley-Horn and Associates, Inc., to provide additional engineering design and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion Project for the Wastewater Department, in a not-to-exceed amount of $18,840,500, for a total amended contract amount of $33,792,500.

PRINCIPAL PLACE OF BUSINESS

Kimley-Horn and Associates Inc.
Fort Worth, TX

SUSTAINABILITY MEASURES

The contract will assist the City of Denton with the engineering design and construction services necessary to permit the construction of the Pecan Creek Water Reclamation Plant. The new infrastructure will increase the city's wastewater treatment capacity. The facilities are essential to safely treating and discharging effluent to the sensitive receiving streams.

ESTIMATED SCHEDULE OF PROJECT

The amended anticipated schedule includes the following:

- Sept 2023 Initial Project Kick-Off
- Aug 2025 Amendment Approval
- June 2026 Final Design
- May 2027 Construction of Additional Treatment Train
- July 2030 Substantial Completion

FISCAL INFORMATION

These services will be funded from the 5-year Capital Improvement Program bond, account 640496545.1360.20100. The total amount of this contract is $33,792,500. Funding has been identified from the previous year's CIP and allocated in the upcoming five-year CIP. Staff is actively pursuing low-interest loans from the Water Infrastructure Finance and Innovation Act (WIFIA) and the Texas Water Development Board (TWDB) Clean Water State Revolving Fund.

Funded from prior Fiscal Years	$17,292,500.00
Fiscal Year 2026	6,000,000.00
Fiscal Year 2027	2,625,000.00
Fiscal Year 2028	2,625,000.00
Fiscal Year 2029	2,625,000.00
Fiscal Year 2030	2,625,000.00
Total with Amendment	$33,792,500.00

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Presentation
Exhibit 4: Ordinance and Amendment 1

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

For information concerning this acquisition, contact: Jason Donnell, 940-349-8275.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 23-1007

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., TO PROVIDE REGULATORY PERMITTING/APPROVAL SUPPORT, PROCESS EVALUATION, DESIGN SERVICES, BIDDING ASSISTANCE, AND CONSTRUCTION PHASE SERVICES FOR THE PECAN CREEK WATER RECLAMATION PLANT (PCWRP) EXPANSION TO 26MGD PROJECT FOR THE WASTEWATER DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-027 – PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES AWARDED TO KIMLEY-HORN AND ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF $14,952,000.00).

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

WHEREAS, 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 hereby authorized to enter into an agreement with Kimley-Horn and Associates, Inc., to provide regulatory permitting/approval support, process evaluation, design services, bidding assistance, and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion to 26MGD 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 Chris Watts and seconded by Brian Beck. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	✓			
Vicki Byrd, District 1:	✓			
Brian Beck, District 2:	✓			
Paul Meltzer, District 3:	✓			
Joe Holland, District 4:	✓			
Brandon Chase McGee, At Large Place 5:	✓			
Chris Watts, At Large Place 6:	✓			

PASSED AND APPROVED this the 6th day of June, 2023.

GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, INTERIM CITY SECRETARY

BY: _____

CITY OF DENTON
DENTON, TEXAS

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2023.05.10 17:20:32 -05'00'

DocuSign Envelope ID: 1CCDF23C-A2D3-4F78-BF7E-AD719E39F1AC

Docusign City Council Transmittal Coversheet

PSA	7574-027
File Name	PCWRP EXPANSION TO 26MGD
Purchasing Contact	Crystal Westbrook
City Council Target Date	6/6/23
Piggy Back Option	Not Applicable
Contract Expiration	NA
Ordinance	23-1007

DS

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and **KIMLEY-HORN AND ASSOCIATES, INC.**, with its corporate office at 421 Fayetteville Street, Suite 600, Raleigh, NC 27601 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: PCWRP Expansion To 26MGD (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 $14,952,000 in the manner and in accordance with the fee schedule as set forth in Attachment A. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.

B. Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

SECTION 3
Terms of Payment

Payments to the ENGINEER will be made as follows:

A. Invoice and Payment

(1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.

(2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.

(3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.

(4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.

(5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

SECTION 4
Obligations of the Engineer

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 it 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.

Pecan Creek Water Reclamation Plant Expansion to 30 MGD Design Contract Amendment

CITY OF DENTON

City Council ID 25-1343 – August 5, 2025

History

- Pecan Creek Water Reclamation Plant (PCWRP) was constructed 1961 and is the City's only reclamation plant
- Current plant capacity of 21 MGD (million gallons per day)
- PCWRP is currently at 85% of its capacity
- Texas Commission on Environmental Quality 75/90 rule requires treatment plant expansions begin design when capacity reaches 75% and in construction when capacity reaches 90%
- In 2023 Denton began treatment plant expansion design
- TCEQ approved a 2-stage updated permit to 26MGD then to 30MGD

Condition Assessment

- A Condition Assessment of PCWRP included developing an asset inventory, establishing scoring criteria, conducting in-person site assessments, analyzing the existing plant's treatment units for regulatory compliance, and providing recommendations
- Comparing the rehabilitation of the existing facility to building a new facility revealed that building a new facility was more cost-effective
- The cost saving to build a new facility in lieu of rehabilitation of the existing facility is approximately $133M
- It was recommended the City construct a new 30 MGD Water Reclamation Facility

Cost Comparison of a 30-MGD New Plant to the Rehabilitation with a Phased Expansion of the Existing Plant

Activity	Existing Plant	New Plant	Cost Savings
Rehabilitation of existing plant	$82.5 M	$5.8 M	
Expansion 5MGD Membrane	$389.5 M	--	
Connection (new 5MGD Membrane to existing 21MGD	$12.7 M	--	
Replace Existing 21MGD with Membrane (26MGD total)	$152.0 M	--	
30 MGD (new plant)	--	$498.0 M	
Total	$636.7 M	$503.8 M	$132.9 M
Estimated Completion Dates	July 2034	December 2031	

Current Contract

- **Contract to design:**
  - **Sewer interceptor**
  - **Headworks & Bar Screen**
  - **5 MGD Membrane Bioreactor (MBR)**
  - **Solids Handling**
  - **Ultraviolet (UV) disinfection**
  - **30 MG Equalization Basin**

- **Existing Contract Amount $14,952,000**



Recommended Amendment

- **Amendment to Design:**
  - **Additional 25 MGD MBR (for a total of 30 MGD)**
  - **Biological Nutrient Removal (BNR)**
  - **Anerobic Digester**
  - **Non-Potable Water System (reuse)**
  - **Chemical Feed System**
  - **Operations Building**
  - **Emergency backup generators**
- **Amendment also includes:**
  - **Construction Contract Administration**
  - **Resident Project Representative**
  - **Environmental Assessment Services**
- **Contract Amendment Amount $18,840,500**
- **Total Contract Amount with Amendment $33,792,500.00**



Questions?



CITY OF DENTON

City Council ID 25-1343 – August 5, 2025

ORDINANCE NO. _____

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 6, 2023, IN THE NOT-TO-EXCEED AMOUNT OF $14,952,000.00; SAID FIRST AMENDMENT TO PROVIDE ADDITIONAL ENGINEERING DESIGN AND CONSTRUCTION PHASE SERVICES FOR THE PECAN CREEK WATER RECLAMATION PLANT (PCWRP) EXPANSION PROJECT FOR THE WASTEWATER DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-027 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $18,840,500.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $33,792,500.00).

WHEREAS, on June 6, 2023, City Council awarded a contract to Kimley-Horn and Associates Inc.in the amount of $14,952,000.00, to provide regulatory permitting/approval support, process evaluation, design services, bidding assistance, and construction phase services for the Pecan Creek Water Reclamation Plant (PCWRP) Expansion to 26MGD Project for the Wastewater Department; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Kimley-Horn and Associates Inc., which is on file in the office of the Purchasing Agent, in the amount of Eighteen Million Eight Hundred Forty Thousand Five Hundred and 0/100 ($18,840,500.00) 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 $33,792,500.00.

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 _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 8647729E-B149-4891-9F0B-DF6CB1B20F25

Docusign City Council Transmittal Coversheet

PSA	7574-027
File Name	PCWRP Expansion Amendment 1
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

Docusign Envelope ID: 8647729E-B149-4891-9F0B-DF6CB1B20F25

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIMLEY-HORN AND ASSOCIATES, INC.
PSA 7574-027

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 7574-027 ("Amendment") by and between the City of Denton, Texas ("City") and Kimley-Horn and Associates, Inc. ("Engineer"); to that certain contract executed on June 6, 2023, in the original not-to-exceed amount of $14,952,000 (the "Agreement"); for services related to PCWRP Expansion to 26MGD.

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 $18,840,500 with this Amendment for an aggregate not-to-exceed amount of $33,792,500; 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 Attachment "A" of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the design of intersection improvements for the Small Transportation 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 Attachment "A" a total fee, including reimbursement for non-labor expenses an amount not to exceed $18,840,500.

2. This Amendment modifies the Agreement amount to provide an additional $18,840,500 for the additional services with a revised aggregate not to exceed total of $33,792,500.

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.

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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 _____.

"City"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
AUTHORIZED SIGNOR, TITLE

ATTEST:
LAUREN THODEN, CITY SECRETARY

By: _____

"Engineer"

Kimley-Horn and Associates, Inc.

By: DocuSigned by: Scott R. Arnold D1B5A80061FE4E9... Vice President
AUTHORIZED SIGNOR, TITLE

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

Signed by: Stephen D Gay FEB48BB9726E4A9...
SIGNATURE

Stephen D Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

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

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ATTACHMENT "A"

AMENDMENT NO.1 TO PROFESSIONAL SERVICES AGREEMENT ADDITIONAL SERVICES

Professional Services Agreement:

PECAN CREEK WATER RECLAMATION PLANT EXPANSION TO 30 MGD INCLUDING SOLIDS HANDLING AND DISINFECTION SYSTEM IMPROVEMENTS

Project Understanding

The Pecan Creek Water Reclamation Plant (PCWRP) Expansion to 30 MGD is currently under design with a construction manager at risk (CM@R) selected. The CITY has requested the ENGINEER provide additional design and construction phase services for the PCWRP for the following additions.

The CITY desires to include the design and construction phase services to expand to 30 MGD utilizing membrane bioreactor (MBR) technology. This will add 25 MGD MBR treatment units and allow the City to abandon the existing 21 MGD conventional activated sludge treatment trains that are near the end of their remaining useful life as described in the Pecan Creek Water Reclamation Plant Condition Assessment Report dated March 2024.

The new 25 MGD MBR treatment trains, when added to the 5 MGD MBR treatment train included in the original contract will allow 30 MGD of wastewater to be treated with MBR technology.

This project will also include operations buildings for the plant staff to operate and maintain the new facility.

The ENGINEER understands this portion of the project will be delivered under the same Construction Manager at Risk (CM@R) contract with Sundt Construction.

ENGINEER will provide professional services for the following tasks:

- Task 1a – Design Management
- Task 2a – Preliminary Design
- Task 4a – Final Design
- Task 5a – Construction Contract Documents
- Task 7a – Construction Phase Services
- Task 8a – Record Drawings
- Task 9a – Wastewater Discharge Permit Amendment
- Task 10a – Environmental Assessment Services
- Task 11a – Sludge Pump Station Replacements

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Task 1a – 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. 24 months are assumed.
    c. Prepare project schedule and provide schedule updates if the schedule changes.
2. Meetings
    a. Prepare for and attend one (1) project kickoff meeting to determine design criteria, project schedule, discuss project responsibilities.
    b. Prepare for and attend up to forty-eight (48) project status meetings with the CITY.
    c. Prepare meeting notes and distribute to the CITY.
3. CM@R Program Documentation
    4. The ENGINEER will assist the CITY with CM@R program documentation.
    5. Assumptions:
        a. It is assumed Project Management will be required for twenty-four months.
        b. Additional Project Management will be considered Additional Services.
    6. Deliverables:
        a. Monthly invoices and status reports
        b. Meeting agendas and meeting notes
        c. CM@R lesson learned

Task 2a – PRELIMINARY DESIGN

A. Prepare Preliminary Engineering Report (PER)

The ENGINEER shall prepare a Preliminary Engineering Report for the 30 MGD MBR, non-potable water system, chemical feed system, Operations and Scada Control Building, Maintenance Workshop, Storage Building and Electrical Workshop. The ENGINEER shall perform the following tasks:

1. Update design and size of MBR treatment units. Calculations, analyses, graphs, formulas, constants, and technical assumptions will be provided to support the design and sizing of each unit.
2. Update the process flow diagram for the treatment facility for the 30 MGD MBR facility.

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3. Design and size chemical feed equipment. Calculations, analyses, graphs, formulas, constants, and technical assumptions will be provided to support the design and sizing of each unit.
4. Design and size a new non-potable water system for the PCWRP. Calculations, analyses, graphs, formulas, constants, and technical assumptions will be provided to support the design and sizing of each unit.
5. Update hydraulic model to determine the elevations of the treatment units and determine the sizing of interconnected piping.
6. Prepare for and attend one space programming meeting with the CITY. Based on feedback from the CITY, ENGINEER will prepare concept design layouts
7. Prepare the Preliminary Engineering Report Document including:
    a. Types of units proposed and their capacities
    b. Detention times, surface loadings and weir loadings for each unit
    c. Plot of the hydraulic gradient at peak flow conditions
    d. The recommended operation mode
    e. Organic and volumetric loadings pertinent to each treatment unit
    f. Preliminary site plan
    g. Site access and security
    h. Flood protection
    i. Emergency power
    j. Size and character of the building
    k. Architectural systems
    l. Architectural materials

Meetings:

a. Prepare for and conduct one (1) Preliminary Engineering Report review meeting

Deliverables:

a. Deliver an electronic (.pdf) file of the Preliminary Engineering Report

Services/Deliverables provided by the CITY and CM@R:

a. Participate in the Preliminary Engineering Report review meeting
b. Review and provide comments on the Final Engineering Report

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B. Preliminary Design for 30 MGD MBR

1. The Consultant will incorporate the 5 MGD MBR design and perform preliminary civil, mechanical, structural, electrical, and architectural design for the following:
    a. Yard piping
    b. Paving
    c. MBR treatment units
    d. Aeration basin treatment units
    e. Permeate pumping system
    f. Non-potable water system
    g. Chemical feed system
    h. Electrical building

    It is assumed there will be no submittal packages for the preliminary design phase. Deliverables will be developed during the Final Design Task for the 30 MGD MBR. The ENGINEER will collaborate with the CM@R to answer questions about the preliminary design.

Meetings:

a. Prepare for and conduct one (1) preliminary design meeting

Deliverables:

a. None

Services/Deliverables provided by the CITY:

a. Participate in preliminary design meeting

C. Preliminary Design for Operations Buildings

1. Prepare engineering plan sheets and technical specifications in accordance with the preliminary engineering report for the Operations and SCADA Control Building, Maintenance Workshop, Electrical Workshop and Storage Building. It is assumed there will be no more than one (1) submittal packages for the 30% design phase. The ENGINEER will collaborate with the CM@R on project phasing to determine a submittal plan that adheres to the overall project schedule set in Task 1.
2. The 30 % plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall Site Plan
        iii. Parking and Paving plan

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b. Architectural sheets:
    i. General notes
    ii. Site plans
    iii. Floor plans
c. Structural sheets:
    i. General notes
    ii. Site plans
    iii. Foundation plans
d. Electrical sheets:
    i. Site plan
    ii. One-line diagrams
    iii. SCADA/instrumentation layout

Meetings:

a. Prepare for and conduct one (1) Preliminary Design review meeting

Deliverables:

a. Deliver an electronic (.pdf) file of the plans

Services/Deliverables provided by the CITY and CM@R:

a. Review and comment on the 30% plans
b. Participate in 30% design review meeting

Task 4a – FINAL DESIGN

A. 60% Design for 30 MGD MBR

1. Prepare 60% engineering plan sheets and specifications in accordance with the 30% design review and incorporate the 5 MGD MBR plans.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan and profiles
        iv. Paving plan and profile
        v. Grading plan
        vi. Details

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b. Mechanical sheets:
    i. General notes
    ii. Membrane treatment equipment layouts and sections
    iii. Aeration equipment layouts and sections
    iv. Permeate pumping equipment layouts and sections
    v. Non-potable water system pump layouts and sections
    vi. Chemical storage and feed equipment layouts and sections

c. Structural sheets:
    i. General notes
    ii. Site plans
    iii. Foundation plans
    iv. Excavation plan
    v. Sections

d. Electrical sheets:
    i. Site plan
    ii. Electrical plan
    iii. Grounding plan
    iv. One-line diagrams
    v. Conduit and wiring plan
    vi. Lighting plan
    vii. SCADA/instrumentation layout

3. Prepare specifications that include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.
4. Provide review of the CM@R's deliverable.
5. Conduct a 60% review meeting and respond to comments received from the project team.
6. Attend one (1) meeting with CM@R to obtain input on constructability and value engineering items to consider for the next project phase submittal.
7. Prepare preliminary summary of quantities.

Meetings:

a. Prepare for and conduct a 60% design review workshop

Deliverables:

a. Deliver an electronic (.pdf) file of the plans, specifications, and a preliminary summary of quantities

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Services/Deliverables provided by the CITY:

a. Review and comment on the 60% plans and specifications

b. Participate in the 60% design review workshop

B. 60% Design for Operations Buildings

1. Prepare 60% engineering plan sheets and specifications in accordance with the 30% design review.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Paving plan and profile
        iv. Grading plan
        v. Details
    b. Architectural sheets:
        i. General notes
        ii. Site plans
        iii. Floor plans
        iv. Roof plans
        v. HVAC plan
        vi. Plumbing plan
    c. Structural sheets:
        i. General notes
        ii. Site plans
        iii. Foundation plans
        iv. Excavation plan
        v. Sections
    d. Electrical sheets:
        i. Site plan
        ii. Electrical plan
        iii. Grounding plan
        iv. One-line diagrams
        v. Conduit and wiring plan
        vi. Lighting plan

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vii. SCADA/instrumentation layout

3. Specifications shall include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.
4. Provide review of the CM@R's conceptual deliverable.

Meetings:

a. Prepare for and conduct a 60% design review workshop
b. Attend one (1) meeting with CM@R to obtain input on constructability and value engineering items to consider for the next project phase submittal.

Deliverables:

a. Deliver an electronic (.pdf) file of the plans, specifications, and construction documents

Services/Deliverables provided by the CITY:

a. Review and comment on the 60% plans, and specifications
b. Participate in the 60% design review workshop

C. 90% Design for 30 MGD MBR

1. Prepare 90% engineering plan sheets and specifications in accordance with the 60% design review.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan and profiles
        iv. Paving plan and profile
        v. Grading plan
        vi. Details
    b. Mechanical sheets:
        i. General notes
        ii. Membrane treatment equipment layouts, sections, and details
        iii. Aeration equipment layouts, sections, and details
        iv. Permeate pumping equipment layouts, sections, and details
        v. Non-potable water system equipment layouts, sections, and details

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vi. Chemical feed equipment layouts, sections, and details

c. Structural sheets:
   i. General notes
   ii. Site plans
   iii. Foundation plans
   iv. Excavation plan
   v. Sections
   vi. Details

d. Electrical sheets:
   i. Site plan
   ii. Electrical plans
   iii. Grounding plans
   iv. One-line diagrams
   v. Conduit and wiring plans
   vi. Lighting plans and details
   vii. SCADA/instrumentation layout
   viii. Details

3. Prepare specifications that include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.
4. Provide review of the CM@R's deliverable.
5. Conduct a 90% review meeting and respond to comments received from the project team.
6. Attend one (1) meeting with CM@R to obtain input on constructability and value engineering items to consider for the next project phase submittal.
7. Prepare final summary of quantities

Meetings:

a. Prepare for and conduct a 90% design review workshop

Deliverables:

a. Deliver an electronic (.pdf) file of the plans, specifications, construction documents, and final summary of quantities

Services/Deliverables provided by the CITY:

a. Review and comment on the 90% plans and specifications

b. Participate in the 90% design review workshop

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D. 90% Design for Operations Buildings

1. Prepare 90% engineering plan sheets and specifications in accordance with the 60% design review.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan and profiles
        iv. Paving plan and profile
        v. Grading plan
        vi. Details
    b. Architectural sheets:
        i. General notes
        ii. Site plans
        iii. Floor plans
        iv. Elevations
        v. Sections
        vi. Roof plans
        vii. HVAC plan
        viii. Plumbing plan
        ix. Details
    c. Structural sheets:
        i. General notes
        ii. Site plans
        iii. Foundation plans
        iv. Excavation plan
        v. Sections
        vi. Details
    d. Electrical sheets:
        i. Site plan
        ii. Electrical plans
        iii. Grounding plans
        iv. One-line diagrams
        v. Conduit and wiring plans

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vi. Lighting plans and details

vii. SCADA/instrumentation layout

viii. Details

3. Specifications shall include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.
4. Provide review of the CM@R's deliverable.

Meetings:

a. Prepare for and conduct a 90% design review workshop

b. Attend one (1) meeting with CM@R to obtain input on constructability and value engineering items to consider for the next project phase submittal.

Deliverables:

a. Deliver an electronic (.pdf) file of the plans, specifications, and construction documents

Services/Deliverables provided by the CITY:

a. Review and comment on the 90% plans, and specifications

b. Participate in the 90% design review workshop

E. Final Engineering Report and Summary Transmittal Letter for 30 MGD MBR

The ENGINEER shall prepare a Final Engineering Report based on the comments received on the Preliminary Engineering Report and design changes determined during Final Design. The ENGINEER will prepare and submit a Summary Transmittal Letter to the TCEQ. The Final Engineering Report will include:

a. Types of units proposed and their capacities

b. Detention times, surface loadings and weir loadings for each unit

c. Plot of the hydraulic gradient at peak flow conditions

d. The recommended operation mode

e. Organic and volumetric loadings pertinent to each treatment unit

f. Final site plan

g. Site access and security

h. Flood protection

i. Emergency power

j. Variance requests (if any)

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Meetings:

a. N/A

Deliverables:

a. Deliver an electronic (.pdf) file of the Final Engineering Report

Services/Deliverables provided by the CITY:

a. Review and approve the report for submittal to TCEQ

Task 5a – CONSTRUCTION CONTRACT DOCUMENTS

A. Bidding Construction Contract Documents

1. Incorporate CITY and CM@R comments from final design submittals and prepare construction contract documents and bid packages including final summary of quantities.
2. Construction contract documents will consist of the final plans and project manual, both signed and sealed by a licensed professional engineer in the State of Texas and in accordance with comments provided by the CITY and CM@R during final design.
3. Review and comment on CM@R's Guaranteed Maximum Price (GMP).

Meetings:

a. Prepare for and conduct a construction contract document review workshop

Deliverables:

a. Construction Contract Documents Submittal

b. Submit five (5) 22"x34" plans, construction documents, and electronic (.pdf) documents to the CITY and CM@R for bidding.

c. Submittal shall include the following:

    a. Bid drawings

    b. Bid project manual

Services/Deliverables provided by the CITY:

a. Review and approve the construction contract documents for bidding.

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Task 7a – CONSTRUCTION PHASE SERVICES

A. Construction Phase Services for 30 MGD MBR, Operations Buildings and Headworks Facility

The construction phase services are anticipated to extend the current construction phase services contract by 48 months according to the construction schedule provided by the CM@R.

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. Prepare for and conduct up to forty-eight (48) construction progress meetings with the City and CM@R on site. Meetings will also be considered site visits.
    b. Site Visits are not intended to be exhaustive or to extend to every aspect of CM@R'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 CM@R's work is generally proceeding in accordance with the Contract Documents, and ENGINEER will keep CITY informed of the general progress of the work.
3. Recommendations with Respect to Defective Work
    a. Provide recommendations to City that CM@R'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 CM@R'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 CM@R's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field orders authorizing variations from the requirements of the Contract Documents will be made by City.
5. Change Orders
    a. Recommend change orders to City, as appropriate.
    b. Review and make recommendations related to Change Orders submitted or proposed by the CM@R.

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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 CM@R 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 one hundred thirty (130) shop drawings.

7. Substitutes and "or-equal"

    a. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by CM@R 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. ENGINER 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 CM@R

    a. As necessary, ENGINEER will, with reasonable promptness, render initial written decision on all claims of City and CM@R relating to the acceptability of CM@R's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of the CM@R's work. In rendering such decisions, ENGINEER will be fair and not show partiality to City or CM@R 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 CM@R, unless thirty (30) days have passed after a claim has been referred to the ENGINEER with no decision having been rendered.

10. Final Walkthrough and Punchlist Preparation

    a. Attend final walkthrough with CM@R and City to determine if the completed work of CM@R 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 CM@R, or of any

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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 CM@R.

b. Compile punch list from information gathered during final walkthrough with City and CM@R.

11. Resident Project Representative. ENGINEER'S role as Resident Project Representative will include furnishing a Resident Project Representative ("RPR") to assist ENGINEER in observing progress and quality of the work.

a. The duties and responsibilities of the RPR are limited to those of ENGINEER in the Agreement with the CITY and in the Contract Documents, and are further limited and described as follows:

i. General

a) RPR is the ENGINEER'S agent at the Site, will act as directed by and under the supervision of the ENGINEER, and will confer with the ENGINEER regarding RPR's actions

b) RPR's dealings in matters pertaining to a CM@R's work in progress shall in general be with the ENGINEER and CM@R, keeping CITY advised as necessary

c) RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CM@R

d) RPR shall generally communicate with CITY with the knowledge of and under the direction of the ENGINEER

ii. Schedules

a) Review the progress schedule, schedule of Shop Drawing and submittals, and any other schedules prepared by CM@R and consult with ENGINEER concerning acceptability

iii. Conferences and Meetings

a) Attend meetings with CM@R, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof

iv. Liaison

a) Serve as ENGINEER's liaison with CM@R, working principally through CM@R's superintendent, and assist in providing information regarding the intent of the Contract Documents

b) Assist ENGINEER in serving as CITY 's liaison with CM@R when CM@R's operations affect CITY 's on-site operations

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c) Assist in obtaining from CITY additional details or information, when required for proper execution of the Work

v. Interpretation of Contract Documents

a) Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CM@R clarifications and interpretations as issued by ENGINEER

vi. Shop Drawings and Submittals

a) Maintain Shop Drawing and Submittal Record log

b) Advise ENGINEER and CM@R of the commencement of any portion of the Work requiring a Shop Drawing or submittal for which RPR believes that the submittal has not been approved by ENGINEER

vii. Modifications.

a) Consider and evaluate CM@R's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to ENGINEER. Transmit to CM@R in writing decisions as issued by ENGINEER

viii. Review of Work and Rejection of Defective Work

a) Conduct on-Site observations of CM@R's work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents

b) Report to ENGINEER whenever RPR believes that any part of CM@R's work in progress will not produce a completed project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Specific Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval

ix. Inspections, Tests, and System Start-ups

a) Consult with ENGINEER in advance of scheduled major inspections, tests, and systems start-ups of important phases of the Work

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b) Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate CITY 's personnel, and that CM@R maintains adequate records thereof

c) Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems start-ups

d) Accompany visiting inspectors representing public or other agencies having jurisdiction over a Specific Project, record the results of these inspections, and report to ENGINEER

x. Records

a) Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and submittals received from and delivered to CM@R, and other Specific Project-related documents

b) Prepare a daily report or keep a diary or logbook, recording CM@R's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER

c) Record names, addresses, fax numbers, e-mail addresses, web site locations and telephone numbers of all CM@Rs, subcontractors, and major suppliers of materials and equipment

d) Maintain records for use in preparing project documentation

e) Upon completion of the Work, furnish original set of all RPR Specific Project documentation to ENGINEER

xi. Reports

a) Furnish to ENGINEER periodic reports, as required, of progress of the Work and of CM@R's compliance with the progress schedule and schedule of Shop Drawing and submittals

b) Draft and recommend to ENGINEER proposed Change Orders and Field Orders. Obtain backup material from CM@R

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c) Furnish to ENGINEER and CITY copies of all inspection, test, and system startup reports

d) Immediately notify ENGINEER of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern

xii. Payment Request

a) Review Applications for Payment with CM@R for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the Work completed, and materials delivered at the Site but not incorporated in the Work

b) Certificates, Operation and Maintenance Manuals

c) During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by CM@R are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to ENGINEER for review and forwarding to CITY prior to payment for that part of the Work

xiii. Completion

a) Participate in a final inspection in the company of ENGINEER, CITY, and CM@R and prepare a final list of items to be completed and deficiencies to be remedied

b) Observe whether all items on the final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work

xiv. Resident Project Representative shall not:

a) Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items)

b) Exceed limitations of ENGINEER’s authority as set forth in the Agreement or the Contract Documents

c) Undertake any of the responsibilities of a CM@R, subcontractors, suppliers, or a CM@R's superintendent

d) Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences, or procedures of the CM@R’s

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work unless such advice or directions are specifically required by the Contract Documents

e) Advise on, issue directions regarding, or assume control over safety practices, precautions and programs in connection with the activities or operations of CITY or CM@R

f) Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER

g) Accept Shop Drawings or submittals from anyone other than CM@R

h) Authorize CITY to occupy a Specific Project in whole or in part

i) Through such observations of CM@R's work in progress and field checks of materials and equipment by the RPR, ENGINEER shall endeavor to provide CITY a greater degree of confidence that the completed Work will conform in general to the Contract Documents. However, ENGINEER shall not, during such visits or as a result of such observations of CM@R's work in progress, supervise, direct, or have control over CM@R's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by CM@R, for safety precautions and programs incident to CM@R's work, nor for any failure of CM@R to comply with laws and regulations applicable to CM@R's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any CM@R nor assumes responsibility for any CM@R's failure to furnish and perform its work in accordance with the Contract Documents.

Task 8a – 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. .pdf electronic copy

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Task 9a – Wastewater Discharge Permit Amendment

A. Preparation of Permit Application

1. Following approval by the CITY of the preliminary design, the ENGINEER shall prepare and submit a WWDP Major Amendment Application with the TCEQ. For the purposes of this scope, it is assumed that the application shall be prepared as a Texas Pollution Discharge Elimination System (TPDES) application for the discharge of the treated effluent into Pecan Creek approximately 1,000 linear feet downstream of the existing discharge location. The ENGINEER shall prepare the following tasks in support of a WWDP Major Amendment Application:

   a. Prepare a TCEQ WWDP Major Amendment Application for the Project. For the purposes of this scope, it is assumed that the following application components will be required:

      1. Domestic Administrative Report 1.0;
      2. Domestic Administrative Report 1.1;
      3. Supplemental Permit Information Form (SPIF);
      4. Domestic Technical Report 1.0;
      5. Domestic Technical Report 1.1;
      6. Receiving Waters Worksheet 2.0;
      7. Stream Physical Characteristics Worksheet 2.1;
      8. Pollutant Analyses Requirements Worksheet 4.0;
      9. Toxicity Testing Requirements Worksheet 5.0;
      10. Industrial Waste Contribution Worksheet 6.0;

   b. Prepare supporting documents required for the WWDP Major Amendment Application, including the following:

      1. Schematic site plan with buffer zone and floodplain requirements incorporated;
      2. Affected Landowner Map;
      3. Landowner Disc or Labels;
      4. Original USGS Map;
      5. Treatment Process Flow Diagram;
      6. Treatment Unit Dimensions Summary;
      7. Design Calculations;
      8. Solids Management Plan;
      9. Original Photographs;
      10. Public Involvement Plan

   For the purposes of this scope, it is assumed that the floodplain determination will be made by existing Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.

2. A Sewage Sludge Technical Report will be developed to document the quantities of sludge anticipated in the treatment process and the ultimate disposal of the sludge. If final treatment is to be by contract offsite, formal commitment and treatment capability will be obtained by the CITY from the received treatment provider and document to the TCEQ.

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3. Visit the proposed WRF site to gather site data, such as photographs of the proposed WRF site and discharge route, as required for the proposed WWDP Application.
4. Following review of the Draft Permit Application packet by the CITY, incorporate any CITY comments and submit the Application packet to the TCEQ.

B. TCEQ Permit Review Process Coordination

1. Respond to comments from the TCEQ to assist in a TCEQ determination that the Application is administratively complete. When notified by the TCEQ, publish a Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) in minimum one (1) local newspaper and submit documentation to the TCEQ clerk. Distribute copies of the WWDP Major Amendment Application in a public location determined by the CITY.
2. Respond to technical questions raised by the TCEQ in review of the WWDP Major Amendment Application. For the purposes of this scope, it is assumed that there will be no more than two (2) rounds of technical comments from the TCEQ.
3. Review TCEQ issued Draft Discharge Permit and offer corrections or suggestions for Permit conditions. Coordinate review and comment input from the CITY and system operators.
4. ENGINEER will prepare and submit publication for public notice requirements for the TCEQ Permit. ENGINEER will complete the Public Notice Verification Form required by the TCEQ and submit the Public Notice Verification Form, proof of publication, and publisher's affidavit to the TCEQ. ENGINEER will coordinate the posting of the permit application and preliminary decision in a public place determined by the CITY for viewing.
5. Once authorized by the TCEQ, ENGINEER will publish Notice of Application and Preliminary Decision in minimum one (1) local newspaper and monitor request for public hearings or inquiries from interested parties and respond to questions. For this scope, it is assumed that responses will be required from the ENGINEER for up to five (5) inquiries.

Services/Deliverables provided by the CITY:

a. Participate in review of TCEQ issued Draft Discharge Permit.
b. Provide public location for required documentation to be posted.

Meetings:

a. Prepare for and attend (1) project kickoff meeting.
b. Prepare for and attend (1) Technical Memorandum review meeting.
c. Prepare for and attend (1) Draft Permit Major Amendment Application review meeting.

Deliverables:

a. Draft Permit Major Amendment Application in electronic form.
b. WWDP Major Amendment Application in electronic form.

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Services/Deliverables provided by the CITY:

a. Participate in project kickoff meeting and Draft Permit Major Amendment Application review meetings.

b. Background data required for the preparation of the WWDP Major Amendment Application, including but not limited to CITY contact information, CITY tax information, TCEQ enforcement information, and plant operator information.

c. Attend proposed WRF site visit.

Task 10a – Environmental Assessment Services

A. Early Coordination

1. Kimley-Horn will prepare early coordination letters with appropriate attachments/exhibits to be distributed to cooperating agencies. The early coordination letters will describe the proposed projects and offer cooperating agencies an opportunity to comment on the proposed project activities. At this time, it is anticipated agencies to be consulted with include:

    - Texas Historical Commission
    - City and County (If applicable)
    - General Land Office
    - Texas Parks and Wildlife Department
    - Environmental Protection Agency
    - Federal Emergency Management Agency

    If the CITY is aware of other potential cooperating agencies to be included in early coordination, please notify Kimley-Horn prior to execution of this agreement.

B. Impact Analysis

1. An environmental analysis will be conducted for the proposed project. Kimley-Horn will compile and review readily available published documentation and data in order to perform and document a preliminary assessment of environmental and socioeconomic conditions associated with the project. Existing conditions and trends, proposed project parameters, potential beneficial and adverse environmental impacts, further compliance requirements, avoidance and minimization practices, and reasonable alternatives may be addressed. The level of detail needed to address each impact category (below) depends on the nature of the resource. Kimley-Horn will identify and describe the existing environment which may be affected if the proposed projects are implemented. This includes the natural, built, and socioeconomic environment. Data will be mapped, and background information will be gathered. Field reconnaissance will be conducted to augment existing data as necessary for various resources. Input from the CITY will be necessary to accurately analyze some of the applicable impact categories. Impact categories to be evaluated may include the following;

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however, Kimley-Horn reserves the right to modify this list upon coordination with the reviewing agency.

- Airport Hazards
- Coastal Barrier Resources
- Air Quality
- Hazardous and Toxic Materials and Waste
- Endangered Species
- Explosive and Flammable Hazards
- Farmlands
- Floodplain Management
- Historic Preservation
- Noise and Vibration
- Sole Source Aquifers
- Wetlands Protection
- Human Health and Safety
- Wild and Scenic Rivers
- Environmental Justice
- Land Use
- Geology and Soils
- Safety
- Parks, Open Space, and Recreation
- Transportation and Accessibility
- Water Resources
- Vegetation
- Wildlife

2. Kimley-Horn will assess each of the applicable impact categories to evaluate if potential cumulative impacts would result from the proposed project. Cumulative impacts will be assessed by reviewing past, present, and reasonably foreseeable projects in the areas surrounding the proposed projects. It is assumed information regarding these other projects to consider will be provided to Kimley-Horn by the CITY.
3. Potential mitigation measures will be taken into consideration, in consultation with the CITY as necessary, but only on a preliminary, conceptual basis.
4. Initial assessment findings may identify a need for more detailed study. Such additional services, such as noise and air quality monitoring and/or modeling, presence-absence biological surveys and on-site archeological survey, are not included in the agreement. Public participation services, such as notices and

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meetings, are also not included. Additionally, the cost of public notices in a newspaper are not included in this agreement as public notice costs vary and are unknown at this time. It is our understanding that public notice documentation/information will be provided by Kimley-Horn to the CITY and the CITY will perform the public notification.

C. Environmental Assessment (EA) Documentation

1. This agreement assumes one EA document will be prepared for the project. It is assumed alternatives evaluations have been completed and a detailed alternatives analysis will not be required. It is assumed the CITY will provide information pertaining to alternatives evaluations to be included in the EA. Using the data collected and analyzed above, the EA will be completed. This will also include supporting text, figures, exhibits, graphics, and appendices to support impact category determinations for the proposed project. A draft EA will be provided to the CITY for review and comment. Upon receipt of comments from the CITY, a final EA will be prepared and an electronic copy will be provided to the CITY. This task also assumes responding to one round of comments from the reviewing agency.

Task 11a – Sludge Pump Station Replacements

The services under this task will not be initiated until the ENGINEER has received authorization from the CITY.

A. Preliminary Engineering Report

1. Design and size each pump station. Calculations, analyses, graphs, formulas, constants, and technical assumptions will be provided to support the design and sizing of each unit.
2. Develop a process flow diagram for each pump station facility.
3. Develop hydraulic model to determine pump selection and the sizing of interconnected piping for each pump station.
4. Prepare the Preliminary Engineering Report Document including:
    a. Types of proposed pumps and their capacities
    b. Plot of the hydraulic gradient at peak flow conditions
    c. The recommended operation mode
    d. Preliminary site plan
    e. Site access and security
    f. Flood protection
    g. Emergency power

Meetings:

a. Prepare for and conduct one (1) Preliminary Engineering Report review meeting

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Deliverables:

a. Five (5) copies of the Preliminary Engineering Report and .pdf electronic copy of each

Services/Deliverables provided by the CITY:

a. Participate in the Preliminary Engineering Report review meeting

b. Review and provide comments on the Final Engineering Report

B. Preliminary Design

1. Prepare engineering plan sheets and technical specifications for replacing the three (3) existing sludge pump stations.
2. The 30 % plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan
    b. Mechanical sheets:
        i. General notes
        ii. Sludge pump station equipment layouts
    c. Structural sheets:
        i. General notes
        ii. Site plans
        iii. Foundation plans
    d. Electrical sheets:
        i. Site plan
        ii. Electrical plan
        iii. Grounding plan
        iv. One-line diagrams
        v. Conduit and wiring plan
        vi. SCADA/instrumentation layout
3. Prepare 30% quantity take-off for proposed improvements and engineer's opinion of probable construction cost (OPCC).

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Meetings:

a. Prepare for and conduct one (1) Preliminary Design review meeting

Deliverables:

a. Deliver an electronic (.pdf) file of the plans and preliminary summary of quantities

Services/Deliverables provided by the CITY:

a. Review and comment on the 30% plans, preliminary specifications and OPCC

b. Participate in 30% design review meeting

C. **60% Design**

1. Prepare 60% engineering plan sheets and specifications.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan and profiles
        iv. Details
    b. Mechanical sheets:
        i. General notes
        ii. Sludge pump station equipment layouts and sections
    c. Structural sheets:
        i. General notes
        ii. Site plans
        iii. Foundation plans
        iv. Excavation plan
        v. Sections
    d. Electrical sheets:
        i. Site plan
        ii. Electrical plan
        iii. Grounding plan
        iv. One-line diagrams
        v. Conduit and wiring plan
        vi. SCADA/instrumentation layout

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3. Specifications shall include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.

Meetings:

a. Prepare for and conduct a 60% design review workshop

Deliverables:

a. Deliver an electronic (.pdf) file of the plans and specifications

Services/Deliverables provided by the CITY:

a. Review and comment on the 60% plans, specifications, and OPCC

b. Participate in the 60% design review workshop

D. 90% Design

1. Prepare 90% engineering plan sheets and specifications in accordance with the preliminary engineering report.
2. The plans will include:
    a. Civil sheets:
        i. General notes
        ii. Overall site plan
        iii. Yard piping plan and profiles
        iv. Details
    b. Mechanical sheets:
        i. General notes
        ii. Sludge pump station equipment layouts, sections, and details
    c. Structural sheets:
        i. General notes
        ii. Site plans
        iii. Foundation plans
        iv. Excavation plan
        v. Sections
        vi. Details
    d. Electrical sheets:
        i. Site plan
        ii. Electrical plans
        iii. Grounding plans
        iv. One-line diagrams

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v. Conduit and wiring plans

vi. SCADA/instrumentation layout

vii. Details

3. Specifications shall include CITY Standard and non-standard technical specifications for materials and installation of the proposed facilities.

Meetings:

a. Prepare for and conduct a 90% design review workshop

Deliverables:

a. Deliver an electronic (.pdf) file of the plans and specifications

Services/Deliverables provided by the CITY:

a. Review and comment on the 90% plans, specifications, and OPCC

b. Participate in the 90% design review workshop

E. Final Engineering Report and Summary Transmittal Letter

The ENGINEER shall prepare a Final Engineering Report based on the comments received on the Preliminary Engineering Report and design changes determined during Final Design. The ENGINEER will prepare and submit a Summary Transmittal Letter to the TCEQ. The Final Engineering Report will include:

a. Types of proposed pumps and their capacities

b. Plot of the hydraulic gradient at peak flow conditions

c. The recommended operation mode

d. Final site plan

e. Site access and security

f. Flood protection

g. Emergency power

h. Variance requests (if any)

Meetings:

a. N/A

Deliverables:

a. Submit one electronic (.pdf) copy of the Final Engineering Report

Services/Deliverables provided by the CITY:

a) Review and approve the report for submittal to TCEQ

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F. Construction Contract Documents

a. Incorporate CITY comments from final design submittal and prepare construction contract documents, bid plans, and opinion of probable construction cost.

b. Construction contract documents will consist of the final plans and project manual, both signed and sealed by a licensed professional engineer in the State of Texas and in accordance with comments provided by the CITY during final design.

Meetings:

a. Prepare for and conduct a construction contract document review workshop

Deliverables:

a. Construction Contract Documents Submittal

b. Submit five (5) 22” x 34” copies and electronic (.pdf) documents to the CITY for bidding.

c. Submittal shall include the following:

i. Bid drawings

ii. Bid project manual

iii. Opinion of probable construction cost

Services/Deliverables provided by the CITY:

a. Review and approve the construction contract documents for bidding.

G. Bid Phase Services

1. Provide information below for up to two (2) separate bid packages.
2. Provide electronic bid documents to the City purchasing department for bidding.
3. 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.
4. 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.

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e. Preparation of recommendation of award letter.

5. 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.

   b. Provide up to four (4) sets to CITY for execution.

Compensation

Total compensation for the ENGINEER contemplated under the terms of this agreement **shall be a total of $33,792,500** for all services listed including reimbursable expenses. The CITY shall compensate the ENGINEER as follows:

For Tasks 1a-6a, 8a, 9a and 11a of this contract amendment, the total compensation shall be on a lump sum basis and not to exceed **$13,417,500**.

For Task 7a and 10a of this contract amendment, the compensation will be on a labor fee plus expense basis. Labor fee will be billed on an hourly basis according to our then-current rates. Based on current information, Kimley-Horn estimates that labor fees will be approximately **$5,423,000**. Fee estimates in this Agreement are for general budgeting purposes only. Actual fees may be less or more than the estimates.

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

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:

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The following table summarizes the recommended budget revisions and revised contract amount:

Task	Original Contract	Amend. No. 1	Revised Contract
Task 1a – Design Management	$ 189,000	$ 200,000	$ 389,000
Task 2a – Preliminary Design	$ 3,684,000		$ 7,384,000
• **30 MGD MBR**		$ 2,943,000	
• **Non-Potable Water System**		$ 300,000	
• **Chemical Feed System**		$ 100,000	
• **Operations Buildings**		$ 500,000	
Task 3 – Survey and Geotechnical Services	$ 80,000	$ -	$ 80,000
Task 4a – Final Design	$ 6,898,000		$14,993,000
• **30 MGD MBR**		$ 6,825,000	
• **Non-Potable Water System**		$ 500,000	
• **Chemical Feed System**		$ 100,000	
• **Operations Buildings**		$ 1,000,000	
Task 5a – Construction Contract Documents	$ 235,000	$ 285,000	$ 520,000
Task 6 – Bid Phase Services	$ 35,000	$ -	$ 35,000
Task 7a – Construction Phase Services			
• **CCA (Hourly)**	$ 2,906,000	$4,090,000	$ 6,996,000
• **RPR (Hourly)**	$ 860,000	$1,273,000	$ 2,133,000
Task 8a – Record Drawings	$ 65,000	$ 81,000	$ 146,000
Task 9a – Wastewater Discharge Permit Amendment	$ -	$ 90,000	$ 90,000
Task 10a – Environmental Assessment Services (Hourly)	$ -	$ 60,000	$ 60,000
Task 11a – Sludge Pump Station Replacements		$ 493,500	$ 966,500
Totals:	**$14,952,000**	**$18,840,500**	**$33,792,500**

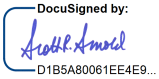
Certificate Of Completion

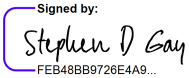
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Source Envelope:
Document Pages: 34
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.10

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Holder: Erica Garcia
erica.garcia@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
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	**Completed** Using IP Address: 198.49.140.10	Sent: 6/25/2025 8:48:56 AM Viewed: 6/25/2025 8:49:04 AM Signed: 6/25/2025 8:49:29 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	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/25/2025 8:49:30 AM Viewed: 6/25/2025 9:20:07 AM Signed: 6/25/2025 9:21:01 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/25/2025 9:21:03 AM Viewed: 6/25/2025 10:29:44 AM Signed: 6/25/2025 10:31:19 AM
Scott Arnold Scott.arnold@kimley-horn.com Vice President Kimley-Horn and Associates, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 3/27/2020 10:55:11 AM ID: a1f38400-e5cc-4b57-8548-4dd7e031355d	 Signature Adoption: Uploaded Signature Image Using IP Address: 130.41.212.55	Sent: 6/25/2025 10:31:22 AM Viewed: 6/25/2025 10:59:42 AM Signed: 6/25/2025 1:32:43 PM

Signer Events	Signature	Timestamp
Stephen D Gay stephen.gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/25/2025 2:50:41 PM ID: 7d1c9ef4-a187-42d2-a6fc-7cc81e3bf1c8	Signed by:  FEB48BB9726E4A9...	Sent: 6/25/2025 1:32:45 PM Viewed: 6/25/2025 2:50:41 PM Signed: 6/25/2025 2:51:20 PM
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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		Sent: 6/25/2025 2:51:24 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 6/25/2025 8:49:31 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 6/25/2025 2:51:23 PM

Carbon Copy Events	Status	Timestamp
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		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/25/2025 8:48:56 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

File #: ID 25-1348, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Bean Electrical, LLC, EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., for traffic signal construction services for the Traffic Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8801 - awarded to Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc. 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 $7,100,000.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: August 5, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Bean Electrical, LLC, EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., for traffic signal construction services for the Traffic Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8801 – awarded to Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc. 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 $7,100,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

City staff developed this Request for Qualifications to select a pre-qualified list of contractors with demonstrated experience in providing traffic signal construction services, including, but not limited to, providing the staff, equipment, supervision, and bonds and insurance to complete tasks associated with traffic signal removal or installation. The selected contractors will closely monitor the construction schedule for each signal and should begin construction (mobilize) within two (2) to three (3) weeks of receiving authorization from the City staff. This will ensure a timely completion of the overall work effort under this contract. The City has developed the following intersection list for traffic signal improvements (subject to change).

Traffic Signals Ready for Construction:

The following six intersections are ready to be constructed as the set of design plans has been signed and sealed, and unit quantities have been calculated and identified in the Unit Price Sheet.

- Bell at Prairie
- Hickory at Welch
- Eagle at Bernard
- Hickory at Ave. B.
- McKinney at Wood
- Lakeview at Shady Shores

Upcoming Traffic Signal Design:

The City anticipates an additional five new traffic signal installations. These intersections are not currently funded for construction, but staff will be actively seeking funding from different sources to get these signals installed.

- Morse at Woodrow
- Robson Ranch at I-35
- Robson Ranch at Cleveland Gibbs
- Robson at Retail
- Loop 288 at Hummingbird

The total NTE amount is cumulative and is based on the estimated expenditure of upcoming traffic signal projects, as shown in the chart below:

Project Description	Estimated 5-Year Expenditure
Signal Reconstruction Year 1	$1,500,000.00
Signal Reconstruction Year 2	1,000,000.00
Signal Reconstruction Year 3	1,000,000.00
Signal Reconstruction Year 4	1,500,000.00
Signal Reconstruction Year 5	1,500,000.00
Contingency for additional support hours	600,000.00
Total	**$7,100,000.00**

The Request for Qualifications (RFQ) was reviewed by pre-set criteria that resulted in all four (4) contractors being pre-qualified. Each contractor will be provided the opportunity to bid on packages of work put forth by the City Traffic Operations Department. The contractor with the lowest bid and who meets the requirements of the project's schedule will be awarded the work. There is no guaranteed minimum amount of work under these contracts. This process will be repeated for each package of work for the entirety of the contract.

Request for Qualifications was sent to 503 prospective suppliers, including 14 Denton firms, of this item. In addition, specifications were placed on the Procurement website for prospective suppliers to download, and advertised in the local newspaper. Four (4) statements of qualifications were received and evaluated based upon published criteria, including firm overview, resumes of key personnel, example projects, past performance, and work approach. Based upon this evaluation, the recommended award is to all vendors, Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc.

RECOMMENDATION

Award a contract with Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., for traffic signal construction services for the Traffic Department, in a three (3) year, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $7,100,000.

PRINCIPAL PLACE OF BUSINESS

Bean Electrical, LLC
Fort Worth, TX

EAR Telecommunications LLC dba EAR TC
Manor, TX

MasTec North America, Inc.
Northlake, TX

Durable Specialties, Inc.
Grand Prairie, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial three (3) year contract with options to extend the contract for two (2) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These services will be funded from various project accounts as project jobs are created and funded. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $7,100,000.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Evaluation Sheet
Exhibit 3: Presentation
Exhibit 4: Ordinance and Contract

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

For information concerning this acquisition, contact: James Andrews, 940-349-7342.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2

RFQ 8801 - Evaluation Sheet for Prequalification for Traffic Signal Construction Services

	Respondent's Business Name:	**Bean Electrical Inc.**	**EARTC**	**Durable Specialties, Inc.**	**MasTec North America Inc.**
	Principal Place of Business (City and State):	**Fort Worth, TX**	**Manor, TX**	**Grand Prarie, TX**	**Northlake, TX**
Item #	**RFQ Criteria**				
1	Firm Overview and Qualifications - 20%	**20.00**	**20.00**	**20.00**	**17.34**
2	Resumes of Key Personnel - 20%	**20.00**	**18.67**	**18.67**	**17.34**
3	Past Performance and Project Experience - 30%	**26.00**	**24.00**	**26.00**	**24.00**
4	Project Approach and Work Plan Method - 30%	**30.00**	**26.00**	**22.00**	**24.00**
	Total Score:	**96.00**	**88.67**	**86.67**	**82.68**



Traffic Signal Construction Services

Council Presentation

August 5, 2025
File ID 25-1348

CITY OF DENTON

IMPROVING DENTON

Traffic Signal Construction Services

The following six intersections are designed, funded and ready for construction.

- Bell at Prairie
- Hickory at Welch
- Eagle at Bernard
- Hickory at Ave. B.
- McKinney at Wood
- Lakeview at Shady Shores

The City anticipates five new signal installations. These intersections are not currently funded for construction, but staff will be actively seeking funding from different sources to get these signals installed.

- Morse at Woodrow
- Robson Ranch at I-35
- Robson Ranch at Cleveland Gibbs
- Robson Ranch at Retail
- Loop 288 at Humming bird

IMPROVING DENTON

Traffic Signal Construction Services

The total NTE amount is a cumulative amount and is based on the estimated expenditure of upcoming traffic signal projects, as shown in the chart below:

Project Description	Estimated 5-Year Expenditure
Signal Reconstruction Year 1	$ 1,500,000.00
Signal Reconstruction Year 2	$ 1,000,000.00
Signal Reconstruction Year 3	$ 1,000,000.00
Signal Reconstruction Year 4	$ 1,500.000.00
Signal Reconstruction Year 5	$ 1,500,000.00
Contingency for additional support hours	$ 600,000.00
Total	**$7,100,000.00**

IMPROVING DENTON

Solicitation

Request for Qualifications was sent to 503 prospective suppliers, including 14 Denton firms, of this item. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Four (4) statement of qualifications were received and evaluated based upon published criteria, including firm overview, resumes of key personnel, example projects, past performance, and work approach. Based upon this evaluation, the recommended award is to all vendors: Bean Electrical, LLC., EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc.

Recommendations:

Award a contract with Bean Electrical Inc., Eartc, Durable Specialties, Inc., and MasTec North America Inc. for Traffic Signal Construction Services for the Traffic Operations for the City of Denton, in a not-to-exceed amount of $7,100,000.00.



QUESTIONS



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BEAN ELECTRICAL, LLC, EAR TELECOMMUNICATIONS LLC DBA EAR TC, DURABLE SPECIALTIES, INC., AND MASTEC NORTH AMERICA, INC., FOR TRAFFIC SIGNAL CONSTRUCTION SERVICES FOR THE TRAFFIC DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8801 – AWARDED TO BEAN ELECTRICAL, LLC., EAR TELECOMMUNICATIONS LLC DBA EAR TC, DURABLE SPECIALTIES, INC., AND MASTEC NORTH AMERICA, INC. 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 $7,100,000.00).

WHEREAS, Bean Electrical, LLC, EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., the professional services providers (the "Provider") set forth in this ordinance, are being selected as the most highly qualified on the basis of their 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 service contracts attached hereto with Bean Electrical, LLC, EAR Telecommunications LLC dba EAR TC, Durable Specialties, Inc., and MasTec North America, Inc., for traffic signal construction services for the Traffic 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 _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 9047061F-EC0E-4BBA-9781-F95B3F103002

Docusign City Council Transmittal Coversheet

RFQ	8801
File Name	Prequalification for Traffic Signal Construction- Bean Electric
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

Docusign Envelope ID: 9047061F-EC0E-4BBA-9781-F95B3F103002

CONTRACT BY AND BETWEEN CITY OF DENTON, TEXAS AND BEAN ELECTRICAL, LLC (CONTRACT 8801)

THIS CONTRACT is made and entered into this date _____, by and between **Bean Electrical, LLC** a Texas Limited Liability Company, whose address is 821 E. Enon Fort Worth, TX 76140 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 his 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 8801 – Prequalification for Traffic Signal Construction Services, 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 8801 **(Exhibit "B" on File at the Office of the Purchasing Agent);**
(c) General Provisions – Standard Terms and Conditions **(Exhibit "C");**
(d) Payment and Performance Bond Requirements **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Certificate of Interested Parties Electronic Filing **(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

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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.

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

CONTRACTOR

Signed by:
BY: Bobby Webb
AUTHORIZED SIGNATURE

Printed Name: Bobby Webb

Title: Regional President

8175617400
PHONE NUMBER

bobby.webb@lumin8.com
EMAIL ADDRESS

2025-1327571
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, 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.

Signed by:
Scott McDonlald
SIGNATURE

Scott McDonlald
PRINTED NAME

Director
TITLE

Development Services
DEPARTMENT

Contract # 8801

Docusign Envelope ID: 9047061F-EC0E-4BBA-9781-F95B3F103002

Exhibit A
Special Terms and Conditions

1. Total Contract Amount
Bean Electrical, LLC is pre-qualified for RFQ 8801 – Traffic Signal Construction Services. All pre-qualified contractors will be issued a Request for Cost that defines the scope of work, project material list, and project timeline dates. The pre-qualified contractors will have (5) days to respond to such Request for Cost. Thereafter, the City will select the pre-qualified contractor with the lowest price and ability to meet the City's timeline schedule requirements. If a response to the Request for Cost request is not received in the applicable time period, such pre-qualified contractor will be disqualified from that Request for Cost. The cumulative contract total for all awarded projects to all pre-qualified contractors for contract 8801 shall not exceed $7,100,000.

2. Contract Terms
The contract term will be three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) 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.

3. Performance Liquidated Damages
Contractor recognizes that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in each task order, plus any extension thereof allowed in accordance with Article 8.3 of the General Provisions. The Contractor also recognizes the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City one thousand dollars ($1,000) for each day that expires after the time specified in each task order for Final Acceptance until the City issues the Final Letter of Acceptance.

4. Post Award Additional Requirements
Pre-Construction Meeting: Prior to commencement of the services, the City and the Contractor will conduct a pre-construction meeting to review the overall scope, schedule, deliverables, planning process, and to ensure that all relevant parties to the project are introduced.

List of Subcontractors: Prior to commencement of the services, the respondent awarded the task order will submit to the City for approval a list of all Subcontractors, and/or his major Subcontractors, proposed to use. This list will include each Subcontractor's correct name, mailing address and phone number.

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Contractor's Superintendent: The Contractor shall submit the name and qualifications of the person designated as Project Superintendent within ten (10) days of the receipt of the Notice of Award Letter.

Environmental Hazards: There are no known safety or environmental hazards existing on the project site at the time of issue of this solicitation. The City does not warrant or guarantee against the possibility that safety or environmental hazards or potential hazards may exist at the City's facilities. The Contractor shall be responsible for identifying any hazardous conditions and notifying the City verbally of such conditions as soon as possible after discovery and shall follow up in writing within 10 days of such discovery. The costs for necessary investigations or any potential corrective actions will be negotiated between the City and the Contractor.

Contractor Standards of Performance: The contractor shall prosecute the work diligently with skilled craftsmen and with state-of-the-art methods to complete the work within the time stated in the Request for Cost or such time extensions as may be granted.

Monthly Reports: The Contractor awarded the task order shall provide to the City of Denton, detailed reports of daily work conditions, daily man power availability, equipment problems, and work accomplished on a monthly basis.

Safety: All contractors to the City of Denton are required to ensure absolute safety standards are applied and enforced. The City of Denton will not be responsible for individual contractor safety, and the awarded contractor shall not hold the City of Denton responsible. Known hazards shall immediately be reported to the Project Manager and all safety precautions shall be taken to prevent potential safety issues from occurring.

5. Disposal of Material

All costs associated with the removal of trash and debris, including but not limited to rental of special equipment, open top containers, dumpsters, and trailers as well as payment of landfill fees, must be included in the unit pricing.

a) The City of Denton is the EXCLUSIVE provider of Solid Waste Services for the City of Denton. Consistent with the City of Denton Code of Ordinances: Ord. No. 23-386
   a. All Waste must be transported to the City of Denton Landfill (1527 S Mayhill Rd., Denton TX) for Disposal
   b. Contractor must use Contractor Employees and haul materials in contractor-owned equipment, should they wish to haul material themselves for disposal at the City of Denton Landfill.
   c. Should the Contractor choose to use a third party to supply and haul containers to the landfill, the Contractor MUST contract with the City of Denton, Solid Waste and Recycling Department to provide equipment and services. Cost may be found online at https://tx-denton.civicplus.com/DocumentCenter/View/4255/Fiscal-Year-2024---2025-Solid-Waste-Rate-Ordinance?bidId=
   d. Service requests are made to the City of Denton Customer Service by calling 940-349-8400.

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EXHIBIT C
GENERAL PROVISIONS- TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES

Invoices, Payments, and Releases

1. INVOICES AND PAYMENT PROCESSING:

Payment processing: The City review, inspection, and processing procedures for invoices ordinarily require thirty (30) days after receipt of invoices, materials, or services. Proposals which call for payment before thirty (30) days from receipt of invoice, or cash discounts given on such payment, will be considered only if, in the opinion of the Purchasing Manager, the review, inspection, and processing procedures can be completed as specified. It is the intention of the City of Denton to make payment within thirty (30) days after receipt of valid invoices for which items or services have been received unless unusual circumstances arise. The thirty (30) day processing period for invoices will begin on the date the invoice is received or the date the items or services are received, **whichever date is later**.

Direct deposit for payments: Prime Contractors are encouraged to arrange for receiving payments through direct deposit. Information regarding direct deposit payments is available from the City of Denton Purchasing website: www.dentonpurchasing.com.

Invoices: Invoices shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299 with a copy to the attention of Pritam Deshmukh, City of Denton Traffic Department emailed to pritam.deshmukh@cityofdenton.com. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.** Invoices for partial payments on construction projects should normally be presented for payment within the first five (5) days of the month, and submitted on the Pay Application Form.

2. TAX EXEMPTION:

The City of Denton qualifies for sales tax exemption pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Tax Act. Any Prime Contractor performing work under this Contract for the City of Denton may purchase materials and supplies and rent or lease equipment sales tax free. This is accomplished by issuing exemption certificates to suppliers. Certificates must comply with State Comptroller's ruling #95-0.07 and #95-0.09.

3. PAYMENTS TO CONTRACTORS:

A. Upon presentation of valid invoices, which should be within the first week of each month, the Owner shall make partial payments to the Prime Contractor for construction accomplished during the preceding calendar month on the basis of completed construction certified to by the Prime Contractor and approved by the Owner and Architect/Engineer solely for the purposes of payment. Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety-five percent (95%) of each payment request approved during the construction of the project shall be paid by the Owner to the Prime Contractor prior to completion of the Project. Upon the approval by the Owner of the Prime Contractor's "Final Invoice for Payment" showing the total cost of the construction performed, the Owner shall make payment to the Prime Contractor of all

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amounts to which the Prime Contractor shall be entitled there under which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of completion of construction of the Project, as specified in the Final Invoice for Payment, unless withheld because of the fault of the Prime Contractor.

B. The Prime Contractor shall be paid on the basis of the percentage of the work actually completed for each construction item. The total amount paid for periodic billings shall not exceed the maximum Contract price for the construction of the project as set forth in the Contract, unless such excess shall have been approved in writing by the Purchasing Agent as part of a change order.

C. No payment shall be due while the Prime Contractor is in default in respect of any of the provisions of this Contract, and the Owner may withhold from the Prime Contractor the amount of any claim by any third party against either the Prime Contractor or the Owner based upon an alleged failure of the Prime Contractor to perform the work hereunder in accordance with the provisions of this Contract. This includes, without limitation, the alleged failure of the Prime Contractor to make payments to subcontractors.

4. RELEASE OF LIENS AND CERTIFICATE OF CONTRACTOR:

Upon award of the Contract, the Prime Contractor shall inform the Owner of the subcontractors and material sources that will be used. Upon the completion by the Prime Contractor of the construction of the Project, but prior to final payment to the Prime Contractor, the Prime Contractor shall deliver to the Owner releases of all liens, and of rights to claim any lien, from all manufacturers, materialmen and subcontractors furnishing services or materials for the Project, to the effect that all materials or services used on or for the Project have been paid for and indicating that the Owner is fully released from all such claims.

5. PAYMENTS TO MATERIALMEN AND SUBCONTRACTORS:

The Prime Contractor shall pay each materialman, and each subcontractor, if any, not later than five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Contractor for and on account of materials furnished or construction performed by each materialman or each subcontractor.

6. REMEDIES:

A. Completion of Prime Contractor’s Default
If default shall be made by the Prime Contractor or by any subcontractor in the performance of any of the terms of this proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Prime Contractor and the Surety or Sureties upon the Prime Contractor's bond or bonds a written notice requiring the Prime Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Prime Contractor such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner and/or Architect/Engineer shall be made by the Prime Contractor or its Surety or Sureties, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Prime Contractor, and the Prime Contractor and its Surety or Sureties shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Prime Contractor or any

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of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Prime Contractor may have against third persons in connection with this Contract and for such purpose the Prime Contractor does hereby assign, transfer and set over unto the Owner all such rights claims and demands.

B. Cumulative Remedies

Every right or remedy herein conferred upon or reserved to the Owner shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute, and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of the **REMEDIES SECTION** shall be the exclusive measure of damages for failure by the Prime Contractor to complete the construction of the Project within the time herein agreed upon.

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CITY OF DENTON GENERAL CONDITIONS FOR CONSTRUCTION
ARTICLE 1 GENERAL PROVISIONS

GENERAL DEFINITIONS

1.1 THE FOLLOWING DEFINITIONS APPLY THROUGHOUT THESE GENERAL CONDITIONS AND TO THE OTHER CONTRACT DOCUMENTS:

a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

(1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;

(2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or

(3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

(1) between the Architect/Engineer and Prime Contractor;

(2) between the Owner and a Subcontractor or -subcontractor; or

(3) between any persons or entities other than the Owner and Prime Contractor.

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The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

g) THE PROJECT MANUAL

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner,

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the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

(1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable;

(2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;

(3) radon;

(4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;

(5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;

(6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

(8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

(1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;

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(2) "shall" means the action of the party to which reference is being made is mandatory;

(3) "as required" means as prescribed in the Contract Documents; and

(4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

(a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.

(b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

(d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

(e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

(f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.

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(g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.

(h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.

(i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:

(1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);

(2) the Building Construction Services Agreement;

(3) addenda, with those addenda of later date having precedence over those of an earlier date;

(4) the Supplementary General Conditions and Special Provisions, if any;

(5) the General Conditions for Building Construction;

(6) 0the Specifications and Drawings.

1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

(1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);

(2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;

(3) the titles of other documents published or used by the Owner as manuals or official policy statements; or

(4) proper nouns or other words required under standard grammatical rules to be capitalized.

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ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

(a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.

(b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

(c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.

(d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime Contractor may obtain additional copies by paying the cost of additional printing or reproduction.

(e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

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(f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.

(g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

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3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Prime Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition “as is” in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor’s best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor’s employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.

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(c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.

(d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.

(e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

(f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

(a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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(b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

(c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:

(1) residents of the City of Denton, Texas;

(2) residents of the County of Denton, Texas;

3.5 WARRANTY

(a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTATIONAL COMPLETION OF THE ENTIRE WORK.

(b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would

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otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

(a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

(b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.

(c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.

(d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

(a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.

(b) Unless otherwise provided in the Contract Documents:

(1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

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(2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;

(3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;

(4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:

(i) the difference between actual costs and the allowances under Clause (b) (2); and

(ii) changes in Contractor's costs under Clause (b) (3);

(5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
(i) the latest date to be submitted by the Prime Contractor; and
(ii) the latest date for approval by the Architect/Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which

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requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.

(6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.

(7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.

(8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON

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AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.

(b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.

(c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

(d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

(a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.

(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

(c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.

(d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.

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(e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.

(f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.

(g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

(h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination’s, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.

(i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer’s approval of a resubmission shall not apply to the additional revisions not requested.

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(j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

(k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

3.14 CUTTING AND PATCHING

(a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

(b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

(c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

(a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

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The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

(a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.

(b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

(c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

(d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.

(e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.

(f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL

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COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

(a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

(b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages,

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compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.

(c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

(a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

(b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.

(c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques,

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sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

(a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.

(b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. The Architect/Engineer shall not, however, be required to make continuous on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

(c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor's responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.

(d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor.

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Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.

(e) Based on the Architect/Engineer's observations and evaluations of the Prime Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.

(f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

(g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.

(i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

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(j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.

(k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.

(l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

(m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

(a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

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(b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.

(c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

(d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

(1) a concealed subsurface condition is encountered in the course of performance of the Work;
(2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
(3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
(4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
(5) the Owner and the Architect/Engineer determine that:

(i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and

(ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

(e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

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(f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:

(1) a written interpretation from the Architect/Engineer;

(2) a written order for a minor change in the Work issued by the Architect/Engineer;

(3) failure of payment by the Owner;

(4) termination of the Contract by the Owner;

(5) the Owner’s temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or

(6) other reasonable grounds.

(g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.

(h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:

(1) the requirements of Paragraph 4.3 of these General Conditions; and

(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:

(ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime

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Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.

(ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.

(iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

(3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

(2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance

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with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

(3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

(i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

(1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;

(2) defective or nonconforming Work appearing after Substantial Completion;

(3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or

(4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.

(k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.

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(l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

(a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

(a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

(b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.

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(c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.

(d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

(a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

(b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor’s Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:

(1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT .

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(2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.

(3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:

(i) the Report has not been properly completed;

(ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE

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CONTRACTS

(a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.

(b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

(c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.

(d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

(a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.

(b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would

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render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.

(c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer. Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

(d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).

(e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.

(f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

7.1 CHANGE ORDERS

(a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent

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with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.

(b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

(c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.

(d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:

(1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or

(2) unit prices stated in the Contract Documents or subsequently agreed upon; or

(3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

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(4) the force account method provided in Subparagraph 7.1(e)

(e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question; the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

(1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker’s compensation insurance;

(2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;

(3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

(4) costs of premiums for all bonds and insurance related to the Work; and

(5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.

(f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

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7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

7.3 MINOR CHANGES IN THE WORK

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

(a) All of the Contractor’s responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.

(b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE

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CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS. Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

8.1 DEFINITIONS

(a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

(b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

(c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.

(d) The term “day” as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

(a) **Time limits stated in the Contract Documents are of the essence of the Contract**. By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.

(b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

(a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor’s control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the

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Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.

(b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.

(c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR’S SOLE REMEDY.

(d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.

(e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.

(f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.

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(g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Prime Contractor is entitled to a time extension, as determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

(a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor’s right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.

(b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the

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Prime Contractor's Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.

(c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

(1) the Owner has given prior approval of such off-site storage in writing;
(2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
(3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.

(d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

(e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation

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of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.

(f) If the Contract Sum is equal to or less than $25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

9.4 CERTIFICATES FOR PAYMENT

(a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:
(a) City of Denton "General Conditions for Building Construction."
(b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.
(c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:

(1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;

(2) reviewed construction means, methods, techniques, sequences or procedures;

(3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or

(4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.

(d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars ($100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor

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within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.

(e) The City is required to withhold five percent (5%) retainage for public works contracts in which the total contract price estimate at the time of execution is more than $400,000; however, this requirement is applied by the City for all public works contracts in excess of $50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

(f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

(a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

(1) defective or nonconforming Work not remedied;

(2) third-party claims filed or reasonable evidence indicating probable filing of such claims;

(3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

(4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

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(5) damage to the Owner or another contractor;

(6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;

(7) persistent failure to carry out the Work in accordance with the Contract Documents; or

(8) mathematical or other errors that are discovered in the Application for Payment.

(b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

(c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

(a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.

(b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

(c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime

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Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.

(d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.

(e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

(f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

(a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.

(b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.

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(c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

(d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

(a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

(b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

(c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

(a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of the Architect/Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and

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noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor's being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

(b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
(2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
(3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
(4) a consent of surety to final payment; and
(5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

(c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.

(d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion

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of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

(e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

(a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

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(e) USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION. The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor’s intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

(f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of

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them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.l9. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

(g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.

(h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

10.4 PUBLIC CONVENIENCE AND SAFETY

(a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.

(b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor's neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the

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extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Prime Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own

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expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

(a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.

(b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

(a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic

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Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

(b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.

(c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.

(d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include

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methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

(1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.

(2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.

(3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.

(4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.

(e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.

(f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon

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request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

(g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.

(h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable.

(i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:

(1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;

(2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or

(3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

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11.2 PROPERTY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

(a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

(1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and faithful execution of the work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

(2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract

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Documents and any Amendments thereto, and for the use and protection of each claimant.

(b) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

Contractor will be required to furnish original performance and payment bonds for 100% of the total submission price before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each awarded project task order by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from task order award. Upon approval, a purchase order will be issued.

(c) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the task order is awarded shall constitute a material breach of the Prime Contractor’s bid proposal and the Owner may rescind the task order award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

12.1 UNCOVERING OF WORK

(a) If a portion of the Work is covered contrary to the Architect/Engineer’s request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer’s

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observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

(b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

(a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.

(b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:

(1) one year after the date of Substantial Completion of the Work or designated portion of the Work;

(2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

(3) the stipulated duration of any applicable special warranty required by the Contract Documents.

(c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.

(d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or

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nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

(e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.

(f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.

(g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

(h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.

(i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

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The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

(a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:

(1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.

(2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.

(3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.

(4) A reasonable belief that the Prime Contractor has abandoned the Work.

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(5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

(6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.

(7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.

(8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.

(9) Repeated and flagrant violation of safe working procedures.

(10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.

(b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:

(1) perform the Work with forces employed by the surety;

(2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

(3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms

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of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

(c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.

(d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.

(e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Prime Contractor.

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Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

(a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
(1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

(2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;

(3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or

(4) other unforeseen conditions or circumstances.

(b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:

(1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;

(2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and

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(3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

(a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.

(b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

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(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor’s employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex,

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sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

(a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.

(b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City’s rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

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EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The Contractor will be required to furnish Payment and Performance Bonds for 100% of the total awarded project task order before work is to commence. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each project task order award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from notice of task order award. Upon approval, a purchase order will be issued.

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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:

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- 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. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

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combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. 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.

C. INSTALLATION FLOATER POLICY

Providing **All-Risk** coverage including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft in an amount equal to one hundred percent (100%) of the contract cost of the project in question. The policy shall include materials delivered and labor performed for the project in question. The policy shall be written jointly in the names of the City of Denton, Contractor teams, subcontractors, and sub-subcontractors as their interests may appear.

The policy shall have endorsements as follows:

a) This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
a) Loss, if any, shall be adjusted with and made payable to the City of Denton as Trustee for the insureds as their interests may appear.

D. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including

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death) and property damage limit of $1,000,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

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.

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Exhibit F
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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com 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.

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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.**

Bean Electrical, LLC

2

[X] **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 [X] 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 [X] 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 [X] 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

Signed by:
Bobby Webb
8E4E349CBFB345A...
Signature of vendor doing business with the governmental entity

6/27/2025
Date

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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: 9047061F-EC0E-4BBA-9781-F95B3F103002
Status: Sent
Subject: Please DocuSign: City Council Contract 8801 Prequalification for Traffic Signal Construction Bean
Source Envelope:
Document Pages: 81
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
6/16/2025 4:48:01 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer 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: 6/16/2025 4:49:12 PM Viewed: 6/16/2025 4:49:20 PM Signed: 6/16/2025 4:49:33 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/16/2025 4:49:36 PM Viewed: 6/16/2025 4:54:46 PM Signed: 6/16/2025 4:55:31 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 6/16/2025 4:55:35 PM Viewed: 6/19/2025 11:21:58 PM Signed: 6/19/2025 11:25:40 PM
Bobby Webb bobby.webb@lumin8.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/20/2025 8:37:40 AM ID: d46c4918-86a9-4136-a601-71b3023759e2	Signed by: Bobby Webb 8E4E349CBFB345A... Signature Adoption: Pre-selected Style Using IP Address: 71.86.127.142	Sent: 6/20/2025 8:04:57 AM Resent: 6/23/2025 9:06:59 AM Resent: 6/24/2025 10:21:56 AM Resent: 6/27/2025 3:13:41 PM Viewed: 6/27/2025 3:14:19 PM Signed: 6/27/2025 3:35:45 PM

Signer Events	Signature	Timestamp
Scott McDonlald scott.mcdonald@cityofdenton.com Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/8/2025 12:33:46 PM ID: ece6ce5f-ceb6-4017-84f7-4049b64efa06	Signed by:  D4585119F060407... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/27/2025 3:35:49 PM Resent: 7/2/2025 10:10:44 AM Resent: 7/8/2025 9:52:54 AM Viewed: 7/8/2025 12:33:46 PM Signed: 7/8/2025 12:34:15 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: 7/8/2025 12:34:19 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 6/16/2025 4:49:36 PM
Andrew Hawkins ahawkins@beanelectrical.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/20/2025 8:05:00 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: 7/8/2025 12:34:19 PM Viewed: 7/15/2025 3:09:06 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
James Andrews james.andrews@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/9/2024 5:32:03 PM ID: 4f7ee8fd-93df-452a-ad9d-25bcc34ba748		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/16/2025 4:49:12 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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 Envelope ID: 015B3CD8-F818-46A2-AEEF-1EAB0CFE54D6

Docusign City Council Transmittal Coversheet

RFQ	8801
File Name	Prequalification for Traffic Signal Construction- EAR TC
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

Docusign Envelope ID: 015B3CD8-F818-46A2-AEEF-1EAB0CFE54D6

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND EAR TELECOMMUNICATIONS LLC DBA EAR TC
(CONTRACT 8801)

THIS CONTRACT is made and entered into this date _____, by and between **EAR Telecommunications LLC dba EAR TC** a Texas Limited Liability Company, whose address is 14719 US-HWY 290 East, Suite 106 Manor Texas 78653 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 his 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 8801 – Prequalification for Traffic Signal Construction Services, 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 8801 **(Exhibit "B" on File at the Office of the Purchasing Agent);**
(c) General Provisions – Standard Terms and Conditions **(Exhibit "C");**
(d) Payment and Performance Bond Requirements **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Certificate of Interested Parties Electronic Filing **(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

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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.

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

CONTRACTOR

DocuSigned by:

BY: Najeeb Reyes
D4F0F8F4E2E3...
AUTHORIZED SIGNATURE

Printed Name: Najeeb Reyes

Title: Chief Operating Office

305-783-0500
PHONE NUMBER

najeeb.reyes@eartc.com
EMAIL ADDRESS

2025-1325000
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, 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.

Signed by:

Scott McDonald
D4B5549F0604A7...
SIGNATURE

Scott McDonald
PRINTED NAME

Director
TITLE

Development Services
DEPARTMENT

Docusign Envelope ID: 015B3CD8-F818-46A2-AEEF-1EAB0CFE54D6

Exhibit A
Special Terms and Conditions

1. Total Contract Amount
EAR Telecommunications LLC dba EAR TC, is pre-qualified for RFQ 8801 – Traffic Signal Construction Services. All pre-qualified contractors will be issued a Request for Cost that defines the scope of work, project material list, and project timeline dates. The pre-qualified contractors will have (5) days to respond to such Request for Cost. Thereafter, the City will select the pre-qualified contractor with the lowest price and ability to meet the City's timeline schedule requirements. If a response to the Request for Cost request is not received in the applicable time period, such pre-qualified contractor will be disqualified from that Request for Cost. The cumulative contract total for all awarded projects to all pre-qualified contractors for contract 8801 shall not exceed$7,100,000.

2. Contract Terms
The contract term will be three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) 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.

3. Performance Liquidated Damages
Contractor recognizes that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in each task order, plus any extension thereof allowed in accordance with Article 8.3 of the General Provisions. The Contractor also recognizes the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City one thousand dollars ($1,000) for each day that expires after the time specified in each task order for Final Acceptance until the City issues the Final Letter of Acceptance.

4. Post Award Additional Requirements
Pre-Construction Meeting: Prior to commencement of the services, the City and the Contractor will conduct a pre-construction meeting to review the overall scope, schedule, deliverables, planning process, and to ensure that all relevant parties to the project are introduced.

List of Subcontractors: Prior to commencement of the services, the respondent awarded the task order will submit to the City for approval a list of all Subcontractors, and/or his major Subcontractors, proposed to use. This list will include each Subcontractor's correct name, mailing address and phone number.

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Contractor's Superintendent: The Contractor shall submit the name and qualifications of the person designated as Project Superintendent within ten (10) days of the receipt of the Notice of Award Letter.

Environmental Hazards: There are no known safety or environmental hazards existing on the project site at the time of issue of this solicitation. The City does not warrant or guarantee against the possibility that safety or environmental hazards or potential hazards may exist at the City's facilities. The Contractor shall be responsible for identifying any hazardous conditions and notifying the City verbally of such conditions as soon as possible after discovery and shall follow up in writing within 10 days of such discovery. The costs for necessary investigations or any potential corrective actions will be negotiated between the City and the Contractor.

Contractor Standards of Performance: The contractor shall prosecute the work diligently with skilled craftsmen and with state-of-the-art methods to complete the work within the time stated in the Request for Cost or such time extensions as may be granted.

Monthly Reports: The Contractor awarded the task order shall provide to the City of Denton, detailed reports of daily work conditions, daily man power availability, equipment problems, and work accomplished on a monthly basis.

Safety: All contractors to the City of Denton are required to ensure absolute safety standards are applied and enforced. The City of Denton will not be responsible for individual contractor safety, and the awarded contractor shall not hold the City of Denton responsible. Known hazards shall immediately be reported to the Project Manager and all safety precautions shall be taken to prevent potential safety issues from occurring.

5. Disposal of Material

All costs associated with the removal of trash and debris, including but not limited to rental of special equipment, open top containers, dumpsters, and trailers as well as payment of landfill fees, must be included in the unit pricing.

a) The City of Denton is the EXCLUSIVE provider of Solid Waste Services for the City of Denton. Consistent with the City of Denton Code of Ordinances: Ord. No. 23-386
   a. All Waste must be transported to the City of Denton Landfill (1527 S Mayhill Rd., Denton TX) for Disposal
   b. Contractor must use Contractor Employees and haul materials in contractor-owned equipment, should they wish to haul material themselves for disposal at the City of Denton Landfill.
   c. Should the Contractor choose to use a third party to supply and haul containers to the landfill, the Contractor MUST contract with the City of Denton, Solid Waste and Recycling Department to provide equipment and services. Cost may be found online at https://tx-denton.civicplus.com/DocumentCenter/View/4255/Fiscal-Year-2024---2025-Solid-Waste-Rate-Ordinance?bidId=
   d. Service requests are made to the City of Denton Customer Service by calling 940-349-8400.

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EXHIBIT C
GENERAL PROVISIONS- TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES

Invoices, Payments, and Releases

1. INVOICES AND PAYMENT PROCESSING:

Payment processing: The City review, inspection, and processing procedures for invoices ordinarily require thirty (30) days after receipt of invoices, materials, or services. Proposals which call for payment before thirty (30) days from receipt of invoice, or cash discounts given on such payment, will be considered only if, in the opinion of the Purchasing Manager, the review, inspection, and processing procedures can be completed as specified. It is the intention of the City of Denton to make payment within thirty (30) days after receipt of valid invoices for which items or services have been received unless unusual circumstances arise. The thirty (30) day processing period for invoices will begin on the date the invoice is received or the date the items or services are received, **whichever date is later**.

Direct deposit for payments: Prime Contractors are encouraged to arrange for receiving payments through direct deposit. Information regarding direct deposit payments is available from the City of Denton Purchasing website: www.dentonpurchasing.com.

Invoices: Invoices shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299 with a copy to the attention of Pritam Deshmukh, City of Denton Traffic Department emailed to pritam.deshmukh@cityofdenton.com. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.** Invoices for partial payments on construction projects should normally be presented for payment within the first five (5) days of the month, and submitted on the Pay Application Form.

2. TAX EXEMPTION:

The City of Denton qualifies for sales tax exemption pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Tax Act. Any Prime Contractor performing work under this Contract for the City of Denton may purchase materials and supplies and rent or lease equipment sales tax free. This is accomplished by issuing exemption certificates to suppliers. Certificates must comply with State Comptroller's ruling #95-0.07 and #95-0.09.

3. PAYMENTS TO CONTRACTORS:

A. Upon presentation of valid invoices, which should be within the first week of each month, the Owner shall make partial payments to the Prime Contractor for construction accomplished during the preceding calendar month on the basis of completed construction certified to by the Prime Contractor and approved by the Owner and Architect/Engineer solely for the purposes of payment. Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety-five percent (95%) of each payment request approved during the construction of the project shall be paid by the Owner to the Prime Contractor prior to completion of the Project. Upon the approval by the Owner of the Prime Contractor's "Final Invoice for Payment" showing the total cost of the construction performed, the Owner shall make payment to the Prime Contractor of all

Docusign Envelope ID: 015B3CD8-F818-46A2-AEEF-1EAB0CFE54D6

amounts to which the Prime Contractor shall be entitled there under which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of completion of construction of the Project, as specified in the Final Invoice for Payment, unless withheld because of the fault of the Prime Contractor.

B. The Prime Contractor shall be paid on the basis of the percentage of the work actually completed for each construction item. The total amount paid for periodic billings shall not exceed the maximum Contract price for the construction of the project as set forth in the Contract, unless such excess shall have been approved in writing by the Purchasing Agent as part of a change order.

C. No payment shall be due while the Prime Contractor is in default in respect of any of the provisions of this Contract, and the Owner may withhold from the Prime Contractor the amount of any claim by any third party against either the Prime Contractor or the Owner based upon an alleged failure of the Prime Contractor to perform the work hereunder in accordance with the provisions of this Contract. This includes, without limitation, the alleged failure of the Prime Contractor to make payments to subcontractors.

4. RELEASE OF LIENS AND CERTIFICATE OF CONTRACTOR:

Upon award of the Contract, the Prime Contractor shall inform the Owner of the subcontractors and material sources that will be used. Upon the completion by the Prime Contractor of the construction of the Project, but prior to final payment to the Prime Contractor, the Prime Contractor shall deliver to the Owner releases of all liens, and of rights to claim any lien, from all manufacturers, materialmen and subcontractors furnishing services or materials for the Project, to the effect that all materials or services used on or for the Project have been paid for and indicating that the Owner is fully released from all such claims.

5. PAYMENTS TO MATERIALMEN AND SUBCONTRACTORS:

The Prime Contractor shall pay each materialman, and each subcontractor, if any, not later than five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Contractor for and on account of materials furnished or construction performed by each materialman or each subcontractor.

6. REMEDIES:

A. Completion of Prime Contractor’s Default

If default shall be made by the Prime Contractor or by any subcontractor in the performance of any of the terms of this proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Prime Contractor and the Surety or Sureties upon the Prime Contractor's bond or bonds a written notice requiring the Prime Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Prime Contractor such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner and/or Architect/Engineer shall be made by the Prime Contractor or its Surety or Sureties, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Prime Contractor, and the Prime Contractor and its Surety or Sureties shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Prime Contractor or any

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of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Prime Contractor may have against third persons in connection with this Contract and for such purpose the Prime Contractor does hereby assign, transfer and set over unto the Owner all such rights claims and demands.

B. Cumulative Remedies

Every right or remedy herein conferred upon or reserved to the Owner shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute, and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of the **REMEDIES SECTION** shall be the exclusive measure of damages for failure by the Prime Contractor to complete the construction of the Project within the time herein agreed upon.

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CITY OF DENTON GENERAL CONDITIONS FOR CONSTRUCTION
ARTICLE 1 GENERAL PROVISIONS

GENERAL DEFINITIONS

1.1 THE FOLLOWING DEFINITIONS APPLY THROUGHOUT THESE GENERAL CONDITIONS AND TO THE OTHER CONTRACT DOCUMENTS:

a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

(1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;

(2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or

(3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

(1) between the Architect/Engineer and Prime Contractor;

(2) between the Owner and a Subcontractor or -subcontractor; or

(3) between any persons or entities other than the Owner and Prime Contractor.

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The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

g) THE PROJECT MANUAL

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner,

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the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

(1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable;

(2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;

(3) radon;

(4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;

(5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;

(6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

(8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

(1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;

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(2) “shall” means the action of the party to which reference is being made is mandatory;

(3) “as required” means as prescribed in the Contract Documents; and

(4) “as necessary” means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

(a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.

(b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

(d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

(e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

(f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.

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(g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.

(h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.

(i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:

(1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);

(2) the Building Construction Services Agreement;

(3) addenda, with those addenda of later date having precedence over those of an earlier date;

(4) the Supplementary General Conditions and Special Provisions, if any;

(5) the General Conditions for Building Construction;

(6) 0the Specifications and Drawings.

1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

(1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);

(2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;

(3) the titles of other documents published or used by the Owner as manuals or official policy statements; or

(4) proper nouns or other words required under standard grammatical rules to be capitalized.

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ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

(a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.

(b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

(c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.

(d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime Contractor may obtain additional copies by paying the cost of additional printing or reproduction.

(e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

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(f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.

(g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

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3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Prime Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition "as is" in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor's best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.

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(c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.

(d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.

(e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

(f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

(a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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(b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

(c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:

(1) residents of the City of Denton, Texas;

(2) residents of the County of Denton, Texas;

3.5 WARRANTY

(a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTATIONAL COMPLETION OF THE ENTIRE WORK.

(b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would

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otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

(a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

(b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.

(c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.

(d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

(a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.

(b) Unless otherwise provided in the Contract Documents:

(1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

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(2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;

(3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;

(4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:

(i) the difference between actual costs and the allowances under Clause (b) (2); and

(ii) changes in Contractor's costs under Clause (b) (3);

(5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
(i) the latest date to be submitted by the Prime Contractor; and
(ii) the latest date for approval by the Architect/Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which

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requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.

(6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.

(7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.

(8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON

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AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.

(b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.

(c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

(d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

(a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.

(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

(c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.

(d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.

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(e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.

(f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.

(g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

(h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination’s, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.

(i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer’s approval of a resubmission shall not apply to the additional revisions not requested.

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(j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

(k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

3.14 CUTTING AND PATCHING

(a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

(b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

(c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

(a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

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The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

(a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.

(b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

(c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

(d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.

(e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.

(f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL

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COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

(a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

(b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages,

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compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.

(c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

(a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

(b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.

(c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques,

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sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

(a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.

(b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. The Architect/Engineer shall not, however, be required to make continuous on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

(c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor's responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.

(d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor.

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Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.

(e) Based on the Architect/Engineer's observations and evaluations of the Prime Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.

(f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

(g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.

(i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

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(j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.

(k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.

(l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

(m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

(a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

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(b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.

(c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

(d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

(1) a concealed subsurface condition is encountered in the course of performance of the Work;
(2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
(3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
(4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
(5) the Owner and the Architect/Engineer determine that:

(i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and

(ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

(e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

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(f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:

(1) a written interpretation from the Architect/Engineer;

(2) a written order for a minor change in the Work issued by the Architect/Engineer;

(3) failure of payment by the Owner;

(4) termination of the Contract by the Owner;

(5) the Owner’s temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or

(6) other reasonable grounds.

(g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.

(h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:

(1) the requirements of Paragraph 4.3 of these General Conditions; and

(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:

(ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime

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Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.

(ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.

(iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

(3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

(2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance

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with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

(3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

(i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

(1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;

(2) defective or nonconforming Work appearing after Substantial Completion;

(3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or

(4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.

(k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.

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(l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

(a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

(a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

(b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.

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(c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.

(d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

(a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

(b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor’s Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:

(1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT .

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(2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.

(3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:

(i) the Report has not been properly completed;

(ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE

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CONTRACTS

(a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.

(b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

(c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.

(d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

(a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.

(b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would

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render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.

(c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer. Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

(d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).

(e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.

(f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

7.1 CHANGE ORDERS

(a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent

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with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.

(b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

(c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.

(d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:

(1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or

(2) unit prices stated in the Contract Documents or subsequently agreed upon; or

(3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

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(4) the force account method provided in Subparagraph 7.1(e)

(e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question; the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

(1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker’s compensation insurance;

(2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;

(3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

(4) costs of premiums for all bonds and insurance related to the Work; and

(5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.

(f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

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7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

7.3 MINOR CHANGES IN THE WORK

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

(a) All of the Contractor’s responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.

(b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE

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CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS. Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

8.1 DEFINITIONS

(a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

(b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

(c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.

(d) The term “day” as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

(a) **Time limits stated in the Contract Documents are of the essence of the Contract**. By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.

(b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

(a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor’s control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the

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Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.

(b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.

(c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR’S SOLE REMEDY.

(d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.

(e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.

(f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.

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(g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Prime Contractor is entitled to a time extension, as determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

(a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor’s right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.

(b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the

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Prime Contractor's Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.

(c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

(1) the Owner has given prior approval of such off-site storage in writing;
(2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
(3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.

(d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

(e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation

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of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.

(f) If the Contract Sum is equal to or less than $25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

9.4 CERTIFICATES FOR PAYMENT

(a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:
   (a) City of Denton "General Conditions for Building Construction."
   (b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.
   (c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:

      (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;

      (2) reviewed construction means, methods, techniques, sequences or procedures;

      (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or

      (4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.

   (d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars ($100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor

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within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.

(e) The City is required to withhold five percent (5%) retainage for public works contracts in which the total contract price estimate at the time of execution is more than $400,000; however, this requirement is applied by the City for all public works contracts in excess of $50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

(f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

(a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

(1) defective or nonconforming Work not remedied;

(2) third-party claims filed or reasonable evidence indicating probable filing of such claims;

(3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

(4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

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(5) damage to the Owner or another contractor;

(6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;

(7) persistent failure to carry out the Work in accordance with the Contract Documents; or

(8) mathematical or other errors that are discovered in the Application for Payment.

(b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

(c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

(a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.

(b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

(c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime

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Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.

(d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.

(e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

(f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

(a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.

(b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.

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(c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

(d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

(a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

(b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

(c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

(a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner’s representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer’s knowledge, information and belief, and on the basis of the Architect/Engineer’s observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and

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noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor's being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

(b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
(2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
(3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
(4) a consent of surety to final payment; and
(5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

(c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.

(d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion

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of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

(e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

(a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

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(e) USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION. The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor’s intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

(f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of

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them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.l9. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

(g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.

(h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

10.4 PUBLIC CONVENIENCE AND SAFETY

(a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.

(b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor's neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the

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extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Prime Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own

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expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

(a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.

(b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

(a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic

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Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

(b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.

(c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.

(d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include

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methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

(1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.

(2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.

(3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.

(4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.

(e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.

(f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon

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request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

(g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.

(h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable.

(i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:

(1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;

(2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or

(3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

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11.2 PROPERTY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

(a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

(1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and faithful execution of the work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

(2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract

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Documents and any Amendments thereto, and for the use and protection of each claimant.

(b) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

Contractor will be required to furnish original performance and payment bonds for 100% of the total submission price before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each awarded project task order by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from task order award. Upon approval, a purchase order will be issued.

(c) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the task order is awarded shall constitute a material breach of the Prime Contractor’s bid proposal and the Owner may rescind the task order award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

12.1 UNCOVERING OF WORK

(a) If a portion of the Work is covered contrary to the Architect/Engineer’s request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer’s

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observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

(b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

(a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.

(b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:

(1) one year after the date of Substantial Completion of the Work or designated portion of the Work;

(2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

(3) the stipulated duration of any applicable special warranty required by the Contract Documents.

(c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.

(d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or

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nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

(e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.

(f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.

(g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

(h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.

(i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

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The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

(a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:

(1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.

(2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.

(3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.

(4) A reasonable belief that the Prime Contractor has abandoned the Work.

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(5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

(6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.

(7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.

(8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.

(9) Repeated and flagrant violation of safe working procedures.

(10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.

(b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:

(1) perform the Work with forces employed by the surety;

(2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

(3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms

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of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

(c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.

(d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.

(e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Prime Contractor.

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Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

(a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
(1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

(2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;

(3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or

(4) other unforeseen conditions or circumstances.

(b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:

(1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;

(2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and

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(3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

(a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.

(b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

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(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor’s employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex,

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sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

(a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.

(b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City’s rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

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EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The Contractor will be required to furnish Payment and Performance Bonds for 100% of the total awarded project task order before work is to commence. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each project task order award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from notice of task order award. Upon approval, a purchase order will be issued.

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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:

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- 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. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

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combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. 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.

C. INSTALLATION FLOATER POLICY

Providing **All-Risk** coverage including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft in an amount equal to one hundred percent (100%) of the contract cost of the project in question. The policy shall include materials delivered and labor performed for the project in question. The policy shall be written jointly in the names of the City of Denton, Contractor teams, subcontractors, and sub-subcontractors as their interests may appear.

The policy shall have endorsements as follows:

a) This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
a) Loss, if any, shall be adjusted with and made payable to the City of Denton as Trustee for the insureds as their interests may appear.

D. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including

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death) and property damage limit of $1,000,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

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.

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Exhibit F
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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com 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.

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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.**

EAR Telecommunications LLC dba
EAR TC

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: Najeeb Reyes FD3478E93B95458...

Signature of vendor doing business with the governmental entity

6/24/2025

Date

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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: 015B3CD8-F818-46A2-AEEF-1EAB0CFE54D6
Status: Sent
Subject: Please DocuSign: City Council Contract 8801 Prequalification for Traffic Signal Construction EAR TC
Source Envelope:
Document Pages: 81
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
6/16/2025 4:45:20 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer 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: 6/16/2025 4:46:40 PM Viewed: 6/16/2025 4:46:46 PM Signed: 6/16/2025 4:47:03 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/16/2025 4:47:07 PM Viewed: 6/16/2025 4:49:16 PM Signed: 6/16/2025 4:49:53 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 6/16/2025 4:49:58 PM Viewed: 6/19/2025 11:27:42 PM Signed: 6/19/2025 11:28:56 PM
Najeeb Reyes najeeb.reyes@eartc.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/20/2025 5:56:16 AM ID: 7081811d-a7c1-4f09-a2f7-fd7b9314adbf	DocuSigned by: Najeeb Reyes FD3478E93B95458... Signature Adoption: Pre-selected Style Using IP Address: 2600:1700:4671:8660:3051:eeb2:a919:ad52	Sent: 6/19/2025 11:29:01 PM Resent: 6/24/2025 10:22:00 AM Viewed: 6/24/2025 10:34:19 AM Signed: 6/24/2025 10:40:30 AM

Signer Events	Signature	Timestamp
Scott McDonlald scott.mcdonald@cityofdenton.com Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/14/2025 3:37:45 PM ID: 30ae799a-2b73-450a-99b8-2761a1a21e7c	Signed by:  D4585119F060407... Signature Adoption: Pre-selected Style Using IP Address: 47.190.47.120 Signed using mobile	Sent: 6/24/2025 10:40:34 AM Resent: 6/27/2025 3:13:34 PM Resent: 7/2/2025 10:10:50 AM Resent: 7/10/2025 12:16:24 PM Resent: 7/14/2025 2:56:32 PM Viewed: 7/14/2025 3:37:45 PM Signed: 7/14/2025 3:38:15 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: 7/14/2025 3:38:20 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 6/16/2025 4:47:07 PM

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: 7/14/2025 3:38:20 PM Viewed: 7/15/2025 3:06:54 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
James Andrews james.andrews@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/9/2024 5:32:03 PM ID: 4f7ee8fd-93df-452a-ad9d-25bcc34ba748		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/16/2025 4:46:40 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

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Docusign City Council Transmittal Coversheet

RFQ	8801
File Name	Prequalification for Traffic Signal Construction-Durable Specialties
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN CITY OF DENTON, TEXAS AND DURABLE SPECIALTIES, INC. (CONTRACT 8801)

THIS CONTRACT is made and entered into this date _____, by and between **Durable Specialties, Inc.** a Texas Corporation, whose address is 2302 Paddock Way Dr Grand Prairie, TX 75050 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 his 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 8801 – Prequalification for Traffic Signal Construction Services, 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 8801 **(Exhibit "B" on File at the Office of the Purchasing Agent);**
(c) General Provisions – Standard Terms and Conditions **(Exhibit "C");**
(d) Payment and Performance Bond Requirements **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Certificate of Interested Parties Electronic Filing **(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

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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.

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

CONTRACTOR

BY: DocuSigned by: _____
AUTHORIZED SIGNATURE

Printed Name: Patrick Bryan

Title: President

972-880-2286
PHONE NUMBER

patrick@durablespecialties.com
EMAIL ADDRESS

75-1963459
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

Signed by: Scott McDonald
SIGNATURE

Scott McDonald
PRINTED NAME

Director
TITLE

Development Services
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount
Durable Specialties, Inc., is pre-qualified for RFQ 8801 – Traffic Signal Construction Services. All pre-qualified contractors will be issued a Request for Cost that defines the scope of work, project material list, and project timeline dates. The pre-qualified contractors will have (5) days to respond to such Request for Cost. Thereafter, the City will select the pre-qualified contractor with the lowest price and ability to meet the City's timeline schedule requirements. If a response to the Request for Cost request is not received in the applicable time period, such pre-qualified contractor will be disqualified from that Request for Cost. The cumulative contract total for all awarded projects to all pre-qualified contractors for contract 8801 shall not exceed $7,100,000.

2. Contract Terms
The contract term will be three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) 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.

3. Performance Liquidated Damages
Contractor recognizes that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in each task order, plus any extension thereof allowed in accordance with Article 8.3 of the General Provisions. The Contractor also recognizes the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City one thousand dollars ($1,000) for each day that expires after the time specified in each task order for Final Acceptance until the City issues the Final Letter of Acceptance.

4. Post Award Additional Requirements
Pre-Construction Meeting: Prior to commencement of the services, the City and the Contractor will conduct a pre-construction meeting to review the overall scope, schedule, deliverables, planning process, and to ensure that all relevant parties to the project are introduced.

List of Subcontractors: Prior to commencement of the services, the respondent awarded the task order will submit to the City for approval a list of all Subcontractors, and/or his major Subcontractors, proposed to use. This list will include each Subcontractor's correct name, mailing address and phone number.

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Contractor's Superintendent: The Contractor shall submit the name and qualifications of the person designated as Project Superintendent within ten (10) days of the receipt of the Notice of Award Letter.

Environmental Hazards: There are no known safety or environmental hazards existing on the project site at the time of issue of this solicitation. The City does not warrant or guarantee against the possibility that safety or environmental hazards or potential hazards may exist at the City's facilities. The Contractor shall be responsible for identifying any hazardous conditions and notifying the City verbally of such conditions as soon as possible after discovery and shall follow up in writing within 10 days of such discovery. The costs for necessary investigations or any potential corrective actions will be negotiated between the City and the Contractor.

Contractor Standards of Performance: The contractor shall prosecute the work diligently with skilled craftsmen and with state-of-the-art methods to complete the work within the time stated in the Request for Cost or such time extensions as may be granted.

Monthly Reports: The Contractor awarded the task order shall provide to the City of Denton, detailed reports of daily work conditions, daily man power availability, equipment problems, and work accomplished on a monthly basis.

Safety: All contractors to the City of Denton are required to ensure absolute safety standards are applied and enforced. The City of Denton will not be responsible for individual contractor safety, and the awarded contractor shall not hold the City of Denton responsible. Known hazards shall immediately be reported to the Project Manager and all safety precautions shall be taken to prevent potential safety issues from occurring.

5. Disposal of Material

All costs associated with the removal of trash and debris, including but not limited to rental of special equipment, open top containers, dumpsters, and trailers as well as payment of landfill fees, must be included in the unit pricing.

a) The City of Denton is the EXCLUSIVE provider of Solid Waste Services for the City of Denton. Consistent with the City of Denton Code of Ordinances: Ord. No. 23-386
   a. All Waste must be transported to the City of Denton Landfill (1527 S Mayhill Rd., Denton TX) for Disposal
   b. Contractor must use Contractor Employees and haul materials in contractor-owned equipment, should they wish to haul material themselves for disposal at the City of Denton Landfill.
   c. Should the Contractor choose to use a third party to supply and haul containers to the landfill, the Contractor MUST contract with the City of Denton, Solid Waste and Recycling Department to provide equipment and services. Cost may be found online at https://tx-denton.civicplus.com/DocumentCenter/View/4255/Fiscal-Year-2024---2025-Solid-Waste-Rate-Ordinance?bidId=
   d. Service requests are made to the City of Denton Customer Service by calling 940-349-8400.

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EXHIBIT C
GENERAL PROVISIONS- TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES

Invoices, Payments, and Releases

1. INVOICES AND PAYMENT PROCESSING:

Payment processing: The City review, inspection, and processing procedures for invoices ordinarily require thirty (30) days after receipt of invoices, materials, or services. Proposals which call for payment before thirty (30) days from receipt of invoice, or cash discounts given on such payment, will be considered only if, in the opinion of the Purchasing Manager, the review, inspection, and processing procedures can be completed as specified. It is the intention of the City of Denton to make payment within thirty (30) days after receipt of valid invoices for which items or services have been received unless unusual circumstances arise. The thirty (30) day processing period for invoices will begin on the date the invoice is received or the date the items or services are received, **whichever date is later**.

Direct deposit for payments: Prime Contractors are encouraged to arrange for receiving payments through direct deposit. Information regarding direct deposit payments is available from the City of Denton Purchasing website: www.dentonpurchasing.com.

Invoices: Invoices shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299 with a copy to the attention of Pritam Deshmukh, City of Denton Traffic Department emailed to pritam.deshmukh@cityofdenton.com. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.** Invoices for partial payments on construction projects should normally be presented for payment within the first five (5) days of the month, and submitted on the Pay Application Form.

2. TAX EXEMPTION:

The City of Denton qualifies for sales tax exemption pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Tax Act. Any Prime Contractor performing work under this Contract for the City of Denton may purchase materials and supplies and rent or lease equipment sales tax free. This is accomplished by issuing exemption certificates to suppliers. Certificates must comply with State Comptroller's ruling #95-0.07 and #95-0.09.

3. PAYMENTS TO CONTRACTORS:

A. Upon presentation of valid invoices, which should be within the first week of each month, the Owner shall make partial payments to the Prime Contractor for construction accomplished during the preceding calendar month on the basis of completed construction certified to by the Prime Contractor and approved by the Owner and Architect/Engineer solely for the purposes of payment. Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety-five percent (95%) of each payment request approved during the construction of the project shall be paid by the Owner to the Prime Contractor prior to completion of the Project. Upon the approval by the Owner of the Prime Contractor's "Final Invoice for Payment" showing the total cost of the construction performed, the Owner shall make payment to the Prime Contractor of all

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amounts to which the Prime Contractor shall be entitled there under which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of completion of construction of the Project, as specified in the Final Invoice for Payment, unless withheld because of the fault of the Prime Contractor.

B. The Prime Contractor shall be paid on the basis of the percentage of the work actually completed for each construction item. The total amount paid for periodic billings shall not exceed the maximum Contract price for the construction of the project as set forth in the Contract, unless such excess shall have been approved in writing by the Purchasing Agent as part of a change order.

C. No payment shall be due while the Prime Contractor is in default in respect of any of the provisions of this Contract, and the Owner may withhold from the Prime Contractor the amount of any claim by any third party against either the Prime Contractor or the Owner based upon an alleged failure of the Prime Contractor to perform the work hereunder in accordance with the provisions of this Contract. This includes, without limitation, the alleged failure of the Prime Contractor to make payments to subcontractors.

4. RELEASE OF LIENS AND CERTIFICATE OF CONTRACTOR:

Upon award of the Contract, the Prime Contractor shall inform the Owner of the subcontractors and material sources that will be used. Upon the completion by the Prime Contractor of the construction of the Project, but prior to final payment to the Prime Contractor, the Prime Contractor shall deliver to the Owner releases of all liens, and of rights to claim any lien, from all manufacturers, materialmen and subcontractors furnishing services or materials for the Project, to the effect that all materials or services used on or for the Project have been paid for and indicating that the Owner is fully released from all such claims.

5. PAYMENTS TO MATERIALMEN AND SUBCONTRACTORS:

The Prime Contractor shall pay each materialman, and each subcontractor, if any, not later than five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Contractor for and on account of materials furnished or construction performed by each materialman or each subcontractor.

6. REMEDIES:

A. Completion of Prime Contractor’s Default
If default shall be made by the Prime Contractor or by any subcontractor in the performance of any of the terms of this proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Prime Contractor and the Surety or Sureties upon the Prime Contractor's bond or bonds a written notice requiring the Prime Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Prime Contractor such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner and/or Architect/Engineer shall be made by the Prime Contractor or its Surety or Sureties, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Prime Contractor, and the Prime Contractor and its Surety or Sureties shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Prime Contractor or any

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of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Prime Contractor may have against third persons in connection with this Contract and for such purpose the Prime Contractor does hereby assign, transfer and set over unto the Owner all such rights claims and demands.

B. Cumulative Remedies

Every right or remedy herein conferred upon or reserved to the Owner shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute, and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of the **REMEDIES SECTION** shall be the exclusive measure of damages for failure by the Prime Contractor to complete the construction of the Project within the time herein agreed upon.

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CITY OF DENTON GENERAL CONDITIONS FOR CONSTRUCTION
ARTICLE 1 GENERAL PROVISIONS

GENERAL DEFINITIONS

1.1 THE FOLLOWING DEFINITIONS APPLY THROUGHOUT THESE GENERAL CONDITIONS AND TO THE OTHER CONTRACT DOCUMENTS:

a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

(1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;

(2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or

(3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

(1) between the Architect/Engineer and Prime Contractor;

(2) between the Owner and a Subcontractor or -subcontractor; or

(3) between any persons or entities other than the Owner and Prime Contractor.

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The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

g) THE PROJECT MANUAL

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner,

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the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

(1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable;

(2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;

(3) radon;

(4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;

(5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;

(6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

(8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

(1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;

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(2) "shall" means the action of the party to which reference is being made is mandatory;

(3) "as required" means as prescribed in the Contract Documents; and

(4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

(a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.

(b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

(d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

(e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

(f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.

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(g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.

(h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.

(i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:

(1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);

(2) the Building Construction Services Agreement;

(3) addenda, with those addenda of later date having precedence over those of an earlier date;

(4) the Supplementary General Conditions and Special Provisions, if any;

(5) the General Conditions for Building Construction;

(6) 0the Specifications and Drawings.

1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

(1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);

(2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;

(3) the titles of other documents published or used by the Owner as manuals or official policy statements; or

(4) proper nouns or other words required under standard grammatical rules to be capitalized.

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ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

(a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.

(b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

(c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.

(d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime Contractor may obtain additional copies by paying the cost of additional printing or reproduction.

(e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

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(f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.

(g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

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3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Prime Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition "as is" in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor's best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.

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(c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.

(d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.

(e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

(f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

(a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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(b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

(c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:

(1) residents of the City of Denton, Texas;

(2) residents of the County of Denton, Texas;

3.5 WARRANTY

(a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTATIONAL COMPLETION OF THE ENTIRE WORK.

(b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would

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otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

(a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

(b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.

(c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.

(d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

(a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.

(b) Unless otherwise provided in the Contract Documents:

(1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

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(2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;

(3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;

(4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:

(i) the difference between actual costs and the allowances under Clause (b) (2); and

(ii) changes in Contractor's costs under Clause (b) (3);

(5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
(i) the latest date to be submitted by the Prime Contractor; and
(ii) the latest date for approval by the Architect/Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which

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requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.

(6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.

(7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.

(8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON

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AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.

(b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.

(c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

(d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

(a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.

(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

(c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.

(d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.

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(e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.

(f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.

(g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

(h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination’s, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.

(i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer’s approval of a resubmission shall not apply to the additional revisions not requested.

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(j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

(k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

3.14 CUTTING AND PATCHING

(a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

(b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

(c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

(a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

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The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

(a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear costs of tests, inspections, or approvals which become requirements after bids or proposals are received.

(b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

(c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

(d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.

(e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.

(f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL

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COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

(a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

(b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages,

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compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.

(c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

(a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

(b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.

(c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques,

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sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

(a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.

(b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. The Architect/Engineer shall not, however, be required to make continuous on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

(c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor's responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.

(d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor.

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Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.

(e) Based on the Architect/Engineer's observations and evaluations of the Prime Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.

(f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

(g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.

(i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

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(j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.

(k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.

(l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

(m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

(a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

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(b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.

(c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

(d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

(1) a concealed subsurface condition is encountered in the course of performance of the Work;
(2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
(3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
(4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
(5) the Owner and the Architect/Engineer determine that:

(i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and

(ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

(e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

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(f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:

(1) a written interpretation from the Architect/Engineer;

(2) a written order for a minor change in the Work issued by the Architect/Engineer;

(3) failure of payment by the Owner;

(4) termination of the Contract by the Owner;

(5) the Owner's temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or

(6) other reasonable grounds.

(g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.

(h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:

(1) the requirements of Paragraph 4.3 of these General Conditions; and

(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:

(ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime

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Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.

(ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.

(iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

(3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

(2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance

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with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

(3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

(i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

(1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;

(2) defective or nonconforming Work appearing after Substantial Completion;

(3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or

(4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.

(k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.

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(l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

(a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

(a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

(b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.

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(c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.

(d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

(a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

(b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor’s Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:

(1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT .

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(2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.

(3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:

(i) the Report has not been properly completed;

(ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE

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CONTRACTS

(a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.

(b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

(c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.

(d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

(a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.

(b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would

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render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.

(c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer. Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

(d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).

(e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.

(f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

7.1 CHANGE ORDERS

(a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent

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with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.

(b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

(c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.

(d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:

(1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or

(2) unit prices stated in the Contract Documents or subsequently agreed upon; or

(3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

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(4) the force account method provided in Subparagraph 7.1(e)

(e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question; the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

(1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker’s compensation insurance;

(2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;

(3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

(4) costs of premiums for all bonds and insurance related to the Work; and

(5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.

(f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

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7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

7.3 MINOR CHANGES IN THE WORK

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

(a) All of the Contractor’s responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.

(b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE

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CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS. Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

8.1 DEFINITIONS

(a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

(b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

(c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.

(d) The term “day” as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

(a) **Time limits stated in the Contract Documents are of the essence of the Contract**. By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.

(b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

(a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor’s control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the

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Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.

(b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.

(c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR’S SOLE REMEDY.

(d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.

(e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.

(f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.

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(g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Prime Contractor is entitled to a time extension, as determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

(a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor’s right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.

(b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the

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Prime Contractor's Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.

(c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

(1) the Owner has given prior approval of such off-site storage in writing;
(2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
(3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.

(d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

(e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation

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of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.

(f) If the Contract Sum is equal to or less than $25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

9.4 CERTIFICATES FOR PAYMENT

(a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:
   (a) City of Denton "General Conditions for Building Construction."
   (b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.
   (c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:

      (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;

      (2) reviewed construction means, methods, techniques, sequences or procedures;

      (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or

      (4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.

   (d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars ($100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor

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within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.

(e) The City is required to withhold five percent (5%) retainage for public works contracts in which the total contract price estimate at the time of execution is more than $400,000; however, this requirement is applied by the City for all public works contracts in excess of $50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

(f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

(a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

(1) defective or nonconforming Work not remedied;

(2) third-party claims filed or reasonable evidence indicating probable filing of such claims;

(3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

(4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

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(5) damage to the Owner or another contractor;

(6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;

(7) persistent failure to carry out the Work in accordance with the Contract Documents; or

(8) mathematical or other errors that are discovered in the Application for Payment.

(b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

(c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

(a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.

(b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

(c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime

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Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.

(d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.

(e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

(f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

(a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.

(b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.

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(c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

(d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

(a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

(b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

(c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

(a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of the Architect/Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and

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noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor's being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

(b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
(2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
(3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
(4) a consent of surety to final payment; and
(5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

(c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.

(d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion

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of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

(e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

(a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

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(e) USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION. The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor’s intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

(f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of

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them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.l9. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

(g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.

(h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

10.4 PUBLIC CONVENIENCE AND SAFETY

(a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.

(b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor's neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the

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extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Prime Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own

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expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

(a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.

(b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

(a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic

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Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

(b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.

(c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.

(d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include

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methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

(1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.

(2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.

(3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.

(4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.

(e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.

(f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon

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request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

(g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.

(h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable.

(i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:

(1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;

(2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or

(3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

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11.2 PROPERTY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

(a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

(1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and faithful execution of the work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

(2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract

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Documents and any Amendments thereto, and for the use and protection of each claimant.

(b) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

Contractor will be required to furnish original performance and payment bonds for 100% of the total submission price before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each awarded project task order by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from task order award. Upon approval, a purchase order will be issued.

(c) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the task order is awarded shall constitute a material breach of the Prime Contractor’s bid proposal and the Owner may rescind the task order award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

12.1 UNCOVERING OF WORK

(a) If a portion of the Work is covered contrary to the Architect/Engineer’s request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer’s

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observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

(b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

(a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.

(b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:

(1) one year after the date of Substantial Completion of the Work or designated portion of the Work;

(2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

(3) the stipulated duration of any applicable special warranty required by the Contract Documents.

(c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.

(d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or

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nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

(e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.

(f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.

(g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

(h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.

(i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

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The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

(a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:

(1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.

(2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.

(3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.

(4) A reasonable belief that the Prime Contractor has abandoned the Work.

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(5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

(6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.

(7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.

(8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.

(9) Repeated and flagrant violation of safe working procedures.

(10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.

(b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:

(1) perform the Work with forces employed by the surety;

(2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

(3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms

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of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

(c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.

(d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.

(e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Prime Contractor.

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Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

(a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
(1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

(2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;

(3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or

(4) other unforeseen conditions or circumstances.

(b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:

(1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;

(2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and

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(3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

(a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.

(b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

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(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor’s employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex,

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sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

(a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.

(b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City’s rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

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EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The Contractor will be required to furnish Payment and Performance Bonds for 100% of the total awarded project task order before work is to commence. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each project task order award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from notice of task order award. Upon approval, a purchase order will be issued.

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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:

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- 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. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

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combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. 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.

C. INSTALLATION FLOATER POLICY

Providing **All-Risk** coverage including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft in an amount equal to one hundred percent (100%) of the contract cost of the project in question. The policy shall include materials delivered and labor performed for the project in question. The policy shall be written jointly in the names of the City of Denton, Contractor teams, subcontractors, and sub-subcontractors as their interests may appear.

The policy shall have endorsements as follows:

a) This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
a) Loss, if any, shall be adjusted with and made payable to the City of Denton as Trustee for the insureds as their interests may appear.

D. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including

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death) and property damage limit of $1,000,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

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.

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Exhibit F
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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com 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.

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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.**

Durable Specialties, Inc.

2 [X] **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:

A7123D0849E84D7...
Signature of vendor doing business with the governmental entity

6/25/2025
Date

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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: EC09C499-3023-4ED0-AB8A-D3ECD8A13521
Status: Sent
Subject: Please DocuSign: City Council Contract 8801 Prequalification for Traffic Signal Construction Durable
Source Envelope:
Document Pages: 81
Signatures: 4
Envelope Originator:
Certificate Pages: 6
Initials: 1
Gabby Leeper
AutoNav: Enabled
901B Texas Street
EnvelopeId Stamping: Enabled
Denton, TX 76209
Time Zone: (UTC-06:00) Central Time (US & Canada)
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
6/16/2025 4:41:26 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer 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: 6/16/2025 4:44:12 PM Viewed: 6/16/2025 4:44:22 PM Signed: 6/16/2025 4:45:00 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/16/2025 4:45:03 PM Viewed: 6/16/2025 4:51:37 PM Signed: 6/16/2025 4:53:44 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 6/16/2025 4:53:48 PM Viewed: 6/19/2025 11:25:55 PM Signed: 6/19/2025 11:27:24 PM
Patrick Bryan patrick@durablespecialties.com President Durable Specialties, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/24/2025 8:39:25 PM ID: 13eca5e7-1e2c-4dd0-8eb9-c6a44a1dd626	DocuSigned by: A7123D0849E84D7... Signature Adoption: Drawn on Device Using IP Address: 12.198.158.162	Sent: 6/19/2025 11:27:27 PM Resent: 6/24/2025 10:22:06 AM Resent: 6/25/2025 2:11:09 PM Viewed: 6/25/2025 3:32:06 PM Signed: 6/25/2025 3:32:45 PM

Signer Events	Signature	Timestamp
Scott McDonlald scott.mcdonald@cityofdenton.com Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/8/2025 12:32:58 PM ID: 9d3d6c2e-28f5-4573-a18c-57f6554a93b0	Signed by:  D4585119F060407... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/25/2025 3:32:49 PM Resent: 6/30/2025 10:53:07 AM Resent: 7/2/2025 10:10:47 AM Resent: 7/8/2025 9:52:52 AM Viewed: 7/8/2025 12:32:58 PM Signed: 7/8/2025 12:33:26 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: 7/8/2025 12:33:30 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **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: 6/16/2025 4:45:03 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/8/2025 12:33:30 PM Viewed: 7/15/2025 3:05:07 PM

Carbon Copy Events	Status	Timestamp
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		
James Andrews james.andrews@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/9/2024 5:32:03 PM ID: 4f7ee8fd-93df-452a-ad9d-25bcc34ba748		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/16/2025 4:44:12 PM
Envelope Updated	Security Checked	6/25/2025 2:11:08 PM
Envelope Updated	Security Checked	6/25/2025 2:11:08 PM
Envelope Updated	Security Checked	6/25/2025 2:11:08 PM
Envelope Updated	Security Checked	6/27/2025 10:01:19 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, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•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.

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Docusign City Council Transmittal Coversheet

RFQ	8801
File Name	Prequalification for Traffic Signal Construction-Mastec
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND MASTEC NORTH AMERICA, INC.
(CONTRACT 8801)

THIS CONTRACT is made and entered into this date _____, by and between **MasTec North America, Inc.,** a Florida corporation, whose address is 4351 Dale Earnhardt Way Northlake, TX 76262 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 his 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 8801 – Prequalification for Traffic Signal Construction Services, 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 8801 **(Exhibit "B" on File at the Office of the Purchasing Agent);**
(c) General Provisions – Standard Terms and Conditions **(Exhibit "C");**
(d) Payment and Performance Bond Requirements **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Certificate of Interested Parties Electronic Filing **(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

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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.

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

CONTRACTOR

DocuSigned by:

BY: Glenn Travis
AUTHORIZED SIGNATURE

Printed Name: Glenn Travis

Title: Regional Vice President

2145357235
PHONE NUMBER

glenn.travis@mastec.com
EMAIL ADDRESS

2025-1324928
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, 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.

Signed by:

Scott McDonald | Scott McDonald
SIGNATURE | PRINTED NAME

Director
TITLE

Development Services
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount
MasTec North America, Inc., is pre-qualified for RFQ 8801 – Traffic Signal Construction Services. All pre-qualified contractors will be issued a Request for Cost that defines the scope of work, project material list, and project timeline dates. The pre-qualified contractors will have (5) days to respond to such Request for Cost. Thereafter, the City will select the pre-qualified contractor with the lowest price and ability to meet the City's timeline schedule requirements. If a response to the Request for Cost request is not received in the applicable time period, such pre-qualified contractor will be disqualified from that Request for Cost. The cumulative contract total for all awarded projects to all pre-qualified contractors for contract 8801 shall not exceed $7,100,000.

2. Contract Terms
The contract term will be three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) 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.

3. Performance Liquidated Damages
Contractor recognizes that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in each task order, plus any extension thereof allowed in accordance with Article 8.3 of the General Provisions. The Contractor also recognizes the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City one thousand dollars ($1,000) for each day that expires after the time specified in each task order for Final Acceptance until the City issues the Final Letter of Acceptance.

4. Post Award Additional Requirements
Pre-Construction Meeting: Prior to commencement of the services, the City and the Contractor will conduct a pre-construction meeting to review the overall scope, schedule, deliverables, planning process, and to ensure that all relevant parties to the project are introduced.

List of Subcontractors: Prior to commencement of the services, the respondent awarded the task order will submit to the City for approval a list of all Subcontractors, and/or his major Subcontractors, proposed to use. This list will include each Subcontractor's correct name, mailing address and phone number.

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Contractor's Superintendent: The Contractor shall submit the name and qualifications of the person designated as Project Superintendent within ten (10) days of the receipt of the Notice of Award Letter.

Environmental Hazards: There are no known safety or environmental hazards existing on the project site at the time of issue of this solicitation. The City does not warrant or guarantee against the possibility that safety or environmental hazards or potential hazards may exist at the City's facilities. The Contractor shall be responsible for identifying any hazardous conditions and notifying the City verbally of such conditions as soon as possible after discovery and shall follow up in writing within 10 days of such discovery. The costs for necessary investigations or any potential corrective actions will be negotiated between the City and the Contractor.

Contractor Standards of Performance: The contractor shall prosecute the work diligently with skilled craftsmen and with state-of-the-art methods to complete the work within the time stated in the Request for Cost or such time extensions as may be granted.

Monthly Reports: The Contractor awarded the task order shall provide to the City of Denton, detailed reports of daily work conditions, daily man power availability, equipment problems, and work accomplished on a monthly basis.

Safety: All contractors to the City of Denton are required to ensure absolute safety standards are applied and enforced. The City of Denton will not be responsible for individual contractor safety, and the awarded contractor shall not hold the City of Denton responsible. Known hazards shall immediately be reported to the Project Manager and all safety precautions shall be taken to prevent potential safety issues from occurring.

5. Disposal of Material

All costs associated with the removal of trash and debris, including but not limited to rental of special equipment, open top containers, dumpsters, and trailers as well as payment of landfill fees, must be included in the unit pricing.

a) The City of Denton is the EXCLUSIVE provider of Solid Waste Services for the City of Denton. Consistent with the City of Denton Code of Ordinances: Ord. No. 23-386
   a. All Waste must be transported to the City of Denton Landfill (1527 S Mayhill Rd., Denton TX) for Disposal
   b. Contractor must use Contractor Employees and haul materials in contractor-owned equipment, should they wish to haul material themselves for disposal at the City of Denton Landfill.
   c. Should the Contractor choose to use a third party to supply and haul containers to the landfill, the Contractor MUST contract with the City of Denton, Solid Waste and Recycling Department to provide equipment and services. Cost may be found online at https://tx-denton.civicplus.com/DocumentCenter/View/4255/Fiscal-Year-2024---2025-Solid-Waste-Rate-Ordinance?bidId=
   d. Service requests are made to the City of Denton Customer Service by calling 940-349-8400.

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EXHIBIT C
GENERAL PROVISIONS- TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES

Invoices, Payments, and Releases

1. INVOICES AND PAYMENT PROCESSING:

Payment processing: The City review, inspection, and processing procedures for invoices ordinarily require thirty (30) days after receipt of invoices, materials, or services. Proposals which call for payment before thirty (30) days from receipt of invoice, or cash discounts given on such payment, will be considered only if, in the opinion of the Purchasing Manager, the review, inspection, and processing procedures can be completed as specified. It is the intention of the City of Denton to make payment within thirty (30) days after receipt of valid invoices for which items or services have been received unless unusual circumstances arise. The thirty (30) day processing period for invoices will begin on the date the invoice is received or the date the items or services are received, **whichever date is later**.

Direct deposit for payments: Prime Contractors are encouraged to arrange for receiving payments through direct deposit. Information regarding direct deposit payments is available from the City of Denton Purchasing website: www.dentonpurchasing.com.

Invoices: Invoices shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299 with a copy to the attention of Pritam Deshmukh, City of Denton Traffic Department emailed to pritam.deshmukh@cityofdenton.com. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.** Invoices for partial payments on construction projects should normally be presented for payment within the first five (5) days of the month, and submitted on the Pay Application Form.

2. TAX EXEMPTION:

The City of Denton qualifies for sales tax exemption pursuant to the provisions of Article 20.04 (F) of the Texas Limited Sales, Excise and Use Tax Act. Any Prime Contractor performing work under this Contract for the City of Denton may purchase materials and supplies and rent or lease equipment sales tax free. This is accomplished by issuing exemption certificates to suppliers. Certificates must comply with State Comptroller's ruling #95-0.07 and #95-0.09.

3. PAYMENTS TO CONTRACTORS:

A. Upon presentation of valid invoices, which should be within the first week of each month, the Owner shall make partial payments to the Prime Contractor for construction accomplished during the preceding calendar month on the basis of completed construction certified to by the Prime Contractor and approved by the Owner and Architect/Engineer solely for the purposes of payment. Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety-five percent (95%) of each payment request approved during the construction of the project shall be paid by the Owner to the Prime Contractor prior to completion of the Project. Upon the approval by the Owner of the Prime Contractor's "Final Invoice for Payment" showing the total cost of the construction performed, the Owner shall make payment to the Prime Contractor of all

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amounts to which the Prime Contractor shall be entitled there under which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of completion of construction of the Project, as specified in the Final Invoice for Payment, unless withheld because of the fault of the Prime Contractor.

B. The Prime Contractor shall be paid on the basis of the percentage of the work actually completed for each construction item. The total amount paid for periodic billings shall not exceed the maximum Contract price for the construction of the project as set forth in the Contract, unless such excess shall have been approved in writing by the Purchasing Agent as part of a change order.

C. No payment shall be due while the Prime Contractor is in default in respect of any of the provisions of this Contract, and the Owner may withhold from the Prime Contractor the amount of any claim by any third party against either the Prime Contractor or the Owner based upon an alleged failure of the Prime Contractor to perform the work hereunder in accordance with the provisions of this Contract. This includes, without limitation, the alleged failure of the Prime Contractor to make payments to subcontractors.

4. RELEASE OF LIENS AND CERTIFICATE OF CONTRACTOR:

Upon award of the Contract, the Prime Contractor shall inform the Owner of the subcontractors and material sources that will be used. Upon the completion by the Prime Contractor of the construction of the Project, but prior to final payment to the Prime Contractor, the Prime Contractor shall deliver to the Owner releases of all liens, and of rights to claim any lien, from all manufacturers, materialmen and subcontractors furnishing services or materials for the Project, to the effect that all materials or services used on or for the Project have been paid for and indicating that the Owner is fully released from all such claims.

5. PAYMENTS TO MATERIALMEN AND SUBCONTRACTORS:

The Prime Contractor shall pay each materialman, and each subcontractor, if any, not later than five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Contractor for and on account of materials furnished or construction performed by each materialman or each subcontractor.

6. REMEDIES:

A. Completion of Prime Contractor’s Default

If default shall be made by the Prime Contractor or by any subcontractor in the performance of any of the terms of this proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Prime Contractor and the Surety or Sureties upon the Prime Contractor's bond or bonds a written notice requiring the Prime Contractor to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Prime Contractor such default shall be corrected or arrangements for the correction thereof satisfactory to the Owner and/or Architect/Engineer shall be made by the Prime Contractor or its Surety or Sureties, the Owner may take over the construction of the Project and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Prime Contractor, and the Prime Contractor and its Surety or Sureties shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Prime Contractor or any

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of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Prime Contractor may have against third persons in connection with this Contract and for such purpose the Prime Contractor does hereby assign, transfer and set over unto the Owner all such rights claims and demands.

B. Cumulative Remedies

Every right or remedy herein conferred upon or reserved to the Owner shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute, and the pursuit of any right or remedy shall not be construed as an election. Provided, however, that the provisions of the **REMEDIES SECTION** shall be the exclusive measure of damages for failure by the Prime Contractor to complete the construction of the Project within the time herein agreed upon.

CITY OF DENTON GENERAL CONDITIONS FOR CONSTRUCTION
ARTICLE 1 GENERAL PROVISIONS

GENERAL DEFINITIONS

1.1 THE FOLLOWING DEFINITIONS APPLY THROUGHOUT THESE GENERAL CONDITIONS AND TO THE OTHER CONTRACT DOCUMENTS:

a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

(1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;

(2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or

(3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner’s Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and

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made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

(1) between the Architect/Engineer and Prime Contractor;

(2) between the Owner and a Subcontractor or -subcontractor; or

(3) between any persons or entities other than the Owner and Prime Contractor.

The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

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g) THE PROJECT MANUAL

The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

(1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable;

(2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;

(3) radon;

(4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;

(5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;

(6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

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(8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

(1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;

(2) "shall" means the action of the party to which reference is being made is mandatory;

(3) "as required" means as prescribed in the Contract Documents; and

(4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

(a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.

(b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

(d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

(e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

(f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale

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drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.

(g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.

(h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.

(i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:

(1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);

(2) the Building Construction Services Agreement;

(3) addenda, with those addenda of later date having precedence over those of an earlier date;

(4) the Supplementary General Conditions and Special Provisions, if any;

(5) the General Conditions for Building Construction;

(6) 0the Specifications and Drawings.

1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

(1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);

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(2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;

(3) the titles of other documents published or used by the Owner as manuals or official policy statements; or

(4) proper nouns or other words required under standard grammatical rules to be capitalized.

ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

(a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.

(b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

(c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.

(d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime

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Contractor may obtain additional copies by paying the cost of additional printing or reproduction.

(e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

(f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.

(g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

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The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Prime Contractor bid and intended to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition "as is" in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor's best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor's employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately

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replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.

(c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.

(d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.

(e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

(f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

(a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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(b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

(c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:

(1) residents of the City of Denton, Texas;

(2) residents of the County of Denton, Texas;

3.5 WARRANTY

(a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTATIONAL COMPLETION OF THE ENTIRE WORK.

(b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the

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purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

(a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

(b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.

(c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.

(d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

(a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.

(b) Unless otherwise provided in the Contract Documents:

(1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

(2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;

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(3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;

(4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:

(i) the difference between actual costs and the allowances under Clause (b) (2); and

(ii) changes in Contractor's costs under Clause (b) (3);

(5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
(i) the latest date to be submitted by the Prime Contractor; and
(ii) the latest date for approval by the Architect/Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

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(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.

(6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.

(7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.

(8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.

(b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.

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(c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

(d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

(a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.

(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

(c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.

(d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.

(e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.

(f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and

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review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.

(g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

(h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination's, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.

(i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer's approval of a resubmission shall not apply to the additional revisions not requested.

(j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

(k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

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3.14 CUTTING AND PATCHING

(a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

(b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

(c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

(a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

(a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear

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costs of tests, inspections, or approvals which become requirements after bids or proposals are received.

(b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

(c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

(d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.

(e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.

(f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

(a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS,

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LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

(b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.

(c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

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(a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

(b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.

(c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

(a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.

(b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract

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Documents. The Architect/Engineer shall not, however, be required to make continuous on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

(c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor's responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.

(d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor. Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.

(e) Based on the Architect/Engineer's observations and evaluations of the Prime Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.

(f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

(g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but

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only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.

(i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

(j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.

(k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.

(l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

(m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

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(a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

(b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.

(c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

(d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

(1) a concealed subsurface condition is encountered in the course of performance of the Work;
(2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
(3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and

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(4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
(5) the Owner and the Architect/Engineer determine that:

(i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and

(ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

(e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

(f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:

(1) a written interpretation from the Architect/Engineer;

(2) a written order for a minor change in the Work issued by the Architect/Engineer;

(3) failure of payment by the Owner;

(4) termination of the Contract by the Owner;

(5) the Owner's temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or

(6) other reasonable grounds.

(g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's

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officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.

(h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:

(1) the requirements of Paragraph 4.3 of these General Conditions; and

(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:

(ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.

(ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.

(iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

(3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

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(i) Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner's sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

(2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner's sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

(3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

(i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

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(1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;

(2) defective or nonconforming Work appearing after Substantial Completion;

(3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or

(4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.

(k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.

(l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

(a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

(a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors

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(including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

(b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.

(c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.

(d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

(a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

(b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor’s Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:

(1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each

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Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT .

(2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.

(3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:

(i) the Report has not been properly completed;

(ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies

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of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

(a) The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.

(b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

(c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.

(d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

(a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance

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of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.

(b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.

(c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer. Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

(d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).

(e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.

(f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

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7.1 CHANGE ORDERS

(a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.

(b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

(c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.

(d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:

(1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or

(2) unit prices stated in the Contract Documents or subsequently agreed upon; or

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(3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

(4) the force account method provided in Subparagraph 7.1(e)

(e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question; the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

(1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker’s compensation insurance;

(2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;

(3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

(4) costs of premiums for all bonds and insurance related to the Work; and

(5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.

(f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

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7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements.

7.3 MINOR CHANGES IN THE WORK

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

(a) All of the Contractor’s responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.

(b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR

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INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS. Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

8.1 DEFINITIONS

(a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

(b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

(c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.

(d) The term “day” as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

(a) **Time limits stated in the Contract Documents are of the essence of the Contract**. By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.

(b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

(a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor’s control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.

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(b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.

(c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR’S SOLE REMEDY.

(d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.

(e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.

(f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.

(g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In

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the event of a delay for which the Prime Contractor is entitled to a time extension, as determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

(a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor’s right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.

(b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Prime Contractor’s Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.

(c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials

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and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

(1) the Owner has given prior approval of such off-site storage in writing;
(2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
(3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.

(d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

(e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.

(f) If the Contract Sum is equal to or less than $25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

9.4 CERTIFICATES FOR PAYMENT

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(a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:
   (a) City of Denton "General Conditions for Building Construction."
   (b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.
   (c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:

      (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;

      (2) reviewed construction means, methods, techniques, sequences or procedures;

      (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or

      (4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.

   (d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars ($100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.

   (e) The City is required to withhold five percent (5%) retainage for public works contracts in which the total contract price estimate at the time of execution is more than $400,000; however, this requirement is applied by the City for all public works contracts in excess of $50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by

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the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified above is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

(f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

(a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

(1) defective or nonconforming Work not remedied;

(2) third-party claims filed or reasonable evidence indicating probable filing of such claims;

(3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

(4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

(5) damage to the Owner or another contractor;

(6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;

(7) persistent failure to carry out the Work in accordance with the Contract Documents; or

(8) mathematical or other errors that are discovered in the Application for Payment.

(b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

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(c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

(a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.

(b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

(c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.

(d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.

(e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

(f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

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9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

(a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.

(b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.

(c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

(d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

(a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have

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accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

(b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

(c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

(a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner's representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of the Architect/Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor's being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

(b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
(2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;

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(3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
(4) a consent of surety to final payment; and
(5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

(c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.

(d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

(e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

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(a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

(e) USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION. The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity.

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The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor's intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

(f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.l9. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

(g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.

(h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

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10.4 PUBLIC CONVENIENCE AND SAFETY

(a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.

(b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor’s neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, the Prime Contractor’s responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor’s own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term “lights,” as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

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In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

(a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.

(b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

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The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

(a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

(b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.

(c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling,

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transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.

(d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

(1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.

(2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.

(3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.

(4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.

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(e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.

(f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

(g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.

(h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable.

(i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:

(1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;

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(2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or

(3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.2 PROPERTY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

(a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

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(1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and faithful execution of the work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

(2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total awarded task order, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.

(b) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

Contractor will be required to furnish original performance and payment bonds for 100% of the total submission price before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each awarded project task order by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from task order award. Upon approval, a purchase order will be issued.

(c) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the task order is awarded shall constitute a material breach of the Prime Contractor’s bid proposal and the Owner may rescind the task order award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the

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lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

12.1 UNCOVERING OF WORK

(a) If a portion of the Work is covered contrary to the Architect/Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer's observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

(b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

(a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.

(b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:

(1) one year after the date of Substantial Completion of the Work or designated portion of the Work;

(2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

(3) the stipulated duration of any applicable special warranty required by the Contract Documents.

(c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion

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by the period of time between Substantial Completion and the actual completion of the Work.

(d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

(e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.

(f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.

(g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

(h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's

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liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.

(i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

(a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:

(1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.

(2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.

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(3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.

(4) A reasonable belief that the Prime Contractor has abandoned the Work.

(5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

(6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.

(7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.

(8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.

(9) Repeated and flagrant violation of safe working procedures.

(10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.

(b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:

(1) perform the Work with forces employed by the surety;

(2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

(3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety

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shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

(c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.

(d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.

(e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten

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(10) days advance written notice of termination for convenience to the Prime Contractor. Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

(a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
(1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

(2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;

(3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or

(4) other unforeseen conditions or circumstances.

(b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:

(1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;

(2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and

(3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment

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to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

(a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.

(b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

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14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee. Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor’s employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the

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Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

(a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.

(b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City’s rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

ARTICLE 17 MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES AND LIMITATION OF LIABILITY

17.1 No Consequential Damages. Neither Owner nor Prime Contractor nor any of their affiliates, successors or assigns, or the respective shareholders, partners, assigns, directors, officers, agents or employees or representatives of either of them, shall be liable to the other for consequential, special, exemplary, indirect or incidental losses or damages, including loss of use, cost of capital, loss of goodwill, lost revenues or loss of profit, and Owner and Prime Contractor

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each hereby releases the other and each of such Persons from any such liability. The foregoing exclusion shall not preclude recovery, where applicable, of liquidated amounts hereunder.

17.2 Limitation of Liability. In no event shall the aggregate damages payable by either party hereunder exceed applicable liability limits for municipalities in the State of Texas; provided, however, that this limitation of liability shall not apply to (i) any loss or damage arising out of or connected with either party's gross negligence, fraud, willful misconduct or illegal or unlawful acts, (ii) the indemnification obligations of either party under the Contract to the extent any claim is made against the other or any of its affiliates by any party other than the indemnitor; (iii) costs incurred by Prime Contractor (and in the case of default by Prime Contractor, costs incurred by Owner) in completing the Work; or (iv) risks insured through insurance required under this Contract, it being the parties' specific intent that the limitation of liability shall not relieve the insurers' or guarantors' obligations for such insured risks.

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EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The Contractor will be required to furnish Payment and Performance Bonds for 100% of the total awarded project task order before work is to commence. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of each project task order award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from notice of task order award. Upon approval, a purchase order will be issued.

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Exhibit F
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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com 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.

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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.**

MASTEC NORTH AMERICA, INC..

2

[X] **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 [X] 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 [X] 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 [X] No

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

4 [X] **I have no Conflict of Interest to disclose.**

5

DocuSigned by:
Glenn Travis
655F22496B7446D...
Signature of vendor doing business with the governmental entity

7/15/2025
Date

Docusign Envelope ID: A022AAD6-B993-4275-AB53-C63B98F5DF3B

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: A022AAD6-B993-4275-AB53-C63B98F5DF3B
Status: Sent
Subject: Please DocuSign: City Council Contract 8801 Prequalification for Traffic Signal Construction Mastec
Source Envelope:
Document Pages: 74
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
7/10/2025 12:16:32 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 7/10/2025 12:19:58 PM Viewed: 7/10/2025 12:20:10 PM Signed: 7/10/2025 12:20:30 PM
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	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/10/2025 12:20:33 PM Viewed: 7/10/2025 1:09:02 PM Signed: 7/10/2025 1:09:54 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/10/2025 1:09:56 PM Viewed: 7/11/2025 4:22:09 PM Signed: 7/11/2025 4:25:03 PM
Glenn Travis glenn.travis@mastec.com Regional Vice President MasTec North America, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/15/2025 8:50:35 AM ID: cb6dd28e-eeee-4739-9aa5-8a36c4906fd0	DocuSigned by: Glenn Travis 655F22496B7446D... Signature Adoption: Pre-selected Style Using IP Address: 2a09:bac2:bab6:15e1::22e:73 Signed using mobile	Sent: 7/11/2025 4:25:07 PM Resent: 7/14/2025 2:54:59 PM Resent: 7/15/2025 8:33:13 AM Viewed: 7/15/2025 8:50:35 AM Signed: 7/15/2025 8:54:00 AM

Signer Events	Signature	Timestamp
Scott McDonlald scott.mcdonald@cityofdenton.com Director Security Level: Email, Account Authentication (None)	Signed by:  D4585119F060407... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/15/2025 8:54:04 AM Viewed: 7/15/2025 1:44:23 PM Signed: 7/15/2025 1:44:48 PM
Electronic Record and Signature Disclosure: Accepted: 7/15/2025 1:44:23 PM ID: f418771a-2bf3-41f7-83e5-6ad6f53d8efd		
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)		Sent: 7/15/2025 1:44:52 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None)		
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)	COPIED	Sent: 7/10/2025 12:20:32 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/15/2025 1:44:52 PM Viewed: 7/15/2025 3:06:09 PM

Carbon Copy Events	Status	Timestamp
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		
James Andrews james.andrews@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/9/2024 5:32:03 PM ID: 4f7ee8fd-93df-452a-ad9d-25bcc34ba748		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/10/2025 12:19:58 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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Consequences of changing your mind

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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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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
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